LEGISLATIVE COUNCIL

Thursday 22 July 2010

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:02 and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (11:03): I move:

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

Motion carried.

TRUSTEE COMPANIES (COMMONWEALTH REGULATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 July 2010.)

The Hon. S.G. WADE (11:03): I indicate to the council that I intend my remarks on this bill to be brief, but I do assure the council that if the government continues the bullyboy tactics of last night and tries to drown me out I stand ready to provide my thoughts in more detail. The opposition has considered the Trustee Companies—

The Hon. G.E. Gago: What a sooky la-la.

The Hon. S.G. WADE: Apparently, the honourable minister for local government has asked that she would like more detail, so I look forward to telling the council about the national standard schemes of legislation.

The Hon. G.E. Gago: That's just a lie. That's a complete lie. You're misleading parliament.

The Hon. S.G. WADE: Excuse me, I have the call, so I choose to take the call. Does the minister have a point of order? If you have a point of order, raise it; if you haven't got a point of order, be quiet.

The Hon. G.E. Gago: Don't lie in parliament. You don't need to lie.

The Hon. S.G. WADE: Apparently, the minister is determined to drown me out. I will restate my position. If this government intends to drown me out, I will give my thoughts in full. The minister has already proceeded to that approach—the same approach of last night. That is not the way to run this council, and I intend to use my rights to speak regardless of minister Gago's lack of willingness to hear other people's views.

The PRESIDENT: Then get on with it.

The Hon. S.G. WADE: Thank you for your protection, Mr President.

The PRESIDENT: You're welcome.

The Hon. G.E. Gago interjecting:

The Hon. S.G. WADE: Apparently, the minister has indicated that she has another meeting. I do not know why the house needs to know that, but she is on her way—great!

The opposition has considered the Trustee Companies (Commonwealth Regulation) Amendment Bill 2010 and supports the bill. I thank the Attorney-General and his staff for the briefing, and I thank the industry stakeholders who responded to our invitation to comment. They all welcomed this legislation. The opposition, too, supports this legislation as facilitating nationally consistent regulation of trustee companies.

Most trustee companies provide a range of financial services and are regulated under commonwealth legislation for these activities. They can provide these financial services across government by virtue of their licensing or approval under commonwealth legislation. However, under the state and territory regulated trustee company regime, they also had to be licensed or authorised in each state or territory in which they offered traditional trustee company services.

COAG agreed, and this bill contributes to a commonwealth-based regulation of trustee companies at the entity level and thereby reduces duplication. The agreement at COAG level involves the commonwealth exercising more of its constitutional authority. This bill does not involve the referral of state power.

Of course, on a broad reading of commonwealth power by the High Court since Federation, the states' domain could be dramatically reduced. Modern federalism in Australia is as much a political consensus as a constitutional formula. We still need, as a parliament, to actively consider whether the exercise of a commonwealth power is appropriate in terms of the federal balance.

In this bill, we will be asked to consider whether we are willing to cooperate with the commonwealth assuming more of its power. The state executive (the state government), through COAG, has agreed to the commonwealth assuming more of its power. We, as a Liberal Party in this parliament, support that occurring.

I do agree with the comments of the honourable member for Bragg, when she raised concerns about situations where financial benefits or inducements need to be provided for such reforms to proceed. After all, if the reforms are worthwhile, they should fall or stand on their own merits.

I would note that, even though the supervision of trustee companies at entity level will be assumed by the commonwealth, the state will maintain an active role in this area because the states will continue to legislate for wills administration, probate and so forth. They will regulate trustee companies like any other participants in the field.

State and territory public trustees will not be subject to the new commonwealth regulatory regime. We as an opposition query why that decision has been made. After all, if a significant part of this is about protection of the consumer, surely a consumer needs to have rights as against a state government entity as much as a private sector entity.

In the course of his remarks in summing up the second reading of the bill in the other place, the Attorney-General endorsed opposition concerns about the undesirability of the succession of state powers to the commonwealth (this is in general terms and was not in relation to this proposal) and the fiscal subservience of the states and the commonwealth. The Attorney-General said:

> I guess all of us would hope that in a mature federation there should be some better way of achieving these outcomes, but that seems to be the only way that is presently operational.

That last comment was in relation to the use of financial inducements. I would indicate the willingness of the opposition to work with the Attorney-General and the government to foster a more mature federation. In that context I was disturbed to read comments of the Minister for Health in another place in the context of the Health Practitioner Regulation National Law (South Australia) Bill. He was commenting on an amendment proposed by this house. On 29 June he said:

> I have one final point to make to the Greens members of the other place who rejected the government's proposition. I am happy that they rejected it, but what interests me is that the Greens Party, which is continually telling parliaments around Australia to put aside state interests and think of the national interest or the international interest, to put aside parochial concerns and vote for the national interest, were prepared in relation to health regulations to vote for a states' rights position. I am happy that they have put their colours on the mast that, when it comes down to it, they are a states' rights party, along with the Liberal Party and other conservative parties in this state.

I thought that the arrogance of that comment was breathtaking, but it was actually overwhelmed by its ignorance. Clearly the minister had not read any of the contributions in this house. In my second reading contribution on that bill I said:

> Now I make it clear that, even though I am a federalist, for me this is not about states' rights. After all, the states have the right to work with other states in the exercise of their common functions. The commonwealth is not taking over this area of legislative authority. I do not see this as a matter of states' rights. It is more a matter of the appropriate roles of the executive and the parliament. It is more a matter of access of the community to laws.

The Hon. Tammy Jennings in that same second reading debate said:

> So, while supporting the bill, we—

I presume that to mean the Greens—

> also echo some of the concerns that I am sure will be raised by members of the opposition in terms of the format in which the bill was presented in this place and in terms of the lack of timeliness. Of course, we believe the pursuit of a

national scheme is something that overrides political concerns, although we would like to see the government get its act together on it.

As I read it, the Greens' concerns were focused on the format of the bill—that is what it says: they were not focused on states' rights but were about the issues of executive power and community access to law. Minister Hill's knee-jerk attack on the phantom of state rights is no basis for a mature federation. To presume the government knows best, that the executive is wiser than the parliament and that the commonwealth is supreme is old-style socialist thinking and should be beyond a modern political party.

In that respect I again welcome the comments by the Attorney-General that he is hoping to pursue a more mature federation, and for the opposition's part we put on the record our eagerness to work with the Attorney-General and, for that matter, with other members of this place in particular to look at ways in which we can develop a model for the handling of nationally consistent legislation, a model which respects the modern nature of Australia, the need to develop a more mature federation, but a model that respects also the contributions of both the parliaments and governments of Australia.

I will certainly be contacting the Attorney-General to try to facilitate those conversations. I know legislation is coming up in the next six to 12 months that will involve exactly the same issues we had in relation to the health legislation. It would be extremely constructive for all elements in this parliament to think about the best way to reflect a modern, mature Australian federation. We welcome the Attorney-General's commitment to that goal and hope that this parliament can make its contribution to it. In the context of this legislation, we reaffirm our commitment to that goal.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (11:14): I thank the shadow attorney-general for his comments and support of this bill and look forward to its speedy passage through this place.

Bill read a second time.

In committee.

Clause 1.

The Hon. S.G. WADE: I have only one question in committee and it relates to the issue of the Public Trustee. I know that the Attorney-General and the member for Bragg had a discussion in the other place on the basis that the state does not intend to consent to this legislation applying to the Public Trustee. Would the minister be able to confirm that is the government's position and the reasons for it?

The Hon. P. HOLLOWAY: My advice is that there has been no decision made on that matter. The government intends to observe the operation of the legislation. If it were to appear appropriate to transfer the Public Trustee to the commonwealth's jurisdiction, then the procedure that would apply is that the state minister would have to request it and for the commonwealth to consent to that happening. As I reiterate, there is no such intention at present to do that.

Clause passed.

Remaining clauses (2 to 17), schedule and title passed.

Bill reported without amendment.

Bill read a third time and passed.

MINING (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 20 July 2010.)

Clause 7.

The Hon. M. PARNELL: I move:

Page 6, lines 13 to 15 [clause 7, inserted section 9A(1)(c) and (d)]—Delete paragraphs (c) and (d)

This amendment relates to clause 7. Clause 7 is the insertion of new section 9A into the act which relates to special declared areas. The amendment that I am proposing is to ensure that the ability of the minister to declare any land to be exempt from mining or from a specified class of mining

cannot be abused in order to prevent areas of South Australia, or even the whole state for that matter, being exempt from operations of the act.

The new section 9A allows the minister to declare, effectively, a moratorium on mining for the reason as I understand it to allow the minister to go through a process of determining who should have access to land when there are competing claims or potentially competing claims. In effect it buys time for the minister to sort out that process, and that is not a bad thing, but my concern is that the current wording of the new section 9A is that the minister may, by notice in the *Gazette*, declare any land to be exempt from a specified provision of the act—that is paragraph (c)—or the whole of the act, which is paragraph (d).

The position that I always bring to these types of clause is to say that I am very uncomfortable with the ability of the minister, without reference to the parliament or anyone else, to simply say 'for this part of the state, the Mining Act doesn't apply' or 'for this part of the state, a certain part of the Mining Act doesn't apply'. I do not for one minute suggest the minister has in contemplation a course of action like this, but you could see a minister saying, for example, 'I hereby declare in the *Government Gazette* that the whole of the environment protection provisions of the act do not apply to the Northern Flinders Ranges'—that would be possible under this legislation.

So the amendment I have before the chamber is to say that those two paragraphs in the proposed new subsection (1) of section 9A—that is, the ability to declare any land to be exempt from the whole of the act or a specified provision of the act—be deleted. That leaves the minister having the ability to declare any land to be exempt from mining or a specified class of mining, which was what the minister said was the purpose of this section.

In other words, if the minister wants to declare certain areas of land off limits to mining for a period in order to sort out potentially competing claims, that will still be allowed. However, what I do not want is the potential for this legislation to be abused by, in fact, declaring areas of this state to no longer fall within the purview of the entire Mining Act, so that is the purpose of my amendment. As I say, I do not doubt for one minute that it is not the minister's intention to use the act in this way but because it allows it I would be much more comfortable if this chamber were to agree to my amendment, which removes paragraphs (c) and (d).

The Hon. P. HOLLOWAY: The government opposes the amendment. A special declared area is a transparent mechanism to deal with such matters including: the release of land to the open market, which has been the subject of a reserve pursuant to section 8 of the act; the release of land to the open market, where the government has undertaken geological, geotechnical or geophysical investigations pursuant to section 15 of the act; or complex competing tenement application matters—and there have been some examples of all three.

The Hon. Mr Parnell's amendment No. 4 removes the option for a special declared area to be exempt from a specific provision of the act. It is critical that this provision in the bill remains unchanged as it enables the minister to exempt a specific area from applications for tenements while still maintaining other provisions of the act, that is, the compliance tools. So, if you can exempt some parts, you can still have the compliance mechanisms, which may be important (even essential, I would argue), while the area is exempt from applications.

The effect of the Hon. Mr Parnell's amendments Nos 5 and 6, which come later but which are all related to this clause, would be to remove the time limitation for a special declared area, and the intent of that amendment is that special declared areas could be used to create de facto parks or reserves. The intent of a special declared area is that it is a temporary measure to manage and control applications over mineral land. Other environmental legislation exists to create and manage parks and reserves.

This clause has been proposed because there have been instances in the Mining Act when there have been difficulties in relation to complex competing tenement application matters. Clearly, that is why there is a need in the act for the option for a special declared area to be exempt from specific provisions of the act, and it is necessary.

The Hon. D.W. RIDGWAY: We have a long way to go today, so I will not be particularly longwinded. The opposition will not be supporting the Hon. Mark Parnell's amendment, although we believe that a couple of amendments we have further on in this new clause offer the protection that he might possibly be looking for. I hope that he and the Greens will be prepared to support us, in that this declaration should be tabled before both houses of parliament and that it also becomes disallowable (as we treat regulations), so that if it were being abused and parliament was not happy

with the behaviour of the minister or the way it was being used, we could disallow it. We will not support this, but we look forward to his support for the other amendments.

The Hon. M. PARNELL: Given that the numbers are clear, I will not be dividing on this amendment. However, I will make the point that everything that the minister said that he wants to achieve, in his response, is achieved by virtue of paragraphs (a) and (b), which I am not proposing to delete, and that is because of the definition of 'mining' under the Mining Act. This will come up later, so I will go to it now. The definition of mining is:

> ...all operations carried out in the course of prospecting, exploring or mining for minerals, or quarrying...

In other words, it covers all of those application stages. I can see that the numbers are against me, so I will not be dividing on the amendment.

Amendment negatived.

The Hon. D.W. RIDGWAY: I move:

Page 6, after line 17—Insert:

> (2a) The minister must, as soon as practicable after the publication of a notice under subsection (1), prepare a report on the matter (including an outline of the reasons for the declaration and the expected impact of the declaration) and cause copies of the report to be laid before both houses of parliament.

The effect of this amendment is in relation to new section 9A—Special declared areas. We believe that the amendment provides a parliamentary check, if you like, on what the minister has done. The Hon. Mark Parnell, on the previous amendment, was a little concerned about the potential for this to be abused or manipulated. We believe this gives an opportunity for the parliament to look at what the minister has done and why he or she has done it. We believe it offers a little more transparency and accountability.

The Hon. P. HOLLOWAY: One of the purposes of the Mining (Miscellaneous) Amendment Bill is to try to remove red tape. However, given this provision, one would not expect that it would be used often, although it does increase red tape to require the minister to table a report to be laid before both houses of parliament. As I said, the government believes it is necessary, but we are not particularly fussed by it, so we will not divide on it.

The Hon. M. PARNELL: For the reasons I gave before in relation to the previous amendment, I dearly hope that the section will not be abused. However, this amendment at least ensures that if the section is used there will be a report provided to parliament.

I was interested to hear the minister say that he did not expect the special declared areas provision to be used very often, in which case there is not a great deal of imposition. However, for the reasons I gave before, this does allow for an extra level of transparency, and I would hope that the tabled reports would become fairly routine and not give rise to any question that the provision has been misused.

Amendment carried.

The Hon. M. PARNELL: I move:

Page 7, lines 25 and 26 [clause 7, inserted section 9A(7)]—Delete:

> 'or until it expires under subsection (8), whichever first occurs'

The aim of this amendment is to effectively remove the two-year sunset clause on mining moratoriums for special declared areas. The minister, in his remarks earlier, said that this would be a back-door way of creating a new protected area or national park. I do not accept that that is quite the intent, but I am and have been very clear in my discussions with other members that I think it would allow the special declared areas provision to be used as a protective measure for a longer period than two years. I do not think it would be a very adequate permanent protection measure.

For example, if we had an area of the state where very little was known in relation to its biodiversity, and if a biological survey was to be undertaken and that survey was to take longer than two years, then it would seem to me that the ability for the minister to keep the protection in place until that survey was completed would be a good thing. Under the clause as it is presently drafted, there is this sunset coming in no more than two years after the first level of protection has been applied.

If members think this might be a bit of an academic exercise, I draw their attention to the fact that in the Arkaroola Wilderness Sanctuary not that long ago the first species of frog discovered in South Australia for some 40 years was found. My discussions with the scientists are that we know so little about some of these areas that really, before any potentially irreversible decisions are made about mining access or exploration, they should be thoroughly explored for their biological values. In many cases that will take longer than two years, which is why I think removing the automatic sunset provision would give the minister more flexibility to keep the mining companies at bay for as long as it takes to do the proper surveys that are required.

So, whilst I accept what the minister is saying, that my amendment would enable this clause to be used for a purpose which was not necessarily the government's intention, which is to sort out demarcation disputes or competing bids between mining companies, it is a protective measure, but I think it is a sensible one that the chamber should support.

The CHAIRMAN: We will get the minister to move his amendment, because it actually comes in before the Hon. Mr Parnell's. So, if we can have the minister move his amendment. We will deal with that first and then we will deal with the one the Hon. Mr Parnell has moved.

The Hon. D.W. RIDGWAY: I will withdraw mine.

The CHAIRMAN: The Hon. Mr Ridgway intends to withdraw his.

The Hon. P. HOLLOWAY: I move:

Page 6, after line 28—Insert:

or

(c) so as to prevent a person establishing a mineral claim (identified in any manner allowed or approved under this Act) after the notice takes effect on account of a right to carry out exploratory operations under an exploration licence in force at the time the notice takes effect, or under a subsequent tenement under paragraph (b), where the holder of the tenement has reported to the Director of Mines the discovery on the relevant land of minerals that are potentially capable of economic production (including so as to allow a person to apply for (and being granted) a mining tenement on account of the establishment of the mineral claim),

As members will note, it is fairly similar to one moved by the Hon. Mr Ridgway. The Hon. Mr Ridgway's amendment proposes:

If the Minister has, by notice in the *Gazette*, declared any land to be a special declared area, any existing licence within that area will have the right to proceed to pegging a mineral claim and applying for a mining lease.

I have filed a further amendment to clause 7, page 6, after line 28 which provides any existing licence with the right to proceed to a mineral claim where that licensee has, in accordance with their licence conditions, reported to the director the discovery on the land of minerals potentially capable of economic production. This amendment will alleviate any sovereign risk issues industry may have with the original clause in the bill. As I said, the Hon. Mr Ridgway had tabled an amendment that was fairly similar and so this amendment—

The CHAIRMAN: The Hon. Mr Ridgway has withdrawn it now.

The Hon. P. HOLLOWAY: Yes, presumably in favour of this. I think that, following some discussions, it became apparent that this was similar to the matter he had raised but with a further clarification following those discussions. So, hopefully that will take up the matter that the Hon. Mr Ridgway or the shadow minister for mineral resources development in another place and the chamber had raised. It is really an extra bit of clarification so that it brings this whole section into line with the spirit of the act.

The Hon. D.W. RIDGWAY: I indicate that we will be supporting the minister's amendment, and I have been advised by the shadow minister, the member for MacKillop (Mitch Williams), that we will be withdrawing our similar amendment.

The Hon. P. Holloway's amendment carried.

The CHAIRMAN: I remind the committee that the Hon. Mr Parnell has moved his amendment.

The Hon. P. HOLLOWAY: The government does not support this amendment. I talked about this matter earlier, when I said that the effect of his amendments and the subsequent amendment would be to remove the time limitation for a special declared area. It is interesting that

the earlier amendment moved by the Hon. Mr Parnell wanted to restrict the use of this, and that is why I am rather surprised that he would want to remove a time limit clause on it.

I suppose I should not be too concerned about his doing that, but I would have thought the fact that it has a two-year sunset clause, which can be reimposed if necessary to cover the situation such as the honourable member suggested in his argument, would allay any fears and that, if there were some legitimate reason along the lines that he suggested—that it might take longer than two years to determine these matters—the capacity is always there to extend it anyway through new section 9A(8).

In effect, the clause does allow extensions, so you can keep extending it, but I would have thought it actually provided more accountability by having the sunset clause so that there can be some check that in fact this section of the clause is being used for the purposes for which it was intended.

The Hon. D.W. RIDGWAY: I indicate that the opposition will not be supporting the Hon. Mark Parnell's amendment for the reasons outlined. We believe the fact that it lapses after two years does bring, as the minister said, some accountability; it cannot just be used as a blanket hold on things every two years. If issues have not been resolved within that time frame, then it can be extended. The opposition believes it is a useful amendment and will not be supporting the Hon. Mark Parnell.

The Hon. M. Parnell's amendment negatived.

The Hon. D.W. RIDGWAY: I move:

Page 7, after line 30—Insert:

(9) The Minister must cause copies of a notice of extension published under subsection (8) to be laid before both Houses of Parliament.

(10) If either House of Parliament passes a resolution disallowing a notice laid before it under subsection (9) then the declaration under subsection (1) will immediately cease to have effect.

(11) A resolution is not effective for the purposes of subsection (10) unless passed in pursuance of a notice of motion given within 14 sitting days (which need not fall within the same session of Parliament) after the day on which the notice under subsection (8) was laid before the House.

(12) Where a resolution is passed under subsection (10), notice of that resolution must forthwith be published in the Gazette.

This amendment relates to extension and effectively stops the minister renewing an exemption every two years; if it is just for reasons that the parliament does not agree with, then there is an opportunity for the parliament to disallow that particular declaration. We think it provides some extra accountability if the extension notice just continues on willy-nilly.

