LEGISLATIVE COUNCIL

Thursday 7 July 2011

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:19 and read prayers.

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:19): By leave, I move:

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

Motion carried.

ROYAL ZOOLOGICAL SOCIETY OF SOUTH AUSTRALIA

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:20): I table a ministerial statement from my colleague the Hon. Paul Caica from another place, regarding the Royal Zoological Society of South Australia.

QUESTION TIME

BURNSIDE COUNCIL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:21): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question relating to the Burnside Council.

Leave granted.

The Hon. D.W. RIDGWAY: Yesterday, the minister stated:

I would like to make clear that all allegations of corruption have been referred to the South Australia Police Anti-Corruption Branch, even prior to this investigation. I am advised that there has never been evidence presented to the Anti-Corruption Branch that warranted further investigation.

My questions to the minister are:

1. Is it not the case that Mr MacPherson's draft report included a range of draft findings, including that charges be laid against a number of persons, and that those draft findings have not been considered and rejected by the Anti-Corruption Branch?

2. Will the minister confirm that all evidence, records and documents collected during the investigation were referred to the police, or were allegations simply referred for independent follow-up by the police?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:22): First, I must say that I have not read the report; there is a suppression order. If the member has read the report he has done that illegally, so I would keep quiet if I were him. I have not read the report, and my advice—

The Hon. S.G. Wade interjecting:

The Hon. R.P. WORTLEY: Would you stop spitting over the chamber if you do not mind? I am trying to talk. My advice is that all allegations, as petty as they are or were, were referred—

The Hon. S.G. Wade interjecting:

The Hon. R.P. WORTLEY: Listen Charlie; I'll tell you something. Something I have that you will never have is that I have actually been on local government and I know how petty a lot of these accusations can be. I am speaking from experience.

The Hon. D.W. Ridgway interjecting:

The Hon. R.P. WORTLEY: I do not know what is in the report; you obviously do: you have obviously read it against the suppression order. As Leader of the Opposition you should be ashamed of yourself, totally ashamed of yourself. With regard to all the evidence and documents, or whatever, I am seeking advice on a continual basis as to how to wind this up—

The Hon. D.W. Ridgway interjecting:

The Hon. R.P. WORTLEY: If I was someone who had just admitted to reading a report that is the subject of a suppression order, I would sit back and look sheepish, as you should do.

BURNSIDE COUNCIL

The Hon. J.M.A. LENSINK (14:24): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question regarding the Burnside council.

Leave granted.

The Hon. J.M.A. LENSINK: In his ministerial statement yesterday, entitled 'Independent Inquiry into Burnside Council', the minister stated that he had met with the Mayor of Burnside and that they had agreed that 'beyond the Burnside council matters, there are a number of issues that need to be discussed in relation to our system of local government', implying that the mayor agreed with the minister that the investigation should cease. Last night, the Burnside council issued a media release entitled 'Burnside community deserves to know,' which reads:

> Burnside Council has expressed its disappointment in the State Government's decision to conclude the independent inquiry into the former Burnside Council. Minister for State/Local Government Relations, Russell Wortley, today announced that the report would not be released, despite the current Council's support to release it.
>
> City of Burnside Mayor David Parkin said that Council had asked Minister Wortley to complete and release the MacPherson report and expressed disappointment that this will not occur. [The mayor said] 'I'm disappointed that the residents of Burnside won't get to see some form of the report but have been assured that Police will identify if any prosecution should be launched and that the Government and the Local Government Association..will review the act...

My questions are:

1. Has the minister assured Burnside council, directly or indirectly, that police will identify whether any prosecutions should be launched?

2. What processes does the government propose for that review by police?

3. In particular, do police have a copy of the draft investigator's report, and will they have access to all records and documents of the investigator, Mr MacPherson?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:26): I had a meeting with Mr David Parkin yesterday, and I had a discussion about the views of the Burnside council. He expressed the view that there was a view in the area that the—

The Hon. D.W. Ridgway interjecting:

The Hon. R.P. WORTLEY: Lots of views—that is the problem: there are so many views. That is one of the reasons I got rid of it: everyone has a view. I have a responsibility to make sure that it is all done properly with the proper processes. I assured Mr Parkin that, outside the Burnside council and this issue, there may be issues with certain parts of the Local Government Act that could be looked at between myself and the Local Government Association—

The Hon. S.G. Wade interjecting:

The Hon. R.P. WORTLEY: I am answering the question.