The Hon. P. HOLLOWAY: As I said on the earlier amendment moved by the Hon. Mr Ridgway, we believe this is unnecessary and adds extra red tape, particularly since there is the process of having it gazetted every two years. It is just another process that we have to go through, but it is not something that this bill should fall on, so we will not oppose it.

The Hon. M. PARNELL: This clause poses some difficulties in some ways for the Greens because if the new power to declare special declared areas was only ever used for the purposes the minister has stated it would be used for, then I do not believe it would be necessary to come to parliament in relation to it. As I have put on the record, there is potential for it to be abused and, if that were to happen, I would want it to come to parliament so we could look at it. Given the minister has said he is not going to die in a ditch over it, I just put on the record that the Greens will support the amendment.

The Hon. R.L. BROKENSHIRE: I want to put on the record that Family First will support the opposition because this place is a house of review. It is a democratic process, and I do not think it is a major impediment to mining opportunities and processes in this state to bring it through the parliament every couple of years.

The Hon. P. HOLLOWAY: What we are talking about here is actually exempting areas from mining, so I think it is an interesting position that there could be disallowance of a motion that actually exempts areas from mining, which would mean that mining could, in fact, exist. It is an interesting position, I think, when normally arguments are the reverse of that but, as I said

nevertheless it is a provision. There are only a limited number of cases in which we would expect it to be used.

The act has been able to operate without this provision, so we do not really believe it is going to be that onerous to have all these provisions, but they are probably unnecessary. It would be a strange thing indeed if, in fact, a government—any government, any future government—were to exempt an area from mining while it was looking at a range of factors, extend that and have it disallowed; in other words, parliament would be saying that mining has to take place. It is a rather interesting idea.

Amendment carried.

The Hon. R.L. BROKENSHIRE: Mr Chair, I have spoken to the minister about the next amendment standing in my name, and I advise the house that I will be recommitting this amendment, that is, the insertion of section 9B, with a slight amendment, when the government brings in a couple of recommitted amendments in the spring session.

The CHAIRMAN: So, you are withdrawing this?

The Hon. R.L. BROKENSHIRE: At this stage, yes, sir.

Clause as amended passed.

Clause 8.

The Hon. D.W. RIDGWAY: I move:

Page 7, after line 37—Insert:

(3) However—

(a) the appointment of a person who is not a member of the department must only be for a specific purpose and for a specified time (being an appointment that may be extended from time to time by the minister); and

(b) before such a person is appointed, the minister must be satisfied that the person has skills that are relevant to the purpose for which the appointment is being made.

This amendment relates to the appointment of authorised officers, and we seek to insert a new subsection (3). As they stand now, subsections (1) and (2) provide:

(1) The minister may, by instrument in writing, appoint a Public Service employee to be an authorised officer under this act.

(2) An appointment made under this section may be made subject to such conditions or limitations as the minister thinks fit.

What we propose to do is insert subsection (3). The opposition is a little concerned that we have some 6,000 or 7,000 members of the Public Service in South Australia. I am sure that at various times people are available all over the state when they are not required in their current roles, and they could be used for this particular purpose. We are concerned particularly in relation to some of the mining activities where we would expect these authorised officers to have some particular level of skill and understanding in the area where they are working. We just want to make sure that the minister is satisfied that the people being appointed have the appropriate skills for the tasks they are being asked to perform.

The Hon. P. HOLLOWAY: The government firmly opposes this amendment. Generally, amendments proposed in the bill relating to appointments of authorised officers have been modelled on similar provisions which apply in the Environment Protection Act and also the Petroleum Act. The amendments proposed by the Hon. Mr Ridgway impact on the powers to enforce compliance under the act.

There will be instances where authorised officers will not be officers of the Department of Primary Industries and Resources' mining division. For example, officers from SafeWork SA, who are qualified and experienced in the mining industry and whose primary responsibility is to ensure the safety of employees working in mines, should also be able to report relevant information pertinent to environmental issues associated with mines. A similar authorisation would be required for officers from the Environment Protection Authority. This is an efficient use of government resources and avoids duplication where possible.

Authorised officers will only be appointed if they have appropriate qualifications and experience, and that has long been the practice. Their powers will be individually specified and only some officers will be authorised to exercise all the powers under this section. It is also a common law right for any person to be assisted by a legal practitioner.

So, the government would argue that this amendment and the next two by the Hon. Mr Ridgway just create further red tape for government without necessarily providing any benefit. This system is efficient and it has been working well for some time now. As I said, SafeWork SA, officers from the EPA and PIRSA work very well together. Sometimes it is just an efficient use of government to have an officer experienced in other areas be able to act when they notice something that they think should be appropriately dealt with. It is something that has worked well and we would not want to see further red tape introduced into this area, as it would just reduce the efficiency of government employees.

We often get arguments that there are not enough people to do these jobs. I think it is important that we utilise the skills that we have across government. As I said, I can assure everyone that, as in the past, these authorised officers will only be appointed if they have the appropriate qualifications and experience.

The Hon. M. PARNELL: I note that the wording of the amendment has the effect of saying that, if a person works for the mines department, they are authorised for all purposes of the act. If they work for another government department, such as the EPA, then their appointment has to be for a specific purpose and for a limited period of time. I would be attracted to this amendment if we had an abundance of public servants from all agencies throughout the mining regions, but we know for a fact that officers are thin on the ground.

You can imagine a situation where a particular power needed to be exercised and the closest person to the scene happened to be, for example, an EPA officer rather than a mines or PIRSA officer. The EPA officer's hands would be tied by having a limited authorisation and therefore they could not take the action that was required. We are talking about public servants, many of whom will be multidisciplinary.

I just make the point in passing that, some 15 years ago, I participated in an inquiry into the inspectorate function of the mines department. That was an inquiry that was called by the unions following the death of a worker at a mine. I remember as part of that inquiry that we obtained the job description of inspectors. What I found remarkable was that one of the job ads we had was for someone who was going to be inspecting the environmental performance of mines. The qualifications were that they needed to have an explosives licence, but they did not need to know a bilby from a numbat from a mile tree. They needed to have no knowledge whatsoever of the environment, but they did have to have an explosives licence.

That was some time ago, but it struck me that you might have people who are knowledgeable about one aspect of mining, but not others. Now, you might say that that is exactly what the Hon. David Ridgway's amendment is saying—those with the specific knowledge should only be authorised in those specific areas. In a perfect world he would be right, but it is an imperfect world. We have so few people out there that I would not want to unnecessarily tie the hands of public servants who need to take action and exercise the rights that they have under this act to prevent some ill from occurring. So, the Greens will not be supporting this or the consequential amendments.

The Hon. R.L. BROKENSHIRE: I advise the committee that Family First will not be supporting the opposition on this amendment. We will be sticking with the government's clause.

The Hon. D.W. RIDGWAY: Paragraph (b) of new section 3 that we are seeking to insert, states:

> before such a person is appointed, the Minister must be satisfied that the person has skills that are relevant to the purpose for which the appointment is being made.

I am a little confused with the minister's reasoning for opposing it, because surely he, as our current minister, should have the confidence that the people being appointed as authorised officers do have the skills for that relevant purpose. Otherwise, it does not really make sense—he says it is working well now.

That extra provision requires that you, as the minister, must be satisfied that the authorised officer has the relevant level of skills. By not supporting that amendment, by default, you are saying

that it is not important if they have the relevant skills, as long as we get somebody there to do the task. I really do not understand how you cannot support that particular amendment.

The Hon. P. HOLLOWAY: Really, that is how it operates now. If the minister appoints someone—and all of these authorisations go through the minister—they have to be gazetted. So, as the minister authorises them or delegates the person who does it—it comes through the minister's authority—then, ultimately, the minister is accountable.

I do not think any minister is going to appoint people unless the advice is that the people are qualified to do the job. The point is that there are many instances where an officer will attend a mine site and have broad authority under the act. If they notice something else that they think may not be operating as well they can contact the relevant agency.

What happens in government is that officers tend to work together. Often, there will be joint inspections where you might have an EPA officer or a SafeWork officer attending with an officer from PIRSA. Sometimes, if you have an inspector up there for another purpose and they notice something that is not appropriate, they will take action. Otherwise, presumably this act would say that they turn a blind eye to it. I do not think that would be what anyone wants to happen.

Amendment negatived.

The Hon. D.W. RIDGWAY: I move:

Page 9, after line 32—Insert:

14EA—Legal representation

A person who is required to provide any information for the purposes of an authorised investigation may be assisted by a legal practitioner.

This is an amendment to section 14E, which relates to the entry of an authorised officer, in particular, going on site, particularly where a person may be required to provide information to an authorised officer of an authorised investigation.

Industry has been a little concerned about operations such as quarry or mining operators, not necessarily the great big operations like BHP and Roxby Downs, which are much bigger, much more complex operations. Industry representatives have come to the opposition to say that, if they have a quarry operator, a crushing plant operator, or somebody who is operating on their behalf, they felt that that person should be entitled to legal representation, if they felt they needed to, while they were providing information as part of an authorised investigation.

The Hon. P. HOLLOWAY: The government opposes this amendment. As I indicated earlier, it is a common law right for any person to be assisted by a legal practitioner. We do not really want to get the situation where the sorts of investigations that you might have with an inspector on site become bogged down as legal investigations.

The idea of inspection—whether it is about safety, environment and other things—is to get the problems fixed. I think the history is that the PIRSA inspectors and those from SafeWork SA and the EPA do a very good job in terms of doing that. They get on as well as they can with industry, but if it is necessary to require better practice that is exactly what they do. If we are to get to the situation where we are to encourage that process of inspections to become legal processes, it will obviously chew up an enormous amount of resources and energy, without necessarily dealing with what we want to deal with, namely, either to make the mines safer or more environmentally sensitive, or whatever the issues might be.

It is a common law right for persons to be assisted, but anything that would tend to turn these investigations into legalistic practices will not be in the best interests, I suggest, of improving the safety of workers, the environment or other matters.

The Hon. M. PARNELL: I think we can distinguish situations where a person's rights would be infringed by not having a legal representative present with them, and an example would be an interview with officers with a view to a prosecution in an office in the cold light of day.

My understanding of this section, which relates to the production of records and basically enables an authorised officer to demand that records be produced for inspection and that the person who has custody or control of those records answer questions on it, is it could apply in a real time—even emergency—situation. It may well be that an authorised officer has an urgent need to know something about a record: how many tonnes of something was put in that location, an amount of fuel, or who knows what the record might be.

It seems that, if we were to accept the opposition's amendment, effectively a mine operator could say to an inspector, 'I'm not going to show you my logbook and I'm not going to answer any questions about it until my lawyer arrives.' Bear in mind, as we said before with inspectors, that many of these mines are in very remote locations where the length of time it would take someone to get there would be measured in days rather than in minutes or hours.

I do not know whether the mover has any scenario in mind, but it would seem that there would be the potential for a person to legally withhold a record that was important for an authorised officer to have access to in real time on the basis that their lawyer in Flinders Street, 2,000 kilometres away, was not able to attend at that particular moment.

Unless I have misunderstood the intent of proposed new section 14E, it would seem to me on balance that, whilst it is normally desirable to allow people to have a lawyer with them when they are answering questions, given that I understand that we are talking about authorised officers potentially acting in real time, we might need to trade off that general principle in order to ensure that the authorised officers can have access to all the information they need to take the appropriate action in real time. My inclination is not to support the amendment unless the mover has a scenario that tells me I am wrong.

The Hon. R.L. BROKENSHIRE: I ask the mover to perhaps further explain his amendment based on the debate. He has not said 'will'; it is 'may' be assisted. What in law will stop someone, if appropriate, calling on a legal practitioner as it stands now in law, if indeed they can access a lawyer? You are not saying they will have to, but you are giving them an option. I do not see how you will achieve much in any case.

The Hon. D.W. RIDGWAY: Following a number of discussions with industry stakeholders, their view was that if they have operators—and we are talking of the smaller quarries and extractive industries operations—where an authorised officer may want to undertake an investigation and want some information, they would like their employees to have the right to have legal representation. The minister is saying that it is a common law right now. If that is the case (and as members know, I am not a legal person), we think it provides a little extra protection for employees to say that, under the act, they may be assisted by a legal practitioner.

I understand the Hon. Mark Parnell's concern that, if it is 2,000 kilometres away and the legal representatives are in Flinders Street in Adelaide, clearly that will cause some problems. However, I think the clause is saying 'may' be assisted by a legal practitioner and does not insist that they have to. It is not a case that the investigation cannot take place until the legal practitioner arrives. I hope I have clarified that sufficiently for you.

The Hon. J.A. DARLEY: I will not be supporting the amendment.

The Hon. R.L. BROKENSHIRE: We will not be supporting it either.

The Hon. M. PARNELL: In response to the mover's response, the words in his amendment are that 'a person who is required to provide any information for the purposes of an authorised investigation may be assisted by a legal practitioner'. It would seem that, even though it uses the words 'they may be assisted by', I would have thought that that meant that if, for example, they want to be assisted by a legal practitioner and they were denied the right, they would possibly have a good case for saying that the $10,000 fine or six months' imprisonment did not apply to them because they had a right to be represented by a legal practitioner and they were denied that right. Whether that is the right interpretation, I am not sure, but on balance my position has not changed and we will not support the amendment.

Amendment negatived.

The Hon. D.W. RIDGWAY: I move:

Page 9, after line 37—Insert:

(3) However, if any information provided for the purposes of an authorised investigation is commercially sensitive, a person whose commercial interests would be adversely affected by its publication may apply to the ERD Court for an order under subsection (4).

(4) On an application under subsection (3), the ERD Court may, if it thinks it appropriate to do so—

(a) order that information not be published;

(b) impose conditions or requirements with respect to the publication of information;

(c) make other orders in connection with the publication of information,

(and then the Minister must, in acting under subsection (1), comply with any such order, condition or requirement).

This relates to the provision of information during an investigation. It was raised by some industry stakeholders about the provision of information that might be commercially sensitive, and the Hon. Mark Parnell talked in the previous amendment about the number of tonnes—whether it is production tonnes, whether it is reserves of tonnes of product—there is a whole range of information that could be commercially sensitive.

This is to provide an opportunity for somebody to prohibit or stop that information from being published if it is going to adversely affect their operations. We had some discussions with operators in the extractive industries field, and most of the operators, even the big mining operators that operate in the metals, iron ore and copper (the big boys in town) are always a little guarded on some of the commercial information, if it is sensitive and it impacts on their operations. We often know when shares trading halts are put in place because of announcements of reserves that have expanded or reduced or whatever.

We see this as a safeguard on the commercial information that may be needed for the investigation to take place. We are not suggesting that the authorised officer should not have it but we think there should be a mechanism to prevent that from being published, if it is commercially sensitive and may affect that operation.

The Hon. P. HOLLOWAY: The government does not support this amendment. The report of an authorised investigation will only be published where there has been a proven breach. That is normal practice: you have an investigation. Normally this particular section would come into place if there has been some incident that requires investigation. If there has been a proven breach, I would argue it is in the public interest to publish such a breach publicly. It is important that we do so. It is consistent with long-standing practice from PIRSA's compliance and enforcement policies.

I think the difficulty with the Hon. Mr Ridgway's amendment is that the government is very sensitive to information that is commercially sensitive, and it is something that we have to deal with all the time in terms of releasing information. I think, under one reading of Mr Ridgway's amendment, you could say that no breach would be published because in most cases a breach would be considered commercially sensitive; it almost certainly would have an impact on the company.

You could argue that, yes, it would be detrimental if a company has breached compliance and that comes out. Yes, it will affect its share price, therefore, would you argue that it should not be published due to the consequential impact on a company's reputation? This is an important part of compliance that, if you do have a breach of the act, then it should be properly investigated and that breach should be made public, notwithstanding any impact it may have on the company.

The Hon. M. PARNELL: The Greens will not be supporting this amendment for much the same reasons that the government is opposing it. I remind members of the two most recently published reports that I am aware of; the first one was the one relating to Arkaroola, which was done jointly with officers of the EPA and Primary Industries. It was very much in the public interest to know about the discovery of the illegally dumped bags buried in shallow graves, the illegal damage of the fluorite deposit—all of these things. It was important and it was in the public interest that we know exactly what happened.

The minister, I think, is correct that any adverse information would affect the company. I know the honourable member's amendment talks about information that is commercially sensitive. In my experience I think there is a difference between commercially sensitive information and information that is damaging. 'Commercially sensitive' would relate to things like assessments of the extent of a resource or something like that, which would normally not be relevant to an investigation, and I do not recall ever reading a report that had that sort of information in it. The minister does have the ability, the discretion, to put in the report what the minister sees fit, and in fact the minister is not even obliged to publish a report if the minister does not want to.

I mentioned there were two. I recall the minister yesterday in parliament. While it might not have been a formal report, at least he advised us about the problem with the copper mine at Copley near Leigh Creek. I think it is important, given that matters like that were raised on television current affairs news programs. I have raised them as well. I think it is important that the public is able to find out exactly what authorised officers found when they went out and what action the government took in response to the investigations. I am comfortable not supporting the

Hon. David Ridgway's amendment and trusting instead in the minister to exercise proper discretion in terms of what should and should not be in the report. It would be no secret to members that the Greens would always err on the side of publishing more rather than less.

The Hon. R.L. BROKENSHIRE: I am sorry to say to my colleague the Hon. David Ridgway that we cannot support this either. There could be an allegation; we do not know sometimes. Trucks cart material out of mines. They have the capacity to truck other material from processing arrangements elsewhere back into that mine. If that occurs and that is detrimental to a region or a neighbour, as an example, then I think they should have that exposed. It keeps pressure on the miners to do the right thing. I can say there is plenty of evidence particularly with this government where I have lots of confidence in them looking at commercially sensitive issues and commercial in confidence—just try to get an FOI.

Amendment negatived; clause passed.

Clauses 9 to 12 passed.

Clause 13.

The Hon. R.L. BROKENSHIRE: My amendments are consequential to what I put up before and if I did not do any good then I will not do any good now, so I withdraw them.

Clause passed.

Clause 14 passed.

Clause 15.

The Hon. R.L. BROKENSHIRE: The amendments standing in my name are consequential and are withdrawn.

Clause passed.

Clause 16.

The Hon. M. PARNELL: I move:

Page 13, after line 11—Insert:

(1) Section 28(5)—delete subsection (5)

This is a test for my amendment No. 8, as well, although I understand there is probably another amendment in between. However, I will move amendment No. 7 now but I am primarily speaking to the detail set out in amendment No. 8.

This amendment—and I have replicated it in three different locations in the bill—is designed to give some more openness and transparency in the regime of public consultation on applications for mineral tenements. I will not go through all the problems with the current system because I set those out in my second reading speech. However, in a nutshell, the difficulty is that the minister is not obliged to advertise mineral exploration licences with a view to getting information about what decision the minister should or should not make.

The minister firstly, under the present system, forms an intention to grant the exploration licence and then is simply obliged by the act to notify but without any particular expectation that anyone would respond, and certainly no legal obligation to take into account anything that anyone says if they do respond. In other words, on a spectrum of public participation or public consultation, it is very much at the shallow end.

The regime that I am proposing to replace for mineral exploration licences, mining leases and retention leases is one where, first of all, the minister must undertake consultation before deciding that he or she is going to give an exploration licence. In other words, seek submissions before you have made your decision rather than simply notifying that you intend to grant the mineral exploration licence: that is the first thing.

Secondly, I am proposing that the notification be via a newspaper, and that is primarily what happens at present. Members will be familiar with the ads at the back of *The Advertiser*. I am also proposing that the legislation require electronic communications on the website, as well. That has come to be standard in terms of all government notification processes. So, that is not that much different to what we have at present.

I have then gone on further and said that there should be direct notification in writing of landholders within the mineral exploration licence area. Members might think that that is going to be a huge imposition and there will be thousands and thousands of landholders, but that is generally not the case. We are mainly talking about fairly remote areas with a very small number of landholders. We are not talking about someone applying for a mineral exploration licence at, say, Burnside or Port Adelaide, where you would have thousands of notifications to make. I do not think that is too onerous.

What it does is notify owners of land that a mining company has applied for a licence to explore an area, including their land, and it would draw it to their attention directly and give them the opportunity to then contact the minister and say what they think. If part of the object of the exercise is for the minister to have the best available information before making a decision, then who better to provide that than the people who actually live, work and own land in that area? It may well be that the type of submission that is made is one that says, 'Minister, we are happy for exploration to occur but you need to know about these important local circumstances. In these local areas it is going to be important to keep the mining companies out.' It might be some sort of important environmental area, a wetland or who knows what. That information would come if the landholders were told.

At present, landholders are expected to scrutinise the newspaper daily and to find these advertisements in small print at the back, and often with very inadequate descriptions of the actual land that is covered. So, direct notification to landholders is included in this regime.

My regime requires a minimum period of 28 days for comment, and that is exactly the same as at present. I have added a further requirement that any comment directed to the minister should go to the question of whether or not the tenement, in this case a mineral exploration licence, should be granted and, if it was granted, what conditions should be attached. It is at that time that the minister can be told, 'By the way, minister, there is an important wetland in this corner of the mineral exploration licence. If you are going to let anyone explore there you need to make sure that you attach these conditions to it.' You could then set out the conditions.

In the absence of that local knowledge and those representations, the department or the minister is more than likely going to issue a standard exploration licence with standard conditions that will not necessarily reflect the actual conditions on the ground. The next requirement is that submissions, once made to the minister, should be published. That is exactly the regime that currently applies for other important consultation processes such as the rezoning of land. If members care to do so, they can go onto the website of the Department of Planning and Local Government and download the submissions that are made, and members may well have done that. Important rezoning exercises that are currently underway have had dozens and dozens of submissions published on the web. I think that is important in terms of transparency. When the minister does make a decision, everyone would know what information the minister had on which to make that decision. They would see all of the submissions that were made, whether it is by mining companies, individuals, chambers of commerce or—

The Hon. R.L. Brokenshire: Politicians.

The Hon. M. PARNELL: —politicians, as the Hon. Rob Brokenshire points out. Local members, for example. Publishing submissions is important. I also have a requirement that, if there are submissions, there should be an opportunity for people to actually address representatives of the decision-maker verbally with their submissions. That is exactly the system that currently applies in relation to rezoning exercises. If no-one makes a submission or, having made a written submission, no-one particularly wants to give any extra information verbally, then you do not need to have a meeting.

Members might think, 'Gee, this is going to add a great deal of time and expense,' but I think what you will find is that the experience is that the vast bulk of these public consultation exercises do not attract large numbers of submissions, unless, in the case of mining, it is over important environmental areas, and an even lower proportion of people who would actually want to attend a meeting. There is nothing, of course, that precludes them from ringing up someone from the department and providing information directly, but I have simply replicated the ability for a meeting to be held if any of the people who make submissions desire to be heard.

The regime that I establish here creates what I think is one of the most important requirements, and that is (and this is not particularly radical) a requirement for the minister to actually have regard to the submissions, because at present anyone who has ever made a

submission on a mineral exploration licence would be horrified to know that the minister was under absolutely no obligation at all to have any regard to their submission in terms of forming a decision about whether or not to issue the mineral exploration licence.

As I said, it is the most shallow form of public participation when the decision-maker is not even obliged to have regard to the submission before making a decision. That is where I come back to the first part of this new regime I am seeking to introduce which says the minister should consult before making a decision and not afterwards.

Once submissions have been made and published, and a meeting has been held if necessary, I think it is then a matter of simple courtesy for the minister to be required to tell those stakeholders—those people who bothered to make a submission—what the result was. At present, there are so many consultation regimes in this state where we never find out what the final decision was, other than when it is just published in the *Gazette* with no reasons given whatsoever. I think it is a matter of courtesy that people who bother to make submissions be directly notified the results of their submissions and the final decision that was made.

We also need to use modern technology to publish that information, so decisions made on any application for a mineral exploration licence should be published on the web. Again, members might say, 'That already happens; you can download this information,' but it is currently not a requirement of the legislation. Given that the purpose of this bill is to bring into the 21st century an act that goes back to 1971, which well and truly predates the internet, why not put in a requirement for electronic publication of this information?

The final aspect of my amendment is for appeal rights. That is not formally part of this amendment, but it will flow on later. I will get to that amendment later. This regime that I have put in place is a stand-alone regime. It simply improves public participation. It does not of itself give appeal rights, even though I would like to introduce those, but that will be in a later amendment. So members need not be fearful that, if they are voting for this amendment they are voting for the appeal rights, because I have separated those amendments out.

The Hon. P. HOLLOWAY: The government does not support this amendment. As has been suggested, this amendment No. 7 in Mr Parnell's name is really consequential in effect on the more substantive replacement clauses that he proposes in amendment 8, so I will deal with both of them together. Mr Parnell's later amendment proposes that the minister must consult with individual landowners before granting an exploration licence. If more than one submission is received, the minister must hold a public meeting.

This proposal shall significantly increase the red tape for government with no real value for the community. An exploration licence can be granted for an area up to 1,000 square kilometres. The average licence can contain hundreds of land parcels within that area. In most cases where an exploration licence encompasses multiple land titles, the explorer will rarely enter all land titles. An exploration licence is not a possessory title and it does not encumber a land title; that is, a licence is not registered against the land title, as is a mining lease.

The cost to the government and therefore the community of consulting with individual landowners for an average licence could well be in the vicinity of $20,000, or industry would need to wear this cost through higher fees. Consulting with individual landowners where those landowners may never be approached by the explorer could cause unnecessary angst, red tape and cost for the landowner.

The act's statutory entry to land provisions and the statutory provisions relating to the assessment of work approvals I would argue adequately address consultation with landowners and other stakeholders, which take into consideration environmental, social and economic impacts. As has been indicated at the start, one of the important parts of this bill is to look at the issues relating to access to land, and we have already debated some of those provisions in relation to that.

I would argue is that is one of the areas where the government accepted that the act needed to be changed, and we are obviously looking at those provisions, and we have already discussed some of those. This would be an extra level of red tape that would in many cases be completely unnecessary because it could well cover hundreds of land titles where there was never going to be exploration.

This proposal significantly increases the risk of security of tenure in that if, due to an administrative error, the minister missed sending a notice to a particular landowner, the licence grant could be deemed invalid. If there were a title of several thousand square kilometres, which

might include many small leases, and if you happened to miss one of those titles that could create this error.

There is significant risk and red tape associated with this measure, but essentially what benefit would it be? We are talking here only about exploration and, as I said, this bill elsewhere addresses issues in relation to the statutory entry to land provisions and the statutory provisions relating to the assessment of work approvals, and that is where we believe those issues should be addressed.

The government accepts there needs to be some improvement in those areas, but to add this sort of catch-all would just add an enormous amount of red tape and delay and increase the risk of security of tenure and a number of other disadvantages for, I would argue, very little real benefit.

The Hon. D.W. RIDGWAY: I am going to do the same as the minister and speak on the next two amendments of the Hon. Mark Parnell because they are linked. Certainly, the opposition does not support the Greens' amendment in this case. I think it does provide a significant increase to the administrative burden and the consultation. It is about an exploration licence, and we all know that exploration goes on all the time. It is the actual mining activity that is the greatest threat to the environment or the community, rather than the exploration.

It is the opposition's view that it would just create more red tape and be more cumbersome, and increase the time delays. Exploration is particularly costly and a bit hit and miss, although I guess with some of the new data available it is not quite so hit and miss. It is often said for every hundred exploration licences that are granted there are really only one or two that ever come to fruition and result in a proper operating mine, which of course is subject to a whole bunch of other provisions. With these few words I indicate the opposition will not be supporting these amendments.

The Hon. R.L. BROKENSHIRE: We have some sympathy with some of the clauses in these amendments (and I will be speaking to one of them in a moment), but we see them as being too broad and therefore too much of an impost on the industry at the exploration stage, so we will not be able to support the Hon. Mark Parnell.

Amendment negatived; clause passed.

Clause 17.

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

Page 14, after line 24—Insert:

(7a) The Minister must, within 14 days after receiving an application for an exploration licence, give written notice of the application to the owner of the land to which the application relates together with an invitation to submit written representations on the application within a specified time.

By coincidence, this amendment is identical to one in the raft of the Hon. Mark Parnell's amendments that were just debated. This is a fresh issue, compared with other amendments I have put forward, and relates to a farm or a property owner getting fair notice of exploration. We have had examples of farmers who had miners knocking on their door without much notice. We and the Farmers Federation, as well as others, feel that, given the impact exploration alone can have on farm viability or property ownership, some reasonably fair notice needs to be given so that access in the future can be negotiated at the earliest opportunity.

I give an example on Yorke Peninsula, which I gave in my second reading contribution, but it is a case in point. A mining company, worth about $5 million, is exploring prospects that potentially have a claim over 70 per cent of this generational family farm. That is a major impact on farm viability and sends concerns to bankers, management practices and the like. We believe that the earlier notice of this fact can alert farmers in relation to the future of their farm and can give them an opportunity to start to get the right advice on what protection and mechanisms they can have to assist them with their assessments when exploration licences are issued.

In essence, we believe that the system is tilted unfairly in favour of the miner here. We are putting up this amendment because we want to see the balance restored in the interests of fairness. Proposed new subsection (7a) provides:

The minister must, within 14 days after receiving an application for an exploration licence, give written notice of the application to the owner of the land—

just to the owner of the land, at least—

to which the application relates together with an invitation to submit written representations on the application within a specified time.

I do not think it is such a difficult ask for a mining company to actually write to the person whose land they want to explore and give them 14 days' notice to consider their personal situation. I think it is called democracy.

The Hon. P. HOLLOWAY: The government rejects this amendment for much the same reason as I have just given in relation to the amendment from the Hon. Mark Parnell. We disagree with the Hon. Mr Brokenshire that this does not have any significant consequences. We believe that the proposal would significantly increase the red tape for government. As I indicated previously, an exploration licence can be granted for an area of up to 1,000 square kilometres, and the average licence can contain hundreds of land parcels. In most cases, where an exploration licence encompasses those multiple land titles, the explorer will rarely enter all land titles. Again, in the debate on the previous clause, I mentioned the potential for risk of security of tenure, and the like, if one has to notify every single land tenure.

I do not want to make light of the problems raised by the Hon. Mr Brokenshire because we are aware that there can be problems in relation to access. We believe that the way to deal with that—and we will be doing this—is through regulations that come under section 58 of the act, I think, involving the statutory requirements relating to entry to land provisions and assessment of work approvals. So, rather than be required to notify what may be many hundreds of landholders—and if you miss one, that puts the tenure in jeopardy—it is important that, at the access stage, one should ensure that the landowner is treated with respect. It is at that point where we believe the act will do that through regulations and commensurate changes to section 58.

The Hon. D.W. RIDGWAY: I indicate that the opposition will not be supporting the Hon. Robert Brokenshire's amendment. In particular, I refer to the farming operation on Yorke Peninsula where the impact of that operation is not because of the exploration that has taken place: it is because something has actually been found and a potential mine may be established at some point in the future. That is where the impact is on the landowner. It is not the fact that maybe some holes were drilled across the property and coal was found, as I think was the case here: it is the uncertainty that he is facing about whether a mine will be established and what impact that will have on the value and the viability of his farm. In this case, we do not think it adds any real protection for landowners, so we will not be supporting this amendment.

The Hon. R.L. BROKENSHIRE: I take it that the minister is saying that they do not have an inclusive whole-of-government approach to looking after their own land within government because the minister's department issues an exploration licence. Are you saying to this council that, irrespective of what I have just discussed with respect to farmers and private landowners, you are happy to leave all your agencies responsible for land unadvised until such time as they actually want access to the property? To me, that seems a pretty slack attitude by government, as far as across-government consideration of all their own agencies and land management goes.

The Hon. P. HOLLOWAY: Whenever an exploration licence is issued, if it is over crown land—it could be national parks—there is, of course, consultation. That would be required under other parts of the act, but it really comes back to a point Mr Parnell made earlier that, if there are sensitive environmental areas that are either within a park or on other crown land that may not be dedicated as a park, normally those agencies, through consultation at the exploration stage, would put such requirements on it.

If there are any sensitive areas, park or not, then the government could require conditions that would apply in relation to how one accesses that particular area. Of course, a number of other parts of the act involving rehabilitation and not disturbing native vegetation, etc., would all come into it if there were some sensitivities.

These matters are all addressed but, again, these issues, as I indicated, are probably better dealt with in the statutory entry to land provisions. Once you have dealt with the overall exploration licence in terms of the area it is in and those factors, as I said, if there are conservation parks, national parks and the like, they would all be dealt with at that stage with conditions that would apply to the exploration licence.

Then, in relation to individual landholders, if the exploration company wishes to go into a particular property, that is when the statutory entry to land provisions and provisions relating to the assessment of work approvals, etc., would come into it.

The Hon. M. PARNELL: I will be supporting the amendment, which will be no surprise, given that it is a small part of the more comprehensive public participation amendment that I had before. The Greens support more consultation and notification rather than less.

If we just want to step back a moment, one of the difficulties we have with this regime is that there is an assumption out there that, if we are going to allow mining companies to explore, then, if they find anything, we are going to have to allow them to mine. The question is often raised: if you had some problems, why didn't you make them known earlier? Well, one of the reasons people do not make them known is that they do not know. The reason they do not know is that they do not necessarily read the public notices in the newspaper.

I absolutely take the minister's point that the direct notification occurs at the notice of entry stage, but I still think that, in terms of these—as the minister says—often large mineral exploration licences, it is not too onerous to actually require all the relevant stakeholders within that area to be notified.

In some ways, many government consultation processes remind me of that scene from, I think, the very start of *The Hitchhiker's Guide to the Galaxy*, where the Earth is about to be destroyed and the aliens say to the earthling, 'Well, didn't you see the public notice?' It was in an unlit basement and I think it was guarded by a tiger, or something. It was a spoof on the fact that, when all you do is comply with the letter of the law, it pretty much guarantees that not that many people will find out what is going on.

So, this is, I think, a small improvement to the public notification provisions. I notice that, as we go through this bill, we will be looking at exactly the same issues again when we get to mining leases, which is certainly a much smaller area; and also retention leases, which are small as well. For now, the Greens are happy to support this stand-alone amendment.

Amendment negatived; clause passed.

New clause 17A.

The Hon. M. PARNELL: I move:

Page 14, after line 41—After clause 17 insert:

17A—Insertion of sections 29A and 29B

After section 29 insert:

29A—Representations in relation to grant of licence

(1) The Minister must not grant an exploration licence unless he or she has caused to be published, in accordance with subsection (7), a notice—

(a) describing the land to which the application relates; and

(b) specifying a place at which the application may be inspected; and

(c) inviting members of the public to submit written representations in relation to—

(i) whether the application should be granted or refused; and

(ii) any conditions that should be attached to the licence if the application is granted,

within a period specified in the notice (which must be a period of at least 28 days from the date of publication of the notice).

(2) The Minister must, within 14 days after receiving an application for an exploration licence, give written notice of the application to the owner of the land to which the application relates together with an invitation to submit written representations on the application within a specified time.

(3) If application is made for an exploration licence in respect of land within the area of a council, the Minister must, within 14 days after receiving the application, send a copy of the application to the council and invite it to submit written representations on the application to the Minister within a time fixed in the invitation.

(4) If the Minister receives 1 or more written representations in response to an invitation under this section, the Minister must cause to be published, in accordance with

subsection (7), a notice inviting members of the public to attend a meeting to be held in relation to the application.

(5) All written representations received in response to an invitation under this section must be published on a website maintained by the Department to which the public has access free of charge.

(6) In determining whether to grant or refuse an application for an exploration licence and, if so, the terms and conditions on which it should be granted, the Minister must have regard to any written representations submitted in response to an invitation under this section and any oral representations made at a meeting convened in accordance with subsection (4).

(7) A notice under this section must be published—

(a) in the Gazette; and

(b) in a newspaper circulating generally throughout the State; and

(c) if there is a regional or local newspaper circulating in the part of the State in which the licence area is situated—in the regional or local newspaper; and

(d) on a website maintained by the Department to which the public has access free of charge.

29B—Notification of decision on application

As soon as practicable after determining whether to grant or refuse an application for an exploration licence, the Minister must—

(a) provide written notification of the following to each person who made a written or oral representation in relation to the application (and whose identity and contact details are known to the Minister):

(i) the determination;

(ii) the date of the determination;

(iii) if a licence has been granted—the terms and conditions of the licence;

(iv) the person's right under section 42 to appeal against the determination; and

(b) cause the determination to be published on a website maintained by the Department to which the public has access free of charge, together with, if a licence has been granted, a copy of the licence.

I spoke to this amendment No. 8 along with amendment No. 7, and I have moved it so that *Hansard* will record the regime I have carefully created. However, I will not speak to it or divide on it.

New clause negatived.

Clause 18.

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

Page 15, after line 7—Insert:

(ab) any underground water that may be affected by the conduct of operations in pursuance of the licence;

(ac) any circumstances that are relevant to contributing to South Australia's food security;

This is straightforward amendment and simply adds onto the minister's amendment, relating to any aspect of the environment that may be affected by the conduct of operations in pursuance of the licence. Paragraph (ab) specifically refers to any underground water that may be affected by the conduct of operations in pursuance of the licence. I have already spoken to colleagues about concerns with the protection of underground water (or groundwater, whichever way one interprets it) and any circumstances that are relevant to contributing to South Australia's food security.

These are the first of several amendments that piggyback on the government adding 'environment' as a consideration with mining applications but expanding it to the clearer primary concern of both groundwater and food security. I am be keen to hear from the government, opposition and crossbenchers. I reserve my right to recommit this, specific only underground water, based on the comments the minister made earlier about food security.

The Hon. P. HOLLOWAY: I would have thought that this was consequential. Essentially we had this debate about these two issues on Tuesday, so I will not repeat the debate here. We oppose them for the reasons I outlined last Tuesday.

The Hon. D.W. RIDGWAY: The opposition opposes it for the reasons I outlined when we had the debate two days ago, and we oppose the amendment.

Amendment negatived.

The Hon. M. PARNELL: I move:

Page 15, line 28 [clause 18(3), inserted section 30(8), penalty provision]—Delete:

'$120,000' and substitute: '$500,000'

I will treat this amendment as a test for a large number of other amendments that seek to increase the penalties under the act for criminal offences, in particular the more serious criminal offences. The minister will no doubt tell the chamber that this 40-year old piece of legislation has been substantially revised in terms of penalties and that the penalties are substantially more than under the existing act. In fact, there are some instances where a penalty is being imposed for the first time, where no penalty was available before.

However, my amendments seek to increase the penalties, not just because I can but because we need to put in perspective the types of criminal conduct we are talking about and the potential impacts on the environment that can occur when things go wrong, either accidentally or deliberately, in relation to mining. This particular provision in clause 18 relates to mineral exploration licences. The government's bill seeks to include a penalty. New section 30(8) will provide:

(8) A person must not contravene, or fail to comply with, a condition of an exploration licence.

It imposes a penalty of $120,000. Let's put this in perspective. Who can think of an occasion recently when a mining company has failed to comply with conditions of a mineral exploration licence? Arkaroola—illegally dumping thousands of bags of waste, the illegal removal of a valuable fluorite deposit, substantial damage caused to the environment and, under present law, no monetary penalty, other than that which comes from having their drilling operations suspended.

What will be the maximum penalty? If another Marathon Resources comes along and behaves in such an appalling way in some other important part of our environment, the maximum penalty will be $120,000. Let's put this into context. Under the Environment Protection Act, if a person causes serious harm to the environment knowing what they are doing—in other words, not just an accident but knowingly, as Marathon did, knowingly, secretively and sneakily trying to avoid their obligations—under the Environment Protection Act, if a corporation behaves like that, it is a $2 million fine and, if an individual does it, it is a half million dollar fine under section 78, from memory, of the Environment Protection Act.

Here we have an industry that has great capacity to cause harm and damage. I know that there are other provisions that might require them to remediate or to make good or whatever. We are talking about the criminal penalty, the fine that would go into consolidated revenue as some form of punishment for the behaviour. When someone breaches an exploration licence, the maximum penalty under this bill is $120,000.