Members interjecting:

The Hon. R.P. WORTLEY: Well, let me finish, and I will answer the question.

Members interjecting:

The Hon. R.P. WORTLEY: Let me finish the answer.

Members interjecting:

The Hon. R.P. WORTLEY: Obviously, they don't want to hear the answer, so I am quite happy to sit down.

The PRESIDENT: The Hon. Ms Lensink has a supplementary.

BURNSIDE COUNCIL

The Hon. J.M.A. LENSINK (14:27): Yes, Mr President. What police investigations has the minister spoken to the council about, and will he provide those to us?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:27): First of all, I will just say that I have ended the inquiry. There will be an office of public integrity established to look at these issues in the future. What I want to do with the Local Government Association and the councils is look at the Local Government Act and see whether we can develop the tools in that act to enable the councils to stop this happening in the future.

Members interjecting:

The Hon. R.P. WORTLEY: Can Hansard hear me up there? I am having difficulty hearing myself. My responsibility as the Minister for State/Local Government Relations is to ensure that, if there are any obstacles in the Local Government Act in the way of providing the proper tools for councils to take care of these legal issues before they become festering sores, I will do that. I am looking forward to meeting with the new President of the Local Government Association, and we will sit and work together and ensure that the proper tools are developed in the act—

The Hon. S.G. Wade interjecting:

The Hon. R.P. WORTLEY: Let me make it quite clear. I do not know the rabble you have been in the past. I am happy to answer your questions, but if you are going to interrupt in three directions, I will sit down and not answer your questions. So, just pull your heads in let me have a go.

The PRESIDENT: The Hon. Ms Lensink has a further supplementary.

BURNSIDE COUNCIL

The Hon. J.M.A. LENSINK (14:28): Can the minister provide details as to what the mayor said to him in regard to police investigations?

The PRESIDENT: The minister does not have to worry about that question.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:29): I had a discussion with the mayor yesterday and, to be quite frank, not a lot went around. My view was quite simple: I want to work with the Local Government Association, and they were there at the meeting. My position with the mayor is that there is a new council, and they will have a new CEO very shortly and I do not want any tarnishing of that council with an ongoing investigation in relation to what happened with the previous council.

This is what is a responsible minister would do—would not sit there and throw comments from the side. From the very beginning it has been this government's intention to fix up the problems in the Burnside council. From the very beginning all you have done is try to political pointscore, so there is a big difference between what I am doing, what this government has done, and what your intentions are. My intentions are to ensure that the Burnside city council can move forward and look after the ratepayers of Burnside, as they are doing right now.

BURNSIDE COUNCIL

The Hon. R.L. BROKENSHIRE (14:30): Supplementary to the minister's answer with respect to his raising the office of public integrity/ICAC, does the minister feel confident, as the minister for local government, to refer matters to the new office for public integrity/ICAC, which only has a budget of $4 million—

The Hon. J.M.A. Lensink: It's not an ICAC.

The Hon. R.L. BROKENSHIRE: Well, they're saying it's an ICAC.

The PRESIDENT: Order! No explanation.

The Hon. R.L. BROKENSHIRE: It only has a budget of $4 million, when the Burnside investigation cost over $1.2 million.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:31): I thank the honourable member—

The Hon. I.K. HUNTER: On a point of order, I may be wrong, but my understanding is that when supplementary questions are asked they are to be asked on the original answer and not on answers to supplementaries. I suggest that you rule the question out of order.

Members interjecting:

The PRESIDENT: Order! I have not made a ruling on the point of order yet. The Hon. Mr Hunter has a very good point. Too many people are asking supplementaries with explanation. You must direct the supplementary straight to the question. The minister can answer if he wishes.

The Hon. R.P. WORTLEY: The issue with the office of public integrity is the fact that, in future, instead of a very expensive inquiry going into allegations in local government, there are two things we want to do: first, I will work with the Local Government Association to ensure they have the tools to handle these little issues and the bickering between councils at the local level, instead of coming to me or the government.

Members interjecting:

The Hon. R.P. WORTLEY: You people supported the inquiry, the investigation. Then you have complained. The funny thing about it is that you are complaining about the cost, yet you wanted me to continue the report and spend another $1 million. This is the hypocritical position you people have taken. You sit on the fence, you throw rocks while the government is trying to sort out the problems with Burnside—

The Hon. A. Bressington: It's a cover up.