My amendment proposes to increase that to half a million dollars. Members might say, 'Why didn't you put it up to $2 million?' I figured I have more chance with half a million and it is more than twice as good as what the government currently has in here. I know we are coming off a low base. I know we are coming from an old 40-year-old act with very inadequate or non-existent penalties, so people might think going from zero to $120,000 is a pretty good thing, but just bear in mind that the level of damage that can occur is massive and these are, on the whole, multimillion dollar companies that can afford to pay serious fines. The alternative is, if you are a mining company and you know the maximum fine is $120,000, to think 'Is it worth spending a couple of million dollars to do things the right way or do I just run the risk that I will not get caught and I will pay the fine if I do?'

I know people might say that mining companies do not think like that. My experience as an environmental lawyer over two decades is that companies very often do weigh up the chance of getting caught and the maximum penalties if they are caught and they build that into their decision-making when it comes to whether or not to do things properly or do things in a half-baked manner.

I am not going to speak at length to every occasion in this bill where I seek to increase the penalties but I just urge honourable members to bear in mind that while $120,000 looks like a lot of money, it is a drop in the ocean compared to the damage that can be done and compared to other legislation already on the statute books in South Australia that treat environmental crimes more seriously than this bill does. I urge all members to support this and the other amendments in the bill that seek to increase the penalties.

The Hon. P. HOLLOWAY: The government does not support the amendment. This bill introduces penalties in some cases and substantially increases them because some of them have not been changed for many years since the Mining Act 1971 was introduced. The Hon. Mark Parnell's amendments seek to increase the penalties which in this bill are $120,000 and $250,000 respectively to half a million dollars and $1 million respectively.

The penalties proposed in this bill have been determined subject to extensive benchmarking of similar penalties within mining legislation in other jurisdictions. The Hon. Mr Parnell's proposed penalties would make South Australia's legislative regime the highest by far with respect to penalties. The new enforcement tools proposed in this bill have been modelled with a focus on the principal tools of education and persuasion to achieve compliance efficiently and effectively with a need to utilise compulsive or punitive enforcement action only as a last resort.

If there is actual environmental damage and so on, of course the other acts the honourable member referred to actually do apply, and I think the honourable member referred to the Marathon action at Arkaroola. That action drew to the government's attention some of the inadequacies within this particular act. Certainly the company should not have buried it. It is one thing to return the drill core back to the earth from which it came but it certainly should not have buried it in plastic bags and put other rubbish there.

In terms of actual environmental damage, one of the issues (if I recall correctly) was, of course, that punishment under the EPA would have been difficult to sustain because it was not as though putting the earth back was going to cause lasting environmental damage. In relation to the other matter the honourable member referred to there were issues of evidence. However, without wishing to go further into that particular case, I make the point that it is important that there be penalties within the Mining Act to cover cases where there is a breach of the act but they may not necessarily incorporate environmental damage.

If there is severe environmental damage then, clearly, other penalties can apply under other legislation. I just want to make sure that that point is registered. Certainly, under the Mining Act, we do need a scale of penalties, and these penalties have been carefully crafted to be commensurate with the sorts of offences and the levels of fines in other acts around the country.

The Hon. D.W. RIDGWAY: The opposition shares a very similar view to the government, in that these penalties have been increased and that is certainly long overdue, as the legislation is some 40 years old. We think that the government has got it about right, this being similar to other jurisdictions. A member said we could be leading the nation with the highest penalties but I am not sure that is something that we want to be leading on; we need to be comparable but not excessive.

Amendment negatived; clause passed.

Clauses 19 to 22 passed.

Progress reported; committee to sit again

[Sitting suspended from 12:58 to 14:18]

PAPERS

The following papers were laid on the table:

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

Codes of Practice under the Authorised Betting Operations Act 2000—
No. 1 of 2010—Advertising
No. 2 of 2010—Responsible Gambling
Land Management Corporation—Amended Charter

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

Health Practitioner Regulation National Law Regulation

QUESTION TIME

BOWDEN URBAN VILLAGE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:21): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the proposed Bowden Village.

Leave granted.

The Hon. D.W. RIDGWAY: Members would be aware of the current proposal for the former Clipsal site at Bowden, for which a consortium of Hassell and Parsons Brinckerhoff won a contract design in April 2009. In effect, the project will be a test case for transit-oriented development in Adelaide.

The winter 2009 edition of *New Connections*, a quarterly publication by DTEI, shows an appealing concept image of a proposed development, with a train passing through an underground line that spans the entire width of the development. Sure enough, just prior to that, minister Conlon said that one of the possibilities for the new Clipsal site would be to have an electrified rail servicing the site go underground through the development. This project is touted as:

> …a Transit Oriented Development, demonstrative of international best practice; a flagship project that integrates sustainable living and working arrangements, energy and water efficiency, renewable energy generation, water harvesting and reuse that will establish a benchmark for future development along Adelaide's transit corridors.

I have now been informed by a very reliable source that due to budget constraints it is likely now that the railway line will not pass underground. My question is: will the minister confirm that the government's early pre-election ambitions for this very first and most important TOD site are now at risk due to budget constraints?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:22): The planning for the Clipsal site is in the hands of my colleague the Minister for Infrastructure, through his agency the Land Management Corporation, which has been responsible for it. They have been working closely with the Integrated Design Commissioner, since the appointment of Tim Horton, and also the Department of Planning and Local Government, as far as the broader direction is concerned. However, as to the specific details in relation to transport matters, I will refer that to the Minister for Transport and bring back a reply. It is his portfolio.

PLUMBING INDUSTRY REGULATION

The Hon. J.M.A. LENSINK (14:23): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question on the subject of plumbing industry regulation.

Leave granted.

The Hon. J.M.A. LENSINK: On 23 June this year, I asked a question about regulation, largely in relation to the various responsibilities between OCBA, SA Water and the Office of the Technical Regulator (OTR). In her response, the minister advised:

> OCBA seeks advice from SA Water and the OTR on the competencies required to carry out specific types of plumbing, gasfitting work…

Further, she stated:

> SA Water and the OTR refer instances of unlicensed and unregistered plumbing and gasfitting work detected by them to OCBA in their role as technical regulators.

She also said:

> …SA water and the OTR participate in OCBA's regular consultation meetings with industry stakeholders.

My questions to the minister are:

1. How often do those meetings with industry take place? Is it on a quarterly basis or some regular basis?

2. Can she advise the number of referrals made from SA Water to OCBA in the last five years in relation to breaches of plumbing licences?

3. What were the outcomes of investigations by OCBA, such as warnings, court action, prosecutions and so forth?

4. Is it correct that SA Water, as part of the regulatory system, has no powers to examine a plumber's record of Certificates of Compliance in the same way that the Office of the Technical Regulator is empowered?

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 for the City of Adelaide) (14:25): I thank the honourable member for her important questions. Just by way of background, SA Water is the technical regulator for sanitary plumbing, drainage and water plumbing connected to SA Water infrastructure in South Australia, and has the responsibility to ensure that appropriate standards are met. The OTR is the technical regulator for gasfitting and has responsibility under the Gas Act to establish and enforce proper safety and technical standards for gas installation and appliances.

In terms of the liaison between OCBA, SA Water and OTR, it is my understanding that OCBA seeks advice from SA Water and the OTR on the competencies required to carry out specific types of plumbing or gasfitting work or proposals to issue licences for certain aspects of plumbing and gasfitting work. SA Water and the OTR then refer instances of unlicensed and unregistered plumbing and gasfitting work detected by them to OCBA as part of their roles as technical regulators. Substandard plumbing or gasfitting work detected by OCBA through the investigation of consumer complaints, or alleged unlicensing, as I have said previously, is referred to SA Water or the OTR. I do not have with me the specific details that the honourable member has asked me for, but I am happy to take those questions on notice and bring back those details at another time.

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:27): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question relating to the investigation into the Burnside council.

Leave granted.

The Hon. S.G. WADE: Today marks the 12th anniversary of the announcement of a 12-week investigation into the Burnside council. On 22 June 2010, the minister stated in this council that, with the investigator and visitors, a period of four to five weeks will be needed to complete the natural justice period and that, following that period, he would need a further three weeks to finish his report.

The opposition understands that the natural justice period has not begun. If that period were to start tomorrow—and we have no indication that it will—it may not be finished until 27 August, with a report being provided around 17 September, 10 days after nominations for the council elections open and four days before they close. The next parliamentary sitting day after 17 September is 28 September, quite sometime after the close of council nominations. The Mayor of Burnside, Wendy Greiner, is reported in this morning's *Advertiser* as saying, 'As an election is looming, it is important that the report is released before nominations are called.' My questions to the minister are:

1. Will the investigator's report be released before nominations open on 7 September?

2. For her part, will the minister commit to releasing a public version of the report as soon as she receives it, whether or not the parliament is sitting?

3. Has the minister received a request from the council, mayor or councillors of Burnside to delay the election in Burnside?

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 for the City of Adelaide) (14:29): I thank the honourable member for his questions, be they somewhat tedious given that he has asked them previously in this place. My responses to those questions are on the record and remain unchanged, because I have no further information to

add. For the benefit of the member who appears to have problems with his hearing or his understanding, or probably both, I will go over all of it again.

As we know, it is with a great deal of frustration and disappointment that the investigation into complaints and concerns around the conduct of Burnside council has had to be extended. However, it has had to be extended for very good reasons. I have already outlined those reasons in great detail, but, in summary, they are to do with the scope of the inquiry, given the fact that we opened up the ability for the general public to give evidence rather than just limit it to the council. On at least two occasions, the investigator was given evidence at a very late date, which meant that he had to reopen parts of the investigation. I have also reported in this place the illness and hospitalisation of the investigator.

It is most unfortunate that these things happen, but it is indeed most important that the investigation proceed and that all phases of the investigation, including the natural justice component, of which preparation has commenced but has not been completed, are allowed to be completed, without interference or hindrance from, really, anyone. That includes members of parliament who may be wanting to interfere in these matters, like the Hon. Stephen Wade appears to.

This is an independent investigation, which is being conducted by a man who has extremely high qualifications. He is extremely competent and capable of conducting this investigation. He needs to be allowed to progress all phases of this investigation to final completion, to ensure that he is able to deliver his findings, and deliver a report of a high standard and high integrity. It is important that he be allowed to get on and do this.

As I have reported in this place previously, the investigator indicated in his last correspondence to me that he hopes to have a report to me by mid to late August. The nominations do not close, I think, until about 21 September, so we are hoping and anticipate that these matters will be finalised by that time.

There was an interjection in terms of costs. I take full responsibility. If that is what it costs—and this investigation has indeed been costly—to uphold the integrity of democracy, then that is what it costs. After all, fundamental to this and a priority for this government is to ensure that, wherever there are concerns that a local council is in breach of its legislative responsibilities, where there are problems and the general public has lost confidence in local government or the integrity of local government has been shattered, then it is important that we have in place processes to ensure that an independent investigation into those allegations is conducted in a full and thorough way, unfettered, unhindered and not interfered with by members of parliament.

If the finding is that there are problems, they need to be acted upon to fix any that are identified to ensure that our local government sector remains transparent and fully accountable to the general public, and able to perform its functions and responsibilities to the highest integrity and in the highest public confidence. As I said, I have already put responses to all these questions on the record.

I think there was one other matter to which the honourable member alluded, and that was the tabling of the report. I have indicated that I would, at a time when I am reasonably able to do so, table it in parliament, so long as there was no legal impediment for me to do so. I have already given that public commitment, and I reiterate it again in this place today.

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:36): By way of supplementary question, I take from the minister's remarks that she has withdrawn her commitment of last year to release the report publicly and that she will not do so unless parliament is sitting.

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 for the City of Adelaide) (14:36): The honourable member is misleading and dishonest in his statements. I think that is the second time today he has said something dishonest and misleading in this house. It is a disgrace, an absolute disgrace. He is supposed to be a member of the legal profession, so he knows about these standards better than anyone else in this place.

I have never said that. I have said that I would table the report in parliament as a means of making it publicly available, and I have only ever committed to releasing the report publicly through the means of tabling it in parliament.

FOODBANK SA

The Hon. CARMEL ZOLLO (14:37): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question regarding the regional food relief centre in Whyalla that will assist 12,000 needy people across Upper Spencer Gulf and the West Coast.

Leave granted.

The Hon. CARMEL ZOLLO: The inception of Foodbank in the year 2000 has become the state's largest hunger relief organisation, growing from supporting 120 registered welfare groups in its first year to 535 groups in 2007. Further, another key focus for Foodbank SA was to extend its reach into regional areas. The first satellite Foodbank operation opened in 2005 in Mount Gambier, and I understand that work has started on developing an agency in Whyalla to respond to people in need in northern regional and remote areas. Will the minister provide further information regarding the progression of the Whyalla Foodbank?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:38): I thank the honourable member for her question. I was delighted to formally open the new emergency food relief centre—Foodbank Whyalla—last week. Whyalla Foodbank will provide food relief to around 12,000 people in need annually across the Upper Spencer Gulf and West Coast regions through a network of about 40 welfare food relief programs. Each year, 100 tonnes of staple foods and groceries are to be distributed across the region.

This project has taken time, effort and commitment from many people to make this vital regional service a reality. It was about two years ago that myself and Primary Industries and Resources SA, Minerals and Energy Division, arranged a partnership between our minerals drill core storage facility in Whyalla and Foodbank SA. This crucial arrangement ensures that Foodbank can respond to the very significant food relief needs of marginalised people across the Upper Spencer Gulf and West Coast regions.

The site was very basic when handed to Foodbank SA to develop into this wonderful community asset. The investment that Foodbank has since made into the shared PIRSA storage facility is very significant. A considerable amount of expensive infrastructure is required to operate a food warehousing and distribution business, especially in regional communities. Foodbank SA has been working to build further collaboration with business to fund the $500 million worth of development in Whyalla.

The companies on the Foodbank Whyalla Honour Roll are jointly responsible for donating more than $400,000 in cash to help underpin the redevelopment of both the PIRSA donated warehouse and the yard and loading apron. The funds have also provided critical operational seed funding for the branch in the first couple of years of operation. The Foodbank Whyalla Honour Roll, which is on display at the rear of the warehouse, included 55 business groups that contributed the $400,000 in cash sponsorship plus a further $100,000 in in-kind gifts of goods and services.

The range of business partners engaged in the Foodbank collaboration is expansive and includes the state government through PIRSA and Community Benefit SA; local government through the City of Whyalla; food companies such as Woolworths, Coles, IGA and so on; large business groups such as OneSteel through to small businesses and trades; the philanthropic sector including trusts and foundations; as well as many community groups like Rotary, Lions and their many partners in the welfare sector across the region.

I would also like to specifically acknowledge Foodbank Whyalla's principal partners in the project which are the City of Whyalla, OneSteel Whyalla, Centacare, Australian Children's Trust, Morialta Trust, Community Benefit SA, and of course PIRSA which provided half of the old storage shed, the other half of which is still used to store core samples in Whyalla. In particular, it was pleasing to see such local prominent members of the community such as the City of Whyalla and OneSteel show strong leadership in helping to fund the establishment and ongoing operations of Foodbank Whyalla.

While visiting Whyalla I also had the opportunity to visit the OneSteel mine site and view the new Iron Chieftain Mine site located in the Middleback Ranges. I might add that OneSteel is an impressive operation.

Foodbank is an important peak agency that brings together levels of government, the business sector and the food industry with a common goal of providing essential food resources for the disadvantaged in our community. Through centres such as the new Whyalla warehouse, Foodbank's head office distribution facility in Adelaide and its other regional warehouse in Mount Gambier, Foodbank SA is making a very positive difference to the work of welfare agencies ensuring people most in need have adequate food support. I personally congratulate them on their efforts in supporting the regional communities of South Australia.

The Foodbank Whyalla project is most certainly a long-term solution to the growing long-term issue of food security for families in need in regional and remote areas of South Australia. Again, I would like to congratulate the Foodbank SA board, the executive staff and volunteer team on their perseverance during the past two years and their final achievement which is a well-stocked local emergency food resource centre. I was very pleased that PIRSA could play a part in providing that and also I would like to acknowledge the Hon. Dean Brown who, through his involvement in the mining industry and as a member of the Foodbank board, also contributed to this.

COMPULSORY ACQUISITIONS

The Hon. J.A. DARLEY (14:44): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development, representing the Minister for Transport, a question regarding compulsory acquisitions.

Leave granted.

The Hon. J.A. DARLEY: The Commissioner of Highways recently compulsorily acquired the land situated at Lot 201 South Road, Angle Park, for the purposes of developing the super highway at Regency Park. The site comprises approximately 8.6 hectares and the entire site was compulsorily acquired. I am told by the dispossessed owner that less than 0.2 of a hectare (or 2 per cent of the site) is actually required for the proposed super highway and this land is going to be used for landscaping purposes only. The owner was prepared to lease additional land to the department during the construction period.

The dispossessed owner does not understand why the whole site was acquired when only a small portion of the land was necessary for a fairly trivial purpose as part of the super highway. Further to this, the dispossessed owner has expressed to me that he did not feel the department had given him enough time to consider the offer and to seek legal advice on the matter. My questions to the minister are:

1. Why was it necessary to acquire the entire 8.6 hectare site when the area required for the project was less than 0.2 of a hectare, or 2 per cent of the site, and the department could have leased additional land from the dispossessed owner during the development phase?

2. Why was surplus land able to be purchased for this development and not for the Anzac Highway/South Road underpass project?

3. What does the department intend to do with the surplus land not required for the super highway project?

4. Under what authority is the Commissioner of Highways able to compulsorily acquire such large tracts of land when only a very small portion of the land is required for an approved public purpose?

5. Is the minister able to advise whether this practice has occurred in other circumstances for other projects?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:45): I thank the honourable member for his question and will refer it to the Minister for Infrastructure and Minister for Transport in another place and bring back a reply. Obviously, it would be helpful if the honourable member could perhaps provide me or the appropriate minister's office with information in relation to the particular parcel of land in question. I will endeavour to get an answer for him.

BUSINESS SCAMS

The Hon. I.K. HUNTER (14:46): I seek leave to make a brief explanation before directing a question to the Minister for Consumer Affairs about scams.

Leave granted.

The Hon. I.K. HUNTER: Scams take in people of all backgrounds, ages and income levels. In fact, I have asked a question about scams in this place recently. There is no one group of people who are more likely to become a victim of a scam. Even if we think we are too clever to fall for a scam, we sometimes take risks that scammers can take advantage of.

Scams can also be designed to steal personal details. The types of personal information that scammers might ask for include credit card and bank account details, passport details and name and address details. Amazingly, at least to me, some people give away these personal details when really alarm bells should be going off when such a request is made. Will the minister advise the chamber of how consumers can protect themselves from scams and also inform us about current scams affecting members of the community?

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 for the City of Adelaide) (14:47): I thank the member for his important question. Indeed, this is an ongoing challenge, as members know. The Office of Consumer and Business Affairs (OCBA) provides advice and warnings to the public in relation to a wide range of different scams. Warnings are usually published through a media release with information on specific schemes available through the Consumer Affairs telephone advisory service and on the OCBA internet site. OCBA also publishes a booklet advising consumers on how to spot scans and avoid getting caught.

Greater use of email and SMS technology means that even more consumers can be readily targeted by fraudulent operators. However, thankfully, consumers are becoming increasingly more aware of these new types of approaches. Members may recently have heard about a couple of scams and I would like to draw them to their attention. I understand that scammers are cold-calling consumers on the telephone in an effort to obtain money by deception. I am advised that, in some instances, consumers have received an anonymous call purporting to be from an authorised bank re-claim agency. The agent asks for bank account details and advises that for a particular payment fee they will arrange for the return of bank fees that the consumer has paid for over the last few years.

I have also been told that these scammers may also profess to be from a government agency or a law firm and advise that consumers have a tax refund claim due to an overpayment of taxes. Obviously, as it is tax time at the moment, I urge members to be particularly careful not to be vulnerable to that sort of approach.

In addition, I understand that some cold-calling tactics are now being employed by anonymous callers offering consumers investment opportunities connected to a range of different enterprises. The investment opportunities are often claimed to be associated with enterprises that evoke some type of emotional response or connection such as the Country Fire Service or childhood cancer foundations.

It is not just phone calls that lead to scams. As I said, another common scam tool is the use of SMS (text messages on mobile phones). Commonly, SMS scams involve claims that consumers have won money or prizes, and the aim of these scammers is to have consumers provide them with their personal details or money, or a bank account that they can transfer the prize winnings into. I understand that most recently scammers targeted consumers wanting to acquire tickets to the FIFA World Cup.

Consumers obviously need to be aware of anyone calling or texting them, unsolicited and out of the blue, with such offers. They should always conduct some form of check at least before agreeing to part with any of their hard-earned money or, for that matter, any of their personal information. Remember: if something sounds too good to be true, then it probably is.

Complaints about both scams and schemes are ongoing, and OCBA works in conjunction with the ACCC as well as the Australasian Consumer Fraud Taskforce not only to identify such scams but also to warn the public of those types of scams. The ACCC also operates the SCAMwatch website, which was created to assist people to help recognise and report scams and to protect consumers from them. The website is located at scamwatch.gov.au and encourages the public to educate themselves and report scams. I encourage people to go online and have a look at that site.

INDUSTRIAL MANSLAUGHTER LEGISLATION

The Hon. T.A. JENNINGS (14:52): I seek leave to make a brief explanation before asking the Minister for Industrial Relations a question about industrial manslaughter legislation.

Leave granted.

The Hon. T.A. JENNINGS: My question, of course, is raised in the shadow of last week's tragic incident, when a construction worker lost his life at the site of our desalination plant where a soft sling being used broke. I start by stating that I express my heartfelt condolences to the man's family, friends and workmates. I also acknowledge the minister and his words in this place earlier this week when similarly expressing those condolences.

Two days ago, the member for Mitchell in the other place noted, in a grievance debate on workplace safety, that 7,000 people die each year in Australia from work-related incidents, including disease and accidents. I think we can all agree that that is 7,000 too many. Last week's tragedy reminds us that workplace death is all too common and that it is time that we as legislators need to be doing everything in our power to ensure that deaths are prevented at all costs.

That brings us to the question of what can be done to reduce, if not eliminate, the occurrence of workplace deaths in South Australia. I note the trade union movement has been calling for a ban on soft slings for 25 years and, according to CFMEU State Secretary, Martin O'Malley, he has been doing that for over two decades. This will no doubt be discussed further during the investigations and discussions that arise from last week's tragedy, as is fit and proper.

I am not saying for one moment that the accident that occurred last week is due in any part to any decision or action by the employer; that is, of course, for the investigators to determine. However, an important aspect of reducing workplace death is to ensure that there are sufficient laws to dissuade employers from taking shortcuts that may endanger workers' lives and to enable prosecution of employers if this is found to be the case.

I am aware that this is a matter that has previously been discussed in this place, so I ask the minister: if and when will the state government move to introduce industrial manslaughter legislation?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:54): I thank the honourable member for her question, and I reiterate my condolences to the family, friends and workmates of the worker who was killed doing his job last week.

In relation to some of the matters raised by the honourable member, as I indicated in my statement on Tuesday, the government, through SafeWork SA, will obviously be fully investigating matters to do with that death, including issues such as the appropriate form of slings.

In relation to the broader question the honourable member has raised, I point out that a national review into model occupational health and safety—the occ health and safety laws—which was commissioned by the federal government in 2008, considered the issue of industrial manslaughter, as the honourable member has put it, as part of its assessment of the types of offences that should be included under harmonised model occupational health and safety legislation. In particular, it examined offences involving work-related deaths and serious injuries arising at workplaces, and it noted that the Australian Capital Territory is the only jurisdiction that has a specific offence of industrial manslaughter.

The review further noted that previous reviews of occupational health and safety laws undertaken in the last 10 years in Australia—that is, in Victoria, New South Wales and South Australia—had all recognised the seriousness of work-related deaths but there was no common ground on how the Occupational Health and Safety Act should deal with industrial manslaughter. South Australia's position to that review was that there would be little benefit in pursuing industrial manslaughter under South Australia's occupational health and safety laws, given that a charge of manslaughter against anyone where death was caused intentionally, recklessly or negligently at the workplace could be brought under the Criminal Law Consolidation Act.

The review's report did not recommend that industrial manslaughter be a separate offence under the proposed model occupational health and safety legislation. Recommendation 55 of the review's first report to the Workplace Relations Ministerial Council proposed three categories of offence for each type of duty of care under the model laws. This reflected general support by

stakeholders for the differentiation of offences by reference to the level of culpability, risks and seriousness involved. From that accepted approach, it was then recommended that the model law should specify particular penalties for particular offences so that the relative seriousness of the offence is clear.

The ministerial council subsequently agreed to recommendation 55 in principle and provided SafeWork Australia with directions on the scope and content of the model Work Health and Safety Act in early April 2009. Recommendation 55 was then drafted as a provision of the model Work Health and Safety Bill, part 2, division 5, sections 29 to 35, which was agreed to by the Workplace Relations Ministerial Council in December 2009. Apart from some minor amendments to these provisions, made at the request of SafeWork Australia, they remain essentially intact.

The final version of this bill is anticipated to be available shortly. I presume, given the current federal election and the fact that the federal government is in caretaker mode, that may well be after the election, but certainly one would expect that fairly soon we would see the final version of the bill. I think that indicates the views of workplace ministers around the country in relation to this matter. The ministers have generally supported that recommendation that there should be some gradation, three categories in fact, of offence for each type of duty of care under the model laws. Obviously, we hope that that bill will be released fairly soon.

APY LANDS, HOUSING

The Hon. T.J. STEPHENS (14:59): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations, representing the Minister for Housing, a question about Aboriginal housing.

Leave granted.

The Hon. T.J. STEPHENS: Last week the federal Indigenous affairs minister withdrew $900,000 of federal funding from South Australia as part of the national partnership agreement on remote Indigenous housing. This funding was withdrawn as South Australia failed to meet its target of 44 new houses in the APY lands. The government missed this target by 11 houses, or about a quarter of the project. While South Australia has been penalised for missing its target, Western Australia has exceeded its target and, as a result, received an extra $4 million in funding. Not only has South Australia lost funding, but we have missed out on a large bonus as a result of the mismanagement of this project. My questions are:

1. Why is one of the most vulnerable groups in our community going to be penalised for minister Rankine's failures?

2. When does the Rann government expect the remaining houses to be completed?

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 for the City of Adelaide) (15:00): I thank the member for his questions and will refer them to the Minister for Housing in another place and bring back a response.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. B.V. FINNIGAN (15:00): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question regarding the 30-Year Plan for Greater Adelaide.

Leave granted.

The Hon. B.V. FINNIGAN: South Australia's population is continuing to grow at a time when our environment is under pressure from climate change and we face greater challenges to secure our water and energy needs. Will the minister explain the main objectives of the government's planning strategy for the next 30 years to address these challenges, and is he aware of any alternative proposals?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:01): There has been much talk recently about sustainable population growth. While this is more a debate about the pace of growth, there is one thing we can be assured of, and that is that South Australia's population will increase in the next 30 years. Whether the reach the two million mark in 2037, or later, short of a major catastrophe, South Australia's population will eventually reach this milestone. Therefore, it is only prudent to

plan ahead for the demands that that will put on our state in terms of housing, jobs, services, infrastructure and the government's fiscal position.

In February this year, the government finalised its 30-Year Plan for Greater Adelaide after months of consultation with the community, local government, industry and other stakeholders. This strategic document provides a guide to ensuring that we can accommodate growth and development in the Greater Adelaide region during the next three decades. It provides a comprehensive road map for accommodating a growing population as well as providing more housing choices for our changing demographics. As well as outlining where people live, the plan looks at where jobs are likely to be located and then links this with billions of dollars of investment in public transport already earmarked by this government.

Fundamentally, the plan is about creating new dynamic communities where people will want to live and work, and one of the main objectives of the 30-year plan is to build on the existing strengths of the Greater Adelaide region and the features that make our city one of the most liveable places in the world. During the next three decades, Greater Adelaide is expected to grow by 560,000 people and 258,000 new homes, as well as creating 282,000 new jobs. This plan estimates that only 43,000 of the 282,000 new jobs to be created in the next 30 years will be within the City of Adelaide. The vast majority of those new jobs will be located in the northern, western and southern regions. We can achieve this by putting more jobs in the regions and around mixed-use developments that are contiguous to public transport.

By focusing growth along transit corridors, we will also ensure that Adelaide's distinctive urban character can be retained, leaving about 80 per cent of metropolitan Adelaide's character largely unchanged, as a result of the 30-year plan's implementation. The plan will guide where people live and work. It will ensure that, by the end of 30 years, up to 70 per cent of new dwellings will be built within the current urban area, with a focus on the better use of our city's transport corridors. That means that we will be able to keep a check on urban sprawl.

Where there are greenfield developments, they are better integrated into the existing urban infrastructure located near existing townships and public transport. By identifying and consolidating growth in these areas, the plan promotes a more comprehensive and efficient development which, in the long term, will prevent the alienation of valuable farmland by reducing the past practice of smaller ad hoc subdivisions.

We have been busy in the last four years. After a major planning review, a growth investigation study of potential land supply to cater for new housing and employment land and a comprehensive consultation process, the government now has a 30-year plan for guiding development in the Greater Adelaide region.

The honourable member asked if I had heard of any alternative proposals. Well, up to this week I would have said no but, while I often hear from those seated opposite that they are opposed to providing housing for Adelaide's growing population, five months after the publication of the 30-year plan I was struggling to find one instance of the opposition providing support for strategic urban planning.

That was until this week, when the member for Schubert finally provided an answer to where the Liberals would like Adelaide's growing population to be housed. The answer is: Sedan, Cambrai and Monarto. I do not want to knock the member for Schubert; I have great respect for him, and at least he has the courage to nominate somewhere, which is more than I can say for the opposition spokesman on urban development and planning.

Is it seriously the position of the Liberal Party that, rather than build new development on the urban fringes around existing regional centres such as Mount Barker, Gawler, Roseworthy and Virginia, we should say, 'No, enough is enough; if you want affordable housing, you can look over the ranges to Sedan and Cambrai'? Don't get me wrong, Sedan and Cambrai are lovely towns, but is Sedan located on a major public transport route? Are they close to growing employment opportunities in the northern and Barossa regions? Are they close to existing infrastructure?

The 30-year plan identifies Gawler East, Roseworthy and Concordia because they provide the best opportunities for further extending the existing metropolitan rail network. They are close to the soon-to-be completed Northern Expressway, and they are located near employment opportunities throughout the northern and Barossa regions.

I understand that the member for Schubert was moved to nominate Sedan and Cambrai as potential growth centres as he was concerned about the prospect of developing agricultural land

within the Barossa Valley. I want to point out that the township boundaries within the Barossa Valley remain pretty much unchanged within the 30-year plan. By identifying areas of significant primary production during the process of finalising the 30-Year Plan for Greater Adelaide, they can be better protected.

Consolidating growth near existing town centres promotes more comprehensive and efficient development. As we do that, we reduce the past practice of smaller ad hoc subdivisions. In the long term, this will prevent the alienation of our most valuable farmland within the Greater Adelaide region.

I don't want to be too harsh on the member for Schubert because, as I said, I have a lot of respect for him. At least he has tried to put his mind to the problem of accommodating new housing as our population grows—which is more than I can say for some of his colleagues, whose natural instinct is to take the easy policy path to resist change. While that is a strategy that might play well in town hall meetings, it is the kind of parochial small-mindedness that will ultimately condemn South Australians to a future of unplanned and uncoordinated growth.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. M. PARNELL (15:08): I have a supplementary question arising from the answer. Does the minister accept the statement in his own DPA for the Mount Barker urban expansion that the purpose of the DPA is to support the expansion of urban areas in the Mount Barker district to help meet the population targets in the 30-year plan? If so, why does the 30-year plan use the most inflated Australian Bureau of Statistics projections? Is it, in fact, incorrect for the minister to assert that the 30-year plan is a response to inevitable population growth, when in fact it is a plan to achieve the government's desired population growth?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:09): When you plan the future growth of Adelaide, shouldn't you plan on the basis of what is the most likely outcome? The growth that is projected under the 30-year plan for Adelaide is exactly, or very close to, the rate of growth that we have actually experienced in this city in the last year or two. It is about 1.3 or 1.4 per cent.

I should say that, even at that rate of growth, there are parts of the country that are growing by at least double that rate. The sort of population target that we have under the 30-year plan, the projection of 560,000 people in the next 30 years, is the population growth you would get in south-east Queensland, where I think it is about 80,000 a year. So, you would reach it in about six or seven years, and Perth is much the same.

That is compared with the 30-year growth we are getting here. So, I would suggest that the population projections that are the basis for the 30-year plan are in fact realistic and are the sort of rates of growth we will be getting in the next few years. If it turns out that our growth is less than that, and it takes 40 years to get the 30-year growth, is it still not important that we plan for where those growth corridors might be? Is it not appropriate that we should start our planning now? Given that the current rates of growth we have had are commensurate with the 30-year plan, then the 30-year plan gives us a very useful guide as to how we can accommodate population growth of that size over the next 30 years.

If it happens more quickly or takes longer, at least we will be prepared. Surely that is better than doing nothing and just waiting for the sort of ad hoc planning we have had in the past where, around some of the growth areas, we have had fringe development and small rural living extending urban sprawl.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: I look forward to hearing the alternative. Does the leader think, like the member for Schubert, that the Adelaide expansion will be at Sedan and Cambrai? Having been through there once or twice, I have not noticed that there has been a lot of anticipation of growth out there with people moving into those areas. I had heard that a few bikie groups were living out that way and have been accommodating that area, but there is certainly no indication that in Cambrai and Sedan there has been a great deal of anticipation of expected growth. They are indeed very sleepy towns. I am sure that if there was to be any suggested growth out there we would probably get members opposite opposing it anyway.

To get back to the supplementary question of the Hon. Mr Parnell, the population targets I suggest are reasonable projections based on the sort of growth we have seen in the past couple of

years. Is it not better, if you are planning, to be using growth at the higher level rather than using lower levels of growth that you might well exceed and therefore have problems with because you have not planned properly?

METHADONE TREATMENT PROGRAMS

The Hon. D.G.E. HOOD (15:13): I seek leave to make a brief explanation before asking the minister representing the Minister for Mental Health and Substance Abuse a question regarding methadone treatment programs.

Leave granted.

The Hon. D.G.E. HOOD: After many years of debate, Scotland some time ago determined that its methadone program was simply not working and it was moving to a policy of illicit drug recovery rather than drug maintenance. Scotland had one of the highest prescription rates for methadone in the world. Best estimates suggest that Scotland has around 52,000 heroin addicts, with roughly 22,000 of those prescribed methadone at any one time.

A significant reason for the change in policy in Scotland was research concluding that only 3 per cent of those on the methadone program in that country were actually getting off drugs. For the remaining 97 per cent, methadone was maintaining drug users but doing nothing to resolve their addiction in the medium or longer term. My questions to the minister are:

1. How many South Australians are currently prescribed methadone?

2. What is the actual recovery rate for people on our methadone program; that is, how many actually get off drugs?

The Hon. A. Bressington interjecting:

The Hon. D.G.E. HOOD: That's right. My questions continue:

3. What percentage of our budget for dealing with substance abuse issues is being spent on methadone programs?

4. Finally, will the minister consider taking Scotland's lead and transitioning to a policy of assisting addicts in the recovery from drugs rather than maintaining addicts on methadone and other substitutes?

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 for the City of Adelaide) (15:14): I thank the honourable member for his most important questions and will refer them to the Minister for Mental Health and Substance Abuse in another place and bring back a response. Having visited Scotland, one needs to be very careful about making direct comparisons. The situation there is very different to that here in Australia in the areas of substance abuse, illicit drugs and alcohol. A couple of years ago when I visited there and looked at the alcohol abuse problem that was very large indeed, much larger than here in Australia, they were working very hard to look at ways of overcoming that. I recall driving past a liquor outlet where you could buy a bottle of wine cheaper than you could buy a bottle of water.

There are many issues there in terms of their marketplace and their support services, their education services, etc., so I know that it is very difficult to look at these programs—in fact, any program—in isolation from broader support programs to address these very complex issues. As I said, I would be very pleased to refer this question to the Minister for Mental Health and Substance Abuse in another place and bring back a response.

WORKCOVER CORPORATION

The Hon. R.I. LUCAS (15:16): My question is to the Leader of the Government. Has the minister received any advice from the new chief executive of WorkCover as to whether or not it is the intention of WorkCover Corporation to continue with the monopoly legal services contract that WorkCover currently has and also to continue with the monopoly claims management contract that WorkCover Corporation currently has, or in either case does WorkCover Corporation intend to introduce some element of competition into both the legal services area and the claim management area in relation to WorkCover?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:17): I have had advice from both the former and

previous—in relation to matters that the board is considering, I understand the board is currently considering—

The Hon. R.I. Lucas: The previous CE or the current one?

The Hon. P. HOLLOWAY: Well, as I said, both the previous and the current CE in relation to those matters, but it is my understanding that the board still has those matters before it, so it would be inappropriate for me to comment in relation to any contract that is still subject to consideration by the board.

WORKCOVER CORPORATION

The Hon. R.I. LUCAS (15:17): I have a supplementary question. Is the minister indicating that the WorkCover Corporation has not yet made a decision or it has made a decision and it is inappropriate to publicly reveal that at this stage?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:18): I am not going to comment about discussions before the WorkCover board. I am happy to take the question on notice because I think the board is meeting today or very shortly in relation to this. I am happy to take those questions on notice and provide the member with an answer. I think it would be inappropriate to comment on matters that have been or are likely to be before the board.

DRIVER'S LICENCES

The Hon. J.M. GAZZOLA (15:18): I seek leave to make a brief explanation before asking the Minister for Government Enterprises a question about licence renewals.

Leave granted.

The Hon. J.M. GAZZOLA: In October last year the minister advised the council of changes to the driver's licence renewals process such that members of the public could renew their licence on the internet. At the time the minister indicated that it was expected that there would be a shift in demand from the face-to-face customer service desk to the online environment. Minister, will you advise the council about the results of this initiative?

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 for the City of Adelaide) (15:19): I thank the honourable member for his question. As you may recall, I have previously advised members that since 28 September last year drivers have had the option to renew their driver's licence online through the EzyReg website provided by the Department for Transport, Energy and Infrastructure.

These new services allow drivers a quick and easy option for renewing their licence when the licence comes up for renewal within that 10-year period such as those people looking to renew their licence annually or every five years. Once in every 10 years motorists are still required to attend an authorised service centre to have their photo updated. I think that is most unfair, given that I am just about to renew my licence after 10 years and I would very much like to keep my former photo. However, I have been informed that I am not allowed to do that, but not to worry—it is a much better photograph than the one they are going to get next time around.

If your renewal is within the 10-year period, you can complete the transaction online. Using this method means that a person's licence will be produced using the last eligible photo stored in the licensing system, thereby reducing the need to visit a photo point location. I am very pleased to advise that, since the online driver's licence renewal was launched, 26 per cent of drivers have taken up the option to renew their licence online.

The online service gives South Australians the flexibility of renewing their driver's licence at a time and location that suits them—for example, at home, their local library, or any outlet for that matter that provides internet access. It is a facility I will be using in the future, and members should know just how easy, quick and safe it is to pay for their licence renewal.

EzyReg provides a high level of security for all online transactions. A person's transactions are protected by SSL encryption technology and firewalls, ensuring credit card and personal details remain secure and, for additional security, credit card details are not retained, and I wished to make members aware of that.

RURAL DOCTORS ASSOCIATION OF SOUTH AUSTRALIA

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 for the City of Adelaide) (15:21): I table a copy of a ministerial statement relating to the Rural Doctors Association of South Australia made earlier today in another place by my colleague the Hon. John Hill.

McMAHON, MS L.

The PRESIDENT: I would like to bring to the attention of honourable members that it is the last day of sitting before one or our long-serving Hansard members retires, Lois McMahon. I am sure we all wish Lois and her family all the best for the future.

Honourable members: Hear, hear!

SEAFORD HEIGHTS DEVELOPMENT

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:22): I seek leave to make a ministerial statement about Seaford Heights.

Leave granted.