The Hon. R.P. WORTLEY: Will you please let me finish the point?

The Hon. A. Bressington: No, I will not.

The Hon. R.P. WORTLEY: Okay, that's all right.

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:33): My question is to the Minister for State/Local Government Relations and relates to Burnside council. Given that the Freedom of Information Act contains an exemption clause for information relating to personal affairs, why is the minister using the disclosure of personal affairs as an excuse for maintaining FOI restrictions prohibiting scrutiny of the establishment of the Burnside council investigation, specifically government processes?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:33): At the moment there is a suppression order by the courts—

The Hon. J.M.A. Lensink: No, FOI.

The Hon. R.P. WORTLEY: I am getting it to it—don't pre-empt what I am going to say. You talk about a joke. You have this clown over there, the Hon. Terry Stephens, talking to his mate Lucas saying, 'This is like comedy hour.'

The Hon. T.J. Stephens: It is man—you're a flaming joke, fair dinkum.

Members interjecting:

The PRESIDENT: Order!

DOMESTIC VIOLENCE

The Hon. CARMEL ZOLLO (14:34): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about women with disabilities.

Leave granted.

The Hon. CARMEL ZOLLO: I understand that overseas studies have found that women with disabilities, regardless of age, race, ethnicity, sexual orientation or class, are assaulted, raped and abused at a rate of between two and 12 times greater than that for women without disabilities. Will the minister provide information about what the South Australian government is doing to support women with disabilities who have experienced violence?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:35): I thank the honourable member for her important question. It is a very sad fact that women with disabilities are particularly vulnerable to intimate partner violence. With that in mind, I am pleased to advise that I have recently provided $13,000 in funding to Women with Disabilities South Australia (WWDSA) to conduct awareness-raising activities in 2011-12.

This funding was provided to WWDSA through the Don't Cross the Line Anti-Violence Community Awareness Campaign Grants, which were established to inform and educate groups in the community who would not necessarily receive messages from the mainstream campaign or benefit from tailor-made messages to meet their own particular needs. WWDSA is convened by Margie Charlesworth, and the organisation is affiliated with the national body Women with Disabilities Australia, a peak organisation for women with all types of disabilities.

WWDSA will conduct awareness-raising training sessions in metropolitan and regional areas, specifically focusing on education around the Intervention Orders (Prevention of Abuse) Act 2009, which is due to be enacted in December this year. The funds have also been provided to assist WWDSA to work with young women with disabilities and women's domestic violence services to enhance their support services for women with disabilities.

This funding is in addition to the $50,000 in grants I announced in April this year as part of the anti-violence campaign and is part of the third round of grants that will particularly target communities and organisations that will educate young people with disability about respectful relationships and violence against women. The successful grant recipients are:

- the Tutti Ensemble, for their Respect Me, Respect You program;
- Yarredi Services at Port Lincoln, who will be working with 18 to 25-year-olds with a disability to produce information about respectful relationships, including I believe a DVD;
- Christies Beach High School, which will develop a project with its senior students with disabilities; and
- the Legal Services Commission, to conduct sessions of their highly successful Expect Respect program.

This work in preventing violence against women through the promotion of respectful relationships reflects the directions of the National Plan to Reduce Violence against Women and their Children. Our own Women's Safety Strategy, which is being updated to reflect the national plan, aims to ensure that all women are treated with respect and that their voices are heard. I am advised that the Department for Families and Communities is undertaking a number of reforms that will improve access to support for women with disabilities, including;

- the violence against women strategic plan;
- the domestic violence reform process; and also
- the improved statewide domestic violence gateway service.

The Department for Families and Communities also recently held a workshop that brought together women's domestic violence services, disability services and disability advocacy groups as a first step to assist in building capacity of these services to respond to women with disabilities who may be victims of violence.

WWDSA was represented at the workshop and will play an integral role in ensuring that services will be able to respond to the diverse and very specific needs of women with disabilities. WWDSA will also look at opportunities to work with the South Australia Police in addressing issues highlighted recently by the Health and Community Services Complaints Commissioner. I am very pleased that we have been able to provide this funding to WWDSA, which is such a strong advocate for women with disabilities.

The PRESIDENT: The Hon. Kelly Vincent has a supplementary.

DOMESTIC VIOLENCE

The Hon. K.L. VINCENT (14:38): What measures, if any, is