The Hon. P. HOLLOWAY: Yesterday, in response to a question from the Hon. Robert Brokenshire in relation to Seaford Heights and the associated development plan now before the Onkaparinga council, I stated:

> Of course, with respect to this proposal I believe the Land Management Corporation sold the land two or three years ago to, I think, Fairmont Homes.

I have been advised that the LMC owns all of the land at Seaford Heights but that part of the land is under contract for sale to Land SA, which is an entity controlled by the Fairmont Group.

MINING (MISCELLANEOUS) AMENDMENT BILL

In committee (resumed on motion).

Clause 23.

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): When the committee last met it was dealing with clause 23. We are now at the stage where it is appropriate for the Hon. Mr Brokenshire to move his amendment No. 12.

The Hon. R.L. BROKENSHIRE: In the interests of expediting this debate, I advise that amendments Nos 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 are all consequential and I therefore withdraw them.

The ACTING CHAIRMAN: Remaining to be dealt with in clause 23, I suggest that it is now appropriate for the Hon. Mr Parnell to move his amendment No. 10.

The Hon. M. PARNELL: Thank you, Mr Acting Chairman. As I indicated earlier when I spoke to an amendment which increased penalties, I made that a test for the remainder, so I will not be moving the remainder of my increased penalty amendments, including amendment No. 10.

The ACTING CHAIRMAN: So you do intend to move amendment No. 11?

The Hon. M. PARNELL: I move:

Page 17, after line 29—Insert:

> (14) The Minister may, at any time and without consultation with the applicant or taking any other step, refuse an application at any stage of its consideration under this Act if the Minister considers that there are sufficient grounds for not assessing the application further after taking into account the public interest and such other matters as the Minister thinks fit.

Amendment No. 11 reinstates into this bill a provision that was in the government's bill when it went out for consultation as an earlier draft. This is the provision which is commonly referred to as 'The early no'. The wording of this amendment is identical to words that the government already has in this bill in relation to mineral exploration licences. I am proposing that the same provision should

apply to mining leases. So this is the ability of the minister to give an early no to the granting of a mining lease.

The importance of this amendment (and I am disappointed that the government removed it from the draft bill) is that it enables the minister to help a mining company avoid unnecessary expense by giving them an indication very early on as to areas that they will not be able to access for mining. As we have discussed in previous amendments, the area allocated for the purposes of exploration is often vast. I think the minister talked about 1,000 square kilometres—maybe it was 100,000, but they are vast areas. The area that is applied for in connection with a mining lease is much smaller.

Often people take the position that if you have allowed exploration then it will be okay to mine anywhere within that area where minerals are found. Given the huge size of the explorations, it might just happen to be that the one small part of that vast exploration is in fact the one place where mining is inappropriate, which is often referred to as the 'God has a sense of humour' provision in terms of putting the best mineral deposits under the national parks.

If the minister has the ability to say to the mining company, 'We've given you this ability to explore a vast area, but I'm putting you on notice and telling you now not to bother asking to explore the wetland complex in the corner of your mineral exploration lease (or the last remaining habitat of some species in a corner of your exploration lease)', I think that is doing the right thing by industry in terms of giving them certainty. It allows the minister to declare fairly simple boundaries to exploration licence areas. They tend to be squares and rectangles; they tend not to follow any natural features whatsoever. They are basically lines on a map, but when it comes to the nitty-gritty of mining, the minister should have the ability to say, very early on, 'There are some places within that area where we are not going to let you go.'

I know from my discussions with departmental officers that there are all sorts of informal discussions held with mining companies and that the government can make its position clear in a whole range of other ways. However, I think that it is important, especially if we are going to avoid legal action on behalf of mining companies. We discussed some of this yesterday, that if they have been given the right to explore and the minister then says they cannot mine, whether some form of action could be taken. This clause, providing for an early no, will make it beyond doubt that the minister has the power to tell them they cannot mine in that area.

The Hon. P. HOLLOWAY: The government opposes this amendment. As I think the Hon. Mr Parnell indicated, the early no provision is based in many ways on the same principle of an early no in the Development Act, and initially in some of the discussions I was attracted to the idea of that, but after extensive consultation on the bill it was determined that it would be difficult for the minister to give an early no without some form of assessment of a mining lease application. During consultation on the bill, the minerals industry was strongly opposed to such a provision and indicated its ineffectiveness, as any early no decision without proper assessment could most likely be disputed in the courts anyway.

In the case the honourable member referred to of the large mining lease where there might be some area of sensitivity, for various reasons, such areas can be exempted from exploration under the licence. That is a preferable way of dealing with that, certainly from my point of view. There are some areas that are obviously more sensitive than others from many points of view—environmental, tourism, etc.—and while we do exclude many parts of the state from mining—

The Hon. M. Parnell: About 5 per cent.

The Hon. P. HOLLOWAY: It is more than that, if one includes the Woomera protected area, built-up areas and the like. Even if one takes out those areas where mining is totally excluded, there is also a lot of effective exclusion. There are dual-proclaimed national parks of various kinds where there can be exploration, but obviously there are very strict conditions placed upon that, and there are other areas as well where, for all sorts of reasons, stricter conditions apply.

There are a range of conditions and it is very difficult to have them all within an act of parliament. We draw up laws here to deal with every situation that can come up, but you have to have flexibility within the act to deal with issues that fall along the whole spectrum. It was after consultation that the government decided that, in the case of the mining industry, an early no provision similar to that in the Development Act would probably create more problems than it would solve. It is much better to try to restrict exploration of those areas that are particularly sensitive and,

if any discovery there is unlikely to give rise to mining, it is better to exclude them from the start by not allowing exploration there in the first place.

The Hon. D.W. RIDGWAY: I indicate that initially the opposition was attracted to the Hon. Mark Parnell's amendment—

Members interjecting:

The Hon. D.W. RIDGWAY: No, he has to speak. Consultation with the industry seemed to indicate that, if a resource was identified, notwithstanding that there may be a whole range of environmental and other problems with exploiting and mining that resource, their view was that they should be able to explore every opportunity to mine, rather than the minister stepping in providing an early no, notwithstanding the constraints that may be put on them to protect the environment.

So, it makes sense to the opposition. It is a free-market society and if a mining company finds a resource and wants to explore every possible way it can exploit that resource and still leave the environment intact, it should be able to. Whatever other issues or concerns there may be that might trigger an early no, the opposition believes that the mining companies, or the miners, should be able to explore every possible opportunity, rather than the minister intervening at an early stage.

Amendment negatived; clause passed.

Clause 24 passed.

New clauses 24A and 24B.

The Hon. M. PARNELL: I move:

Page 18, after line 16—After clause 24 insert:

24A—Amendment of section 35A—Representations in relation to grant of lease

(1) Section 35A(1)—Delete 'in a newspaper circulating generally throughout the state' and substitute:

in accordance with subsection (4),

(2) Section 35A(1)(c)—Delete paragraph (c) and substitute:

(c) inviting members of the public to submit written representations in relation to—

(a) whether the application should be granted or refused; and

(b) any conditions that should be attached to the lease if the application is granted,

within a period specified in the notice (which must be a period of at least 28 days from the date of publication of the notice).

(3) Section 35A—After subsection (2) insert:

(2a) If the Minister receives 1 or more written representations in response to an invitation under this section, the Minister must cause to be published, in accordance with subsection (4), a notice inviting members of the public to attend a meeting to be held in relation to the application.

(2b) The Minister must cause all written representations received in response to an invitation under this section to be published on a website maintained by the department to which the public has access free of charge.

(4) Section 35A(3)—Delete:

'representations made in response to an invitation under this section' and substitute:

written representations submitted in response to an invitation under this section and any oral representations made at a meeting convened in accordance with subsection (2a)

(5) Section 35A—After subsection (3) insert:

(4) A notice under this section must be published—

(a) in the Gazette; and

(b) in a newspaper circulating generally throughout the State; and

(c) if there is a regional or local newspaper circulating in the part of the state in which the area of the proposed lease is situated—in the regional or local newspaper; and

(d) on a website maintained by the Department to which the public has access free of charge.

24B—Insertion of section 35B

After section 35A insert:

35B—Notification of decision on application

As soon as practicable after determining whether to grant or refuse an application for a mining lease, the Minister must—

(a) provide written notification of the following to each person who made a written or oral representation in relation to the application (and whose identity and contact details are known to the Minister):

(i) the determination;

(ii) the date of the determination;

(iii) if a lease has been granted—the terms and conditions of the lease;

(iv) the person's right under section 42 to appeal against the determination; and

(b) cause the determination to be published on a website maintained by the Department to which the public has access free of charge, together with, if a lease has been granted, a copy of the lease.

I will not speak to this amendment at great length because it is effectively a replica clause to one I moved earlier. I will not be dividing on it unless I see that there is a different attitude to this amendment from the previous one.

Basically, this amendment is to improve the public participation regime in relation to mining leases as opposed to mineral exploration licences, which was my earlier amendment. The public participation regime at present is under section 35A of the Mining Act and it is slightly different from the mechanism under the mineral exploration licence provisions because it requires, for example, the minister to have regard to representations before making a decision. So, it is a slightly different mechanism.

Nevertheless, the elements that I spoke of previously are: the use of the internet for publishing details of the application that has been lodged, the requirement to hold a public meeting if a submission is made; the publication of submissions on a web page managed by the minister, and, after the event, notification of all those people who made submissions as to the final outcome, including a copy of the mining lease and the terms and conditions that were attached.

So, really it is very similar to the regime for public participation that I moved earlier, but I want it on the record in relation to mining leases. Once I have heard the response of the minister and the opposition, I just have one or two questions on this clause for the minister as well.

The Hon. P. HOLLOWAY: This proposal would significantly increase the red tape for government—again, we would argue, with no real value for the community. I point out that 80 per cent of lease applications are for extractive minerals, where, in accordance with the Mining Act, the landowner must already have given consent. Therefore, the current statutory time frame for comment of 14 days is adequate. In any other case, it is generally PIRSA's policy to extend the time frame to between four and eight weeks, depending on the significance of the application.

The Hon. Mr Parnell's amendment proposes that a public meeting must be held if more than one submission is received. This will be the case for all applications, because at least one submission is always received. The cost to government would be significant and would therefore need to be passed on to industry through significantly higher fees.

Clause 24 of the bill, of course, amends section 35 of the act, which deals with applications for mining leases. Pursuant to this clause, it is expected that the proponent would undertake appropriate consultation relevant to their proposed mining operations. This clause takes into consideration that one size does not fit all when it comes to the diversity of scale of mining operations—that is, a small sandpit on private land versus a large metallic mine near an urban population.

Publishing all written submissions, I would also point out, may be a deterrent in the engagement process as often individuals do not want their submissions to be made public. Information relating to a granted lease, including lease conditions, is already available on the existing public mining register.

The Hon. D.W. RIDGWAY: I indicate that the opposition has an amendment to the Hon. Mr Mark Parnell's amendment. The shadow minister in another place and Mr Parnell have had some negotiations and he is just advising the clerk. The government's adviser is looking very perplexed as to what we might be proposing to do, so I might speak to what we are proposing to do. If you do not have a copy of the amendment in front of you—

The Hon. P. Holloway: In your name, is it?

The Hon. D.W. RIDGWAY: No, there is nothing in my name at the moment. If we look at new clause 24A, we are proposing to delete sections 2, 3 and 4, effectively leaving only sections 1 and 5. Then, in new section 35B(a) we would move to delete subparagraph (iv), referring to 'the person's right under section 42 to appeal against the determination'.

The Hon. M. PARNELL: I seek leave to amend my amendment.

Leave granted.

The Hon. M. PARNELL: In relation to my amendment No. 12, I move:

Page 18, after line 16—After clause 24 insert:

24A—Amendment of section 35A—Representations in relation to grant of lease

(1) Section 35A(1)—delete "in a newspaper circulating generally throughout the State" and substitute:

, in accordance with subsection (4),

(5) Section 35A—after subsection (3) insert:

(4) A notice under this section must be published—

(a) in the Gazette; and

(b) in a newspaper circulating generally throughout the State; and

(c) if there is a regional or local newspaper circulating in the part of the State in which the area of the proposed lease is situated—in the regional or local newspaper; and

(d) on a website maintained by the Department to which the public has access free of charge.

24B—Insertion of section 35B

After section 35A insert:

35B—Notification of decision on application

As soon as practicable after determining whether to grant or refuse an application for a mining lease, the Minister must—

(a) provide written notification of the following to each person who made a written or oral representation in relation to the application (and whose identity and contact details are known to the Minister):

(i) the determination

(ii) the date of the determination;

(iii) if a lease has been granted—the terms and conditions of the lease;

(b) cause the determination to be published on a website maintained by the Department to which the public has access free of charge, together with, if a lease has been granted, a copy of the lease.

I have retained new clause 24A, subclauses (1) and (5), but have omitted subclauses (2), (3) and (4). Also, I move to insert new clause 24B, which inserts section 35B(a), subparagraphs (i), (ii) and (iii), and to omit subparagraph (iv) and insert paragraph (b).

The Hon. P. HOLLOWAY: From a quick look at it, it does not appear to be of too much concern to the government, but given that the bill will undergo final consideration when parliament resumes in September—it still has to go to the other place—for now I will not oppose the

amendment but make clear that I reserve the right to look at it over the break and, if there are issues that need tidying up, we can come back to it. For now, to facilitate the debate we will let it go through.

The Hon. D.W. RIDGWAY: The opposition certainly will support it. It was a negotiated outcome between the Greens and the opposition.

The CHAIRMAN: It shows good reason why amendments are not sent around the place well before they are tabled and moved.

Amendment carried; new clauses as amended inserted.

Clauses 25 to 27 passed.

Clause 28.

The Hon. M. PARNELL: I move:

Page 19, after line 22—Insert:

(a1) Section 41A(2)(c)—delete paragraph (c)

This amendment relates to the issue of retention leases. This amendment deletes what I believe is a redundant provision of the act in relation to the mining of radioactive minerals. The minister may have another interpretation but my understanding is that the special mention of radioactive minerals in the retention lease provision was to enable the mining of those minerals without going through the normal mining lease process because of some technical reason why that was not possible.

If that is not the case, then we have to ask ourselves why we are treating those minerals differently when they are certainly capable of being extracted under a regular mining lease. It may well be that the government believes that, because of the in situ leaching method that is often used, there is some reason why companies should be able to 'try before you buy' and use in situ leaching to recover minerals without going to the trouble of getting a full mining lease. If that is the case, then the question would be: why is it that they are allowed to sell those minerals they recover when all they have is a retention lease?

What I will say is that one improvement in this bill is that retention leases will now go through a public consultation process which they never did before which was why groups like Friends of the Earth were quite outraged at the government allowing uranium mining under the guise of a retention lease without requiring any public consultation whatsoever. It seems to me that the bill is now improved by having public consultation for retention leases but it seems that there is no useful purpose to be served by having this special provision relating to radioactive minerals being able to be extracted on the minister's say-so under a retention lease. So my amendment is to delete that unnecessary provision.

The Hon. P. HOLLOWAY: The government opposes the amendment. Mr Parnell proposes to delete section 41A(2)(c) which states:

> (c) where the applicant seeks an authorisation to carry out mining operations for the recovery of a radioactive mineral and the Minister thinks it desirable to defer the granting of a mining lease endorsed with such an authorisation.

We are talking here about the grant of a retention lease. Deleting section 41A(2)(c) would have no real effect in the present political climate where both the state and commonwealth governments are in favour of uranium mining but, if there were to be a change in policy at either the state or commonwealth level, then this provision should be retained to ensure that where companies have expended significant amounts of exploration for uranium and have found a deposit, they are able to retain title until there is a change in policy, as was the case 10 years ago for the Honeymoon project. So the removal of this provision could create a perceived sovereign risk issue for industry. Although it is redundant with the current policies of this government and the commonwealth government, we believe that to remove it could be a perceived sovereign risk issue.

The Hon. D.W. RIDGWAY: The opposition will not be supporting the amendment.

The Hon. M. PARNELL: I am fascinated by the minister's response. Effectively he is saying that if you have a state government that is in favour of uranium mining and a federal government that is opposed to uranium mining, they will allow the company to have a retention lease so that they can sit on it until the federal government changes its mind or changes altogether, but in fact that is not what this provision says because a retention lease is a lease that allows

someone to sit on their rights but what this provision does is allow the actual recovery of the radioactive materials and their sale. It is not just limited to them sitting on their rights. My information is that, in fact, it has been used to allow companies to recover radioactive materials and sell them and it was, in fact, a backdoor method of obtaining a mining lease without actually doing so. I wonder if the minister could explain or further clarify this. Is he prepared to tell the chamber that under no circumstances will a mining company be allowed to extract and sell radioactive minerals under a retention lease?

The Hon. P. HOLLOWAY: You cannot sell minerals off a retention lease. Retention leases have a purpose in the mining industry and there might be a number of reasons why the regulators think it may not be appropriate, or the government may think it is not appropriate to recover minerals at a particular point in time. However, a retention lease can be granted so that the company that has discovered the resource still has the potential, at some stage in the future, should conditions change, to exploit that resource. I think it is an important provision to have.

The act provides for the granting of a retention lease, subject to subsection (3), in paragraphs (a), (b) and (c)—and (c) refers to the situation where the applicant 'seeks an authorisation to carry out mining operations for the recovery of a radioactive mineral and the minister thinks it is desirable to defer the granting of a mining lease endorsed with such an authorisation'.

In relation to the past, I think it was Honeymoon. They obviously had a retention lease and this mineral had been discovered many years ago but they were not able to produce uranium because that was not in accord with the policy of the government of the day; but, given that they had invested in discovering the resource, they were offered a retention lease. So, it is a way of dealing with these issues where, for whatever reason, you cannot or the government thinks you should not exploit a resource at a particular time. The retention lease acts as a means of protecting the long-term interests of the explorer.

Of course, conditions (a) and (c) are also related where, for economic or other reasons, the applicant is, in the opinon of the minister, justified in not proceeding immediately to mine the land in pursuance of a mining lease. The whole purpose is that with exploration leases you try to mine the land. If a company has an exploration lease and does not discover anything, once the lease expires it ought to become available to somebody else who might have a different exploration plan and may be able to discover something. That turnover of tenements is important.

There may be discovery but, for all sorts of reasons, the applicant may not be able to proceed immediately to mine the land. The radioactive case just happens to be one instance where there were uranium policies applying, but there could be a number of other reasons why a company cannot proceed and they are covered in cases (a) and (b). As I said, the government believes that (c), even though it is redundant with the current policy, should there be some change in that policy—I know in recent days there has been some discussion and I think the Greens were talking about banning—

The Hon. M. Parnell: Don't believe everything you read in the paper!

The Hon. P. HOLLOWAY: If they controlled the Senate they would ban uranium mining.

The Hon. M. Parnell: Don't believe the newspaper.

The Hon. P. HOLLOWAY: If that is the case, we believe that that provision should stay there.

The Hon. M. PARNELL: I am sure Hansard did not record my interjection, which was out of order, but certainly the Greens do not support uranium mining. However, I will put on the record again that it is not our policy to close the Olympic Dam mine down, because that is primarily a copper, gold and silver mine. We would, however, leave the uranium in the ground.

An honourable member interjecting:

The Hon. M. PARNELL: No, it is a profitable copper, gold and silver mine. My question to the minister is: can he assure us that we will not see commercial uranium mining under a retention lease?

The Hon. P. HOLLOWAY: A retention lease is what you have when you have a resource but you are not mining. That is essentially what a retention lease is. If you were to proceed to mine you would need a mining lease. You cannot mine under a retention lease. I am told you can if you are proving up a resource. If you are proving up a resource, that could be done under a retention

lease. In relation to uranium, it should be pointed out that with that mining there are a whole lot of other controls on it as well, through the commonwealth. I think all uranium mining comes under EPBC. There are a number of additional controls on uranium mining anyway, so I do not think that that would be a likely event, even if, with other metalliferous mines, it may be possible to have some proving up on a retention lease.

Amendment negatived; clause passed.

Clause 29 passed.

Clause 30.

The Hon. M. PARNELL: I move:

Page 20, lines 20 and 21 [clause 30, inserted section 41BA(1)]—Delete 'in a newspaper circulating generally throughout the State' and substitute:

, in accordance with subsection (5),

This amendment relates to improving public participation rights in relation to the issue of retention leases. I acknowledge that we at least are having limited public comment rights in relation to retention leases for the very first time through the government's bill. I think they could have done better, which is why I moved these amendments.

I will not speak further to the detail but, again, it includes exactly the same model I proposed for mineral exploration licences and for mining leases. I acknowledge that the Liberal Party have supported some of these provisions in relation to mining leases, but my understanding from discussions with the shadow minister is that they are not so inclined to support them in relation to retention leases. So, I will move the amendment but I will not be dividing on it.

The Hon. P. HOLLOWAY: The government opposes it for reasons I have just outlined. I just restate that it is PIRSA's longstanding policy to extend the time frame from 14 days to between four to eight weeks depending on the significance of the application. Mr Parnell again proposed that a public meeting must be held if more than one submission is received. This will always be the case because at least one submission is always received. It is necessary to have it received as part of the application. The cost to government would be significant and would therefore need to be passed on to industry through significantly higher fees.

The Hon. D.W. RIDGWAY: As the Hon. Mark Parnell has rightly said, the opposition was attracted to certain elements, but we decided we would not be supporting this and some other consequential amendments.

Amendment negatived.

The Hon. M. PARNELL: I move:

Page 20—

Lines 27 to 30 [clause 30, inserted section 41BA(1)(c)]—delete paragraph (c) and substitute:

(c) inviting members of the public to submit written representations in relation to—

(a) whether the application should be granted or refused; and

(b) any conditions that should be attached to the lease if the application is granted,

within a period specified in the notice (which must be a period of at least 28 days from the date of publication of the notice).

After line 40 [clause 30, inserted section 41BA]—after subsection (3) insert:

(3a) If the Minister receives 1 or more written representations in response to an invitation under this section, the Minister must cause to be published, in accordance with subsection (5), a notice inviting members of the public to attend a meeting to be held in relation to the application.

(3b) All written representations received in response to an invitation under this section must be published on a website maintained by the Department to which the public has access free of charge, together with, if a lease has been granted, a copy of the lease.

Page 21—

Lines 3 and 4 [clause 30, inserted section 41BA(4)]—delete 'representations made in response to an invitation under this section' and substitute:

written representations submitted in response to an invitation under this section and any oral representations made at a meeting convened in accordance with subsection (3a)

After line 4 [clause 30, inserted section 41BA]—after subsection (4) insert:

(5) A notice under this section must be published—

(a) in the Gazette; and

(b) in a newspaper circulating generally throughout the State; and

(c) if there is a regional or local newspaper circulating in the part of the State in which the area of the proposed lease is situated—in the regional or local newspaper; and

(d) on a website maintained by the Department to which the public has access free of charge.

41BB—Notification of decision on application

As soon as practicable after determining whether to grant or refuse an application for a retention lease, the Minister must—

(a) provide written notification of the following to each person who made a written or oral representation in relation to the application (and whose identity and contact details are known to the Minister):

(i) the determination;

(ii) the date of the determination;

(iii) if a lease has been granted—the terms and conditions of the lease;

(iv) the person's right under section 42 to appeal against the determination; and

(b) cause the determination to be published on a website maintained by the Department to which the public has access free of charge, together with, if a lease has been granted, a copy of the lease.

These amendments are consequential, but I would like to formally move them just so they are on the record.

Amendments negatived; clause passed.

Clause 31 passed.

New clause 31A.

The Hon. M. PARNELL: I move:

Page 21, after line 18—After clause 31 insert:

31A—Insertion of Part 7

After Part 6A insert:

PART 7—Appeal against grant of certain licences and leases

42—Appeal

(1) A person may appeal to the ERD Court against a determination of the Minister to grant an exploration licence, a mining lease or a retention lease on the grounds that mining operations to be conducted under the licence or lease are reasonably likely to result in undue damage to the environment.

(2) An appeal must be commenced within 15 business days after the date of the determination appealed against.

(3) A mining tenement that may be the subject of an appeal under this section cannot take effect until—

(a) the time within which an appeal may be commenced has expired; or

(b) until the questions raised by the appeal have been finally determined (other than any question as to costs)

(4) The Court may, on appeal, confirm or revoke the Minster's determination.

This amendment is one that I believe would fill a glaring hole in the mining act, and that is the right of people aggrieved by the minister's decisions to be able to go to the umpire. In my view, it is a natural consequence of seeking the views of the community, as the government now agrees it is

right to do. Then to not allow those people who have made submissions to be able to test the minister's decision before an appropriate umpire I think is an omission in this act.

I will not speak at any length to this amendment because I understand it does not have the support of the opposition. However, I will just make the point that, as with the land use planning system and the development control system, it is the normal situation where a person who has made a submission in relation to controversial projects (in the Development Act that is category 3 projects) has the right to go to the umpire. I envisaged that this amendment would have some difficulty getting support, so I have limited the grounds of appeal to a single ground of appeal, and that is:

> ...mining operations to be conducted under the licence or lease are reasonably likely to result in undue damage to the environment.

The reason I have chosen those words is because that is the test that the government has used in other parts of the bill: the test of whether the activities would be reasonably likely to result in undue damage to the environment. Whilst I firmly believe that we should have a rigorous system that allows people to go to the Environment, Resources and Development Court and challenge the decision of the minister on environmental grounds, I appreciate that I do not have the numbers on this occasion. I have moved the amendment, but I will not be dividing on it.

The Hon. P. HOLLOWAY: I indicate for the record that the government does oppose this. Mr Parnell's amendment would introduce a right of appeal against a determination by the minister to grant a lease or licence on the grounds that mining operations are reasonably likely to result in undue damage to the environment. The assessment process for leases and licences is based on a comprehensive document provided by the applicant in accordance with the government's published guidelines. It mirrors environmental impact statements under the Development Act. The assessment is conducted in collaboration with other key government agencies with relevant expertise, such as environment and conservation, water, heritage, etc.

The minister's determination is made subject to extensive consultation with all those relevant and other stakeholders. The Hon. Mr Parnell's amendment mirrors similar legislative provisions in Victoria, where any person can appeal to the Victorian Civil and Administrative Tribunal, which, I am informed, has resulted in significant impediment to the resources sector due to high costs and major delays waiting for the matter to be heard but with no real benefit to the community. In other words, there is no evidence that as a result of that process there has been any change in outcome, but it certainly has resulted in significant delays and impediments to the sector in that state.

The Hon. D.W. RIDGWAY: I indicate that the opposition will not be supporting the amendment. It appears to us—I do not have a copy of the act, and it may not be in the definitions—that 'a person' can be anybody, anywhere in probably South Australia or Australia—

The Hon. M. Parnell: Absolutely.

The Hon. D.W. RIDGWAY: —and that they may have little or no understanding of the issues. This may just be used as a mechanism to delay and frustrate, again probably without any particular benefit to the community or saving the environment, other than just to frustrate the whole process. It seems to be just too wide and too broad, so the opposition will not be supporting it.

The Hon. D.G.E. HOOD: I would like to ask a brief question of the mover. I seek some clarification, if I may. The Hon. Mr Ridgway may have answered the question, but are there other jurisdictions that have a similar clause that you are aware of?

The Hon. M. PARNELL: The minister answered in relation to Victoria. There is the ability in Queensland for people to challenge the issue of mining rights as well. I am not as familiar with that system. I use the example that going to the umpire to effectively get a second opinion on whether the minister has done his or her job properly is possible in other legislation, such as the Development Act.

New clause negatived.

Clauses 32 and 33 passed.

New clause 33A.

The Hon. D.W. RIDGWAY: I move:

Page 22, after line 40—Insert new clause as follows:

33A—Amendment of section 54—Compensation

Section 54—after its present contents (now to be designated as subsection (1)) insert:

(2) The compensation may include an additional component to cover reasonable costs reasonably incurred by an owner of land in connection with any negotiation or dispute related to—

(a) the licensee gaining access to the land; and

(b) the activities to be carried out on the land; and

(c) the compensation to be paid under subsection (1).

(3) In assessing compensation under subsection (2), costs in connection with any negotiation or dispute will not be taken to be reasonably incurred if they arise during any period when a reasonable offer of compensation is open to be accepted by the relevant owner of land.

This basically gives an opportunity for the landowner to be adequately compensated and to cover any costs incurred by the landowner in connection with that dispute, so it would be legal costs and the like. It seems to make sense to make the playing field a little more level. That was certainly an issue when various people contacted my office at the time when I was shadow minister. They felt they may have been unduly disadvantaged because, of course, to seek legal advice is another cost that may be incurred. For a business operation that perhaps cannot afford to bear those costs, this just makes the playing field more level.

The Hon. P. HOLLOWAY: The government opposes this amendment, which provides that compensation may be payable to a landowner for costs incurred by that landowner in connection with any negotiation or dispute. I point out that section 61 of the act, which generally deals with compensation, provides that compensation can be payable for the following matters:

(a) any damage caused to the land by the person carrying out the mining operations; and

(b) any loss of productivity or profits as a result of the mining operations; and

(c) any other relevant matters.

The current definition is implicit by way of section 61(2)(c) that compensation can be payable for those matters proposed by the Hon. Mr Ridgway's amendment.

The Hon. Mr Ridgway's amendment may, the government fears, as a consequence encourage more complicated and costly court disputes. Even though we believe that the act covers the case where any matter relevant to compensation can be taken into consideration, once you put in more specific provisions it does open the door for more complicated and costly disputes and hence does not, we believe, encourage amicable negotiations, where the aim should be to build good long-term relations between the miner and the landowner.

I think that, inevitably, if this is put in with this explicit provision, even though it should be covered under the current act, you will have lawyers trying it out, and I think the government's fear is that it could encourage more litigation in relation to these matters when in fact the whole objective should be getting landholders appropriate compensation rather than making lawyers rich.

The Hon. M. PARNELL: I do not know whether the mover or the minister can clarify this, but my understanding of the amendment is that it relates only to that fairly limited set of circumstances where compensation is being pursued in relation to the issue of a miscellaneous purposes licence rather than any other form of mining tenement.

The Hon. P. Holloway: I'm using this as a sort of test.

The Hon. M. PARNELL: This is a test; fair enough, thank you. I accept what the minister has said in relation to section 61 of the act, that it is possible to take any other relevant matter into account, and those other relevant matters would include the list of matters that the Hon. David Ridgway seeks to include. However, to be consistent with the approach that I took earlier, if the amendment does no harm and just clarifies the things that can be taken into account, I can see no reason to oppose it. I do not see that the minister's fear would be borne out because, if the parties cannot reach agreement, it needs to go to a decision maker, the appropriate court. The appropriate court is going to have to resolve the dispute, regardless of the wording in the act. It will need to take into account all the things that the parties put before it. I guess the only additional costs could be—and the one the minister was most concerned about—costs in connection with negotiation or dispute.

I think any decision-maker or any court would interpret that to be the reasonable costs involved. If they thought that someone was simply stringing out negotiations solely for the purpose of earning extra fees for lawyers, that would become apparent and, therefore the court would not award those costs. It does not guarantee that those costs will be awarded; it basically says that it is a consideration to be taken into account. So, unless the minister can convince me that this is a guaranteed recipe for extending disputes and allowing what you might think of as rorting behaviour, I am inclined to support the amendment.

The Hon. P. HOLLOWAY: That is best answered with a corollary: given that this clause has been around for a long time, is there any evidence that the current provision is inadequate in relation to providing that component of compensation to landowners? I do not believe that that is the case.

The Hon. D.W. RIDGWAY: That is one of the reasons we have had this amendment drafted. As I said in my opening remarks, I was contacted when I was shadow minister by landowners who felt they were unduly affected by the need to get legal representation. In one particular case, a farming operation that earned particularly low commodity prices felt that it was a cost they should not have to bear but, nonetheless, they had to. This just allows for the playing field to be a little more level, particularly if the landowner is not flushed with funds at the time.

The Hon. D.G.E. HOOD: I just have a question of the mover. It seems to me that the mover's amendment would be encapsulated by paragraph (c), if you like, or any other related matter. Does the mover agree with that and, if not, why not?

The Hon. D.W. RIDGWAY: It is my understanding that it just clarifies it and makes it a bit more certain. The Hon. Mark Parnell said that, if it does not do any harm and perhaps clarifies it a little better, it is worth doing. Certainly, in the negotiations that the shadow minister and I have had, we seem to think that it adds a bit more clarity.

The Hon. P. HOLLOWAY: The government would argue that, once you put it in there, it would act as an encouragement, whereas the court should, under the existing act, properly consider any other relevant matters, which would include the reasonable cost of negotiations. If this is put in, it will be like bees to a honeypot. Time will tell, but it is for that reason that the government opposes it. Obviously, the impact of it is very difficult to determine.

The committee divided on the new clause:

AYES (13)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Dawkins, J.S.L.	Hood, D.G.E.	Jennings, T.A.
Lensink, J.M.A.	Lucas, R.I.	Parnell, M.
Ridgway, D.W. (teller)	Stephens, T.J.	Vincent, K.L.
Wade, S.G.		

NOES (6)

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

Majority of 7 for the ayes.

New clause thus inserted.

Clauses 34 to 37 passed.

Clause 38.

The Hon. P. HOLLOWAY: The Hon. Mr Ridgway kindly pointed out a potential unintended consequence of this clause in relation to an authorisation to use declared equipment within or adjacent to a specially protected area; that is, a marine park, Adelaide Dolphin Sanctuary or River Murray protection area.

Pursuant to section 59 of the act, where an application for an authorisation to use declared equipment is situated within a specially protected area, the application must be referred to the relevant minister. If the relevant minister and the mines minister cannot agree, the minister

responsible for mines must take steps to refer the matter to the Governor. The bill proposes to replace the mines minister with the Director of Mines. I propose to correct this clause 38 of the bill to ensure it remains as the minister responsible for mines. I move:

Page 24, lines 12 to 14—Delete subclause (4)

I thank the honourable member.

The Hon. D.W. RIDGWAY: I am delighted he is thanking me and I indicate we will support the amendment.

Amendment carried.

The Hon. R.L. BROKENSHIRE: I advise the committee that my amendments Nos 23 and 24 are consequential so I will not proceed with them.

Clause as amended passed.

Clause 39 passed.

New clause 39A.

The Hon. D.W. RIDGWAY: I move:

Page 24, after line 38—Insert new clause as follows:

39A—Compensation

(1) Section 61—after subsection (2) insert:

(2a) The compensation may include an additional component to cover reasonable costs reasonably incurred by an owner of land in connection with any negotiation or dispute related to—

(a) the licensee gaining access to the land; and

(b) the activities to be carried out on the land; and

(c) the compensation to be paid under subsection (1).

(2) Section 61—after subsection (5) insert:

(5a) In assessing compensation under subsection (2a), costs in connection with any negotiation or dispute will not be taken to be reasonably incurred if they arise during any period when a reasonable offer of compensation is open to be accepted by the relevant owner of the land.

This relates to mining leases and compensation. It is basically the same as we have just discussed for miscellaneous purpose licences. I do not think we need to go through the debate and I look for members' support.

The Hon. P. HOLLOWAY: The government opposes the clause, but, given the debate on a similar matter, I will not divide on this occasion.

New clause inserted.

Clause 40.

The Hon. R.L. BROKENSHIRE: The way I look at this, really one could argue that you would debate this one after my amendment 26. Given the way the bill is drafted, I will speak to this amendment. This amendment empowers the minister—and I love giving the minister lots of power—to require a security from a miner, not an explorer, so, not during the exploration stage, but during the mining stage, to be lodged with the minister to meet a possible need to acquire land. It will be evident from commencement of operations that in some cases there will be such a substantial impact that there is a real prospect of the need to—

The Hon. A. Bressington interjecting:

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

Page 25, after line 1—Insert:

(1) Section 62(1)—after paragraph (b) insert:

and

(c) to such extent that the Minister may consider to be appropriate in the circumstances—any obligation to make a payment under section 62A,

I thank the Hon. Ms Bressington.

An honourable member interjecting:

The Hon. R.L. BROKENSHIRE: Well, I am from the country and I am allowed to be slow—that is my excuse. It will be evident from commencement of operations that in some cases there will be such a substantial impact that there is a real prospect of the need to acquire land. This power will simply activate the duty of care the government has to the landowner to ensure the miner has the financial capacity to pay out if it want to compel acquisition of the land.

Mining operations can have a tenuous financial status until they really get going. Often, they are still raising more funds once they have already started mining, so it is only fair that a security or bond be sought when there is concern about the viability of the miner and their capacity to pay out the farmer or property owner (or even the government, if it happened to be the property owner) should there be a significant impact on use, enjoyment and economic viability of the farm.

In the next amendment, the minister tabled one very similar to mine, so there is common agreement between the government and my party that there should be opportunities for landowners with compulsory acquisition of the land. It would be fairly senseless having that clause in there but not ensuring that the minister, when the minister has information or is concerned that there may not be sufficient security, has that security there.

I point out to members that this is already happening with a lot of land divisions. Developers quite often have to pay bonds during the process of development for that very reason, so that they do not get half way through the development and not be able to proceed. There are precedents in law, and I think it makes common sense.

The worst case scenario would be that someone starts mining on the property, starts to make a mess as they go through the unravelling of top layers to get to the minerals, negotiates for the sale of the land through the next amendment and then it is discovered that they do not have the money because they have not been able to raise it on the Stock Exchange or in other places. I trust that the government and my colleagues will consider this amendment positively.

The Hon. P. HOLLOWAY: The government opposes the amendment. The Hon. Mr Brokenshire's amendment No. 25 proposes to amend the bond and security provisions in the act to enable the minister to make payments from the bond held as security for rehabilitation under new section 62A, which is proposed by the honourable member in his amendment No. 26 dealing with the acquisition of land. As I indicated, I will move an amendment to this as well.

The bond provisions under the act are primarily in place to secure both present and future rehabilitation obligations. It is a condition of the lease or licence that public liability insurance must be maintained. Any civil liability is likely to be covered under this insurance.

The Hon. D.W. RIDGWAY: We will not support the Hon. Mr Brokenshire's amendment at this stage, but we will support the government's amendment.

Amendment negatived; clause passed.

New clause 40A.

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

Page 25, after line 3—Insert:

40A—Insertion of section 62

After section 62 insert:

62A—Right to require acquisition of land

(1) If the activities of a mining operator on land substantially impair the owner's use and enjoyment of the land, the owner may apply to the Land and Valuation Court for an order under this section.

(2) Without limiting subsection (1), in the case of land used wholly or predominantly as a farm, the owner's use and enjoyment of the land will be taken to be substantially impaired under that subsection if the farming business conducted on the land has been rendered economically unviable by the activities of the mining operator.

(3) The Court may, on an application under this section—

(a) make an order transferring the owner's land to the holder of the relevant mining tenement; and

(b) order the holder of the relevant mining tenement to pay to the owner, by way of compensation—

(i) an amount equivalent to the market value of the land; and

(ii) a further amount the Court considers just by way of compensation for disturbance; and

(c) make such other ancillary or related orders as the Court thinks fit.

Hopefully, this might be a chance in the showdown to win in at least one quarter. This amendment is very similar to that of the government. I gather that the government has looked at this amendment and seen merit in it. The only difference now between my amendment and the minister's amendment is one subclause. My amendment has subclauses (1), (2) and (3) and the minister's amendment has subclauses (1) and (2). I will explain the difference in a moment.

As I stated in the second reading debate, this is an important amendment empowering a farmer or any other landholder who has lost substantial use and enjoyment of the land to go to the miner and ask them to buy out that business. I raised this issue with the South Australian Chamber of Mines and Energy, and in the meeting in my office they indicated that they saw merit in this.

Subsequently, a couple of weeks later, they indicated to my colleague, the Hon. Dennis Hood, that they had concerns about it. At the meeting in my office, the CEO said that this has merit because they would prefer to buy out the farmer or landowner and have full autonomy and control over the issue and not have to worry about all the issues of mining within 400 metres of a home and so on.

I have had a mixed message from them, but I believe that it need not be legislated, that is, a business negotiation between farmers/landowners on one hand and a miner on the other. However, those negotiations will only be fair if the farmer/landowner has the capacity, should the negotiations break down, to go to the Land and Valuation Court for a determination of fair market value. This amendment, which we note that the government has pretty much copied and tabled, provides what I believe is justice and a legislated assessment process in that situation.

To explain in a little more detail (and I will be as brief as possible), on Tuesday the minister tabled an amendment in largely similar terms to what I have before us now, save that the economic viability test has been excluded. I do not see that as meaning that economic viability is an irrelevant consideration under the use and enjoyment test that exists under both the minister's amendment and ours.

However, I do feel that it is important that substantially damaged farming economic viability be specifically stated as a ground for seeking acquisition. I remind members that this applies only to mine operators and not to explorers. So, we are talking about a situation where mining certainly has begun or is about to begin.

I know that the shadow minister said you could argue with economic viability that it might be about commodity prices. That is not the intent, and in the discussions my office had with parliamentary counsel that was not the intent. Commodity prices are commodity prices but if you have enough impact on that farming property—and I talk of farming properties because most of the time it is on farming property—your economic viability can be destroyed because your pasture and crop rotations can be much different to what you would have. There could be huge areas of the farm that you cannot actually run stock on or crop for a long period of time, or if at all, in the future. So it has an impact on economic viability as well as on the owner's use and enjoyment of the land, and we believe in the best interests of clarity for farmers and other landholders, if it has specific economic viability impacts, then that should be an argument considered in the compensation.

The Hon. P. HOLLOWAY: I move:

Page 25, after line 3—Insert:

40A—Insertion of section 62

After section 62 insert:

62A—Right to require acquisition of land

(1) If the activities of a mining operator on land substantially impair the owner's use and enjoyment of the land, the owner may apply to the Land and Valuation Court for an order under this section.

(2) The court may, on an application under this section—

(a) make an order transferring the owner's land to the holder of the relevant mining tenement; and

(b) order the holder of the relevant mining tenement to pay to the owner, by way of compensation—

(i) an amount equivalent to the market value of the land; and

(ii) a further amount the court considers just by way of compensation for disturbance; and

(c) make such other ancillary or related orders as the court thinks fit.

The amendment that I have moved seeks to adopt the same provisions currently in the Petroleum and Geothermal Energy Act 2000, and we had some discussion on this matter when we discussed earlier clauses of the bill on Tuesday. I should point out that there have been ongoing discussions between PIRSA and SACOME which indicate that this amendment (and Mr Brokenshire's, for that matter) may consequentially impose unrealistic opportunities with respect to claims for acquisition on the exploration industry whose activities are generally short-term and low impact.

Although the government supports the amendment at this stage, we propose further discussions with industry to narrow this amendment only to apply to all tenements, other than exploration licences, before we come back and revisit this matter by way of recommittal. I think everyone in this council understands the issue we are trying to deal with which is the uncertainty in some cases where you have uncertainty hanging over a land holding. It would be good to find some way of resolving that, but it is a fairly complex issue. Obviously it is important we get this right, so I ask the council's support for my amendment at this stage but I indicate that we will have further discussions with SACOME, and I guess the opposition, over the break and we will finalise our position when we revisit this bill in September.

The Hon. D.W. RIDGWAY: I indicate that the opposition will be supporting the government's amendment but, given that the minister has indicated he wants to have further discussions, we will certainly be prepared to listen and be involved in those discussions and if need be make the necessary adjustments when we return in September.

The Hon. M. PARNELL: When comparing these two amendments side by side, I appreciate what the Hon. Rob Brokenshire is seeking to do; however, I am inclined at this stage to support the government version of this amendment simply because the Hon. Robert Brokenshire's version has this test of whether farming business conducted on the land has been rendered economically unviable by the activities of the mining operator. The mover acknowledged this as much himself in his contribution that determining what is economically unviable is very difficult. If you have someone who is happy to live a close to subsistence lifestyle and is happy to have an annual income of $5,000 a year, then there is probably a fair bit of impact and they might still be happy that their property is viable. Someone else who needs a higher rate of return to pay off considerable debt or they have a large family, then the test for them will be different.

It seems to me that in any case once the dispute has gone to the court, then all those matters can be taken into account by the court. The court can actually determine whether doing justice to the case and being fair to both parties requires the land to be acquired or not. So even though I have been talking about my 'do no harm' test, I think there is enough uncertainty in the Hon. Robert Brokenshire's amendment that it possibly creates more problems than it solves but I take some comfort in the fact that I think all of the matters that the honourable member wants to see taken into account by the decision-maker in resolving these disputes will in fact be taken into account.

The Hon. R.L. BROKENSHIRE: I thank the minister for having a close look at my amendment. Part of a win is better than no win at all, so I will support the minister's amendment, but I reserve my right to talk to the minister during the break and try to convince him and the opposition to look at further opportunities for compensation.

The Hon. R.L. Brokenshire's new clause negatived; the Hon. P. Holloway's new clause inserted.

New clause 40B.

The Hon. D.W. RIDGWAY: I move:

Page 25, after line 3—Insert:

40A—Amendment of section 63—Extractive Areas Rehabilitation Fund

Section 63(4)(b)—delete paragraph (b)

This relates to the Extractive Areas Rehabilitation Fund. In particular, it limits the amount of money to be spent in a particular year. The amendment bill provides:

> The minister may expend any portion of the fund for any of the following purposes...that the total expenditure in a single financial year of cost in ensuring that the land referred to...it must not exceed an amount equal to 4¢ per tonne of extractive minerals on which the royalty payable into the fund for the financial year preceding that year.

I think the reason that that was done was that, at the time, there was a limited amount of money in the Extractive Areas Rehabilitation Fund. I think there is quite a significant amount of money in that fund at the moment—somewhere near $20 million. I do not think the government has contemplated it in this amendment, but most of the rehabilitation now is quite expensive.

There appears to be a significant amount of money in the fund, yet the minister is limited in the amount of money he can release for rehabilitation projects. We suggest that this might be an opportunity to release some more of that money from the fund to allow some of the more expensive rehabilitation projects to take place.

The Hon. P. HOLLOWAY: The government strongly opposes this amendment. The Hon. Mr Ridgway's amendment proposes to delete the provision in the act which provides for the payment of moneys from the Extractive Areas Rehabilitation Fund for compliance. The effect of this amendment would be to prevent the use of the fund to support PIRSA officers in undertaking compliance activities which, consequently, prevent the blowout of the liability on the fund; that is, the fund could not be used to ensure programs for environmental protection that include progressive rehabilitation.

This amendment, we believe, would not be supported by the extractive industry because any blowout on liability would impact on the ability of the fund to meet rehabilitation liabilities and potentially increase royalties for the extractive industries. I also point out that when these clauses were changed to put in this special part of the fund for compliance, it was negotiated with the industry.

In fact, it is one of the rare cases I can ever recall, as a minister, when an industry came wanting to pay a levy to get extra compliance, and that was because some of the larger quarries (if I recall correctly) were concerned that some of the smaller ones (including some allegations about councils' use of quarries and so on) were not actually contributing or were mining illegally.

Therefore, those quarries that were operating according to the law and providing funds into the Extractive Areas Rehabilitation Fund for the rehabilitation of quarries had a fear that there were quarries operating illegally and having a competitive advantage because they were not paying into the fund, and they were very keen to support part of the levy going for compliance. That is why the government strongly opposes the removal of that provision.

The Hon. M. PARNELL: If the minister is right, I will support the minister. However, if the minister is wrong, I am going to support the Hon. David Ridgway. The reason for my saying this is that (and I might have misread this) my understanding is that what the Hon. David Ridgway is doing is not removing the ability to spend money on compliance and prevention of damage and all the other things, he is just removing the artificial cap on the amount that can be spent on those purposes.

In fact, as I took the honourable member's amendment, if you remove a cap you free up more money to spend on those tasks rather than less. I am happy for the minister to take some advice because if he is right and the honourable member's amendment makes it harder to spend money on those good purposes the minister outlined, then I will not support the Hon. David Ridgway. However, if all the Hon. David Ridgway is doing is removing an artificial cap, I may be inclined to support that.

The Hon. D.W. RIDGWAY: It was the people in the extractive industries who came to the opposition saying that it was an impediment that the minister was not able to release sufficient funds for them to undertake it. So, that is my understanding of what I am trying to achieve. I know the shadow minister gave some instructions to the very hardworking parliamentary counsel as to what we were trying to achieve, so I hope that is what we are doing. That is certainly the way I read it.

The Hon. P. HOLLOWAY: Following advice from parliamentary counsel, I checked that it may remove the cap, so in that case I withdraw my opposition to it at this stage. We will look at it again and, if there is any problem, we can always revisit it. However, acting on that advice, I withdraw my opposition to the amendment.

New clause inserted.

The Hon. R.L. BROKENSHIRE: I advise the committee that, because they are consequential, I withdraw my amendments Nos. 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 and 41.

Clauses 41 to 51 passed.

Clause 52.

The Hon. D.W. RIDGWAY: I move:

Page 33, lines 16 to 21—Delete subclauses (1), (2) and (3) and substitute:

(1) Section 73O(1)—delete 'An inspector, or any person authorised in writing by the Director,' and substitute:

An authorised officer

(2) Section 73O(2)—delete 'inspector or an authorised person' and substitute:

authorised officer

(3) Section 73O(4)—delete 'inspector or an authorised person, or a person assisting an inspector or an authorised person' and substitute:

authorised officer, or a person assisting an authorised officer

We are a bit intrigued as to why we would have 'any person authorised' and not have just 'authorised officer'. So, we are keen to amend this clause to use the term 'authorised officer', rather than 'an inspector, or any person authorised'.

The Hon. P. HOLLOWAY: The government opposes this amendment. The Hon. Mr Ridgway's amendments 12 and 13 both propose to limit inspectors to authorised officers only. This amendment is unnecessary as it limits the ability to enforce compliance on private mines.

The Hon. M. PARNELL: The Greens are not supporting this amendment.

Amendment negatived; clause passed.

Clauses 53 and 54 passed.

Clause 55.

The Hon. M. PARNELL: I move:

Page 35, lines 29 to 32—Delete this clause and substitute:

55—Substitution of section 74A

Section 74A—delete the section and substitute:

74A—Compliance orders

(1) Any person may apply to the ERD Court for an order to remedy or restrain a breach of this act (whether or not any right of that person has been or may be infringed as a consequence of that breach).

(2) Proceedings under this section may be brought in a representative capacity.

(3) If proceedings under this section relating to mining operations conducted on land are brought by a person other than the owner of the land, the applicant must serve a copy of the application on the owner of the land within 3 days after filing the application with the ERD Court.

(4) If proceedings under this section are brought by a person other than the minister or the director, the applicant must serve a copy of the application on the Minister with 3 days after filing the application with the ERD Court.

(5) An application may be made without notice to any person and, if the ERD Court is satisfied on the application that the respondent has a

case to answer, it may grant permission to the applicant to serve a summons requiring the respondent to appear before the court to show cause why an order should not be made under this section.

(6) An application under this section must, in the first instance, be referred to a conference under section 16 of the *Environment, Resources and Development Court Act 1993*.

(7) If—

(a) after hearing—

(i) the applicant and the respondent; and

(ii) any other person who has, in the opinion of the ERD Court, a proper interest in the subject matter of the proceedings and desires to be heard in the proceedings,

the court is satisfied, on the balance of probabilities, that the respondent to the application has breached this act or a repealed act; or

(b) the respondent fails to appear in response to the summons or, having appeared, does not avail himself or herself of an opportunity to be heard,

the court may, by order (a *compliance order*)—

(c) require the respondent to refrain, either temporarily or permanently, from the act, or course of action, that constitutes the breach, including so as to stop any mining operations;

(d) require the respondent to make good the breach in a manner, and within a period, specified by the court, including to take specified action to rehabilitate any land;

(e) require the respondent to pay to any person who has suffered loss or damage as a result of the breach, or incurred costs or expenses as a result of the breach, compensation for the loss or damage or an amount for or towards those costs or expenses;

(f) if the court considers it appropriate to do so, require the respondent to pay an amount, determined by the court, in the nature of exemplary damages, into the general revenue of the state;

(g) require the respondent to take such other action as may appear appropriate to the court.

(8) In assessing damages under subsection (7)(f), the ERD Court must have regard to—

(a) any detriment to the public interest resulting from the breach; and

(b) any financial or other benefit that the respondent sought to gain by committing the breach; and

(c) any other matter it considers relevant.

(9) The power conferred under subsection (7)(f) can only be exercised by a judge of the ERD Court.

(10) The minister, and any person who is served with a copy of the relevant application under subsection (3), is entitled to appear and be heard in the relevant proceedings before a compliance order is made under this section.

(11) If, on an application under this section or before the determination of the proceedings commenced by the application, the ERD Court is satisfied that, in order to preserve the rights or interest of parties to the proceedings or for any other reason, it is desirable to make an interim order under this section, the court may make such an order.

(12) An interim order—

(a) may be made on an application without notice to any person; and

(b) may be made whether or not the proceedings have been referred to a conference under subsection (6); and

(c) will be made subject to such conditions as the ERD Court thinks fit; and

(d) will not operate after the proceedings in which it is made are finally determined.

(13) The ERD Court may, if it considers it appropriate to do so, either on its own initiative or on the application of a party, vary or revoke an order previously made under this section.

(14) A person against whom a compliance order is made must comply with the order.

Maximum penalty: $250,000.

(15) Proceedings under this section may be commenced at any time within 3 years after the date of the alleged breach or, with the authorisation of the Attorney-General, at any later time.

(16) An apparently genuine document purporting to be under the hand of the Attorney-General and to authorise the commencement of proceedings under this section will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.

(17) A person may apply to the ERD Court for a determination by the court that proceedings brought by the person under this section are *public interest proceedings*.

(18) If the ERD Court is satisfied, on application under subsection (17)—

(a) that the purpose of the applicant in bringing the proceedings is wholly or predominantly to advance or protect the public interest, being an interest of members of the public generally or a significant segment of the public (being an interest that may include, or may not include, a financial interest); and

(b) that in the circumstances it is appropriate to make an order,

the Court may declare that the proceedings brought by the applicant are public interest proceedings.

(19) If the proceedings are declared to be public interest proceedings, then the ERD Court, and court hearing an appeal (if any) in relation to the proceedings, will not make an order as to costs against the person who has the benefit of the declaration in connection with the proceedings unless—

(a) the order is made under section 17 or 29 of the *Environment, Resources and Development Court Act 1993*; or

(b) the court considers that the interests of justice require that the order as to costs be made; or

(c) in the case of proceedings on appeal—the court considers that the declaration that the proceedings are public interest proceedings should not have been made, or should be revoked.

(20) An order as to costs under subsection (19)(b) may specify the maximum costs that may be recovered against the person who has the benefit of the declaration that the proceedings are public interest proceedings.

(21) Subject to taking into account the principles reflected in subsections (17) to (20) (inclusive), a court may make such orders in relation to the costs of proceedings under this section as the court thinks fit.

This lengthy amendment is the subject of considerable discussion and negotiation in the environmental law community about the best method of ensuring that a civil enforcement regime is included in the Mining Act. As members may know, in almost all our pieces of environmental legislation, including the Development Act, the Environment Protection Act and the Natural Resources Management Act, there is a provision that allows for civil enforcement. What I mean by

civil enforcement is the ability of a person to enforce the provisions of the act. That person can be an authorised officer or someone from the government, but it can also be someone from outside government. The circumstances in which an outside person would want to enforce the act are those where the government refuses or fails to do the right thing—refuses or fails to enforce the act.

There are a couple of really basic principles in our legal system. Number one is probably possession is nine-tenths of the law, but number two is that you can do anything you want in this world until someone stops you. So in other words you need to have mechanisms for people to be able to go to a decision-maker to insist on compliance with the law. If you do not have such a provision, then governments can ignore the law willy-nilly, and it is exceedingly difficult for anyone in the community to go to court and insist that the law be applied.

People might be aware of the idea of a judicial review, where you can go to the Supreme Court and you can insist that a decision-maker follow the right process, but judicial review provisions are limited to a very small range of people who have an economic interest in the matter and therefore are given legal standing. The beauty of a civil enforcement provision is that you do not need to have such a vested interest.

This matter is very close to my heart, because I think I was pretty much the first person to ever attempt to use a civil enforcement procedure in court. That was section 104 of the Environment Protection Act, on which this current amendment is loosely based. That case involved, as members might recall, the Whyalla Red Dust action group taking action against OneSteel to insist that the law be complied with and that proper environmental standards be enforced. It is a glaring omission in our resource statutes, our environmental laws, that there is no ability for the community to in fact enforce the provisions of this act.

This amendment provides that opportunity. It inserts a new section 74, compliance orders, and it basically provides that any person may apply to the ERD Court for an order to remedy or restrain a breach of the act, whether or not any right of that person has been or may be infringed as a consequence of that breach. In other words, it would enable a group of people acting in the public interest to insist that the environmental provisions of this act that we are going to be approving with the passage of this bill are in fact enforced. If we leave it entirely up to government to enforce the law, and if government is found wanting, there is nothing we can do about it in the absence of a civil enforcement mechanism. That is why such a mechanism has been inserted into all those other acts I described—the Development Act, the Environment Protection Act and the Natural Resources Management Act. We need to include such a provision in this legislation.

I am not going to go through the four pages of this amendment, but I will just say that it has been drafted with some skill and care by parliamentary counsel on a series of instructions that I have put together, having consulted very widely with the environmental law profession. I understand that it may not have the support of the opposition, so I am not going to speak at great length, other than to say that I am very grateful to now have the precedent provision. I will give notice that I will now seek to reform the civil enforcement provisions in the Development Act, in the Environment Protection Act and in the Natural Resources Management Act. So this is not a wasted amendment; I still believe that it is deserving of support and I look forward to members supporting it.

The Hon. P. HOLLOWAY: The government will not support it. The Hon. Mr Parnell's amendment would give any member of the public the power to ask the ERD Court to issue a compliance order against a tenement holder, and the amendment allows for exemplary damages to be awarded for any breach, and if the proceedings are considered in the public interest then costs may not be awarded to the person who has brought the matter to the court. Experience in other jurisdictions where this power is available has shown that it may be abused and used to significantly frustrate legitimate operators.

The Hon. Mr Parnell's amendment mirrors similar legislative provisions in Victoria, where any person can appeal to the Victorian Civil and Administrative Tribunal, which has resulted in significant impediment to the resources sector due to high costs and major delays of waiting for the matter to be heard, and again I do not think there is any demonstrated real benefit to the community as a result of that. The power is unnecessary, as there are adequate powers under other sections for ensuring compliance by the government, and we should point out that mining compliance is a highly technical area and you do need suitably qualified persons to determine if a breach has occurred and the potential risk to the environment that may result from any breach. The

first thing you do if there is something is to bring in the experts to assess it, so for those reasons the government opposes the amendment.

The Hon. D.W. RIDGWAY: The Hon. Mr Parnell was 100 per cent right. The opposition will not be supporting his amendment.

Amendment negatived; clause passed.

Clauses 56 to 70 passed.

Clause 71.

The Hon. P. HOLLOWAY: I indicate that there are some amendments to the schedule but, given that we moved earlier to consider clause 6 after the other clauses, now is an appropriate time to report progress. We have almost completed debate on this bill and, when we come back in September, we will be in a good position to deal with the handful of outstanding issues.

Progress reported; committee to sit again.

SOUTH AUSTRALIAN AQUATIC AND LEISURE CENTRE

The Hon. T.A. JENNINGS (17:09): I seek leave to make a personal explanation.

Leave granted.

The Hon. T.A. JENNINGS: On 23 June, I asked the Minister for Mineral Resources Development, representing the Minister for Recreation, Sport and Racing, a question about the Marion Swimming Centre, otherwise known as the state aquatic centre construction site. In my question, I referred to reports from workers on the construction site that unnecessary building work had been undertaken to accommodate a planned publicity photo opportunity that I was led to believe was for the Premier. I now accept that those reports were incorrect, and I apologise to the Premier.

MENTAL HEALTH (REPEAL OF HARBOURING OFFENCE) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

ADJOURNMENT DEBATE

VALEDICTORIES

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (17:11): I move:

That the council at its rising adjourn until Tuesday 14 September 2010.

I look forward to seeing everyone back here happy, healthy and refreshed after the winter break.

Honourable members: Hear, hear!

Motion carried.

At 17:11 the council adjourned until Tuesday 14 September 2010 at 14:15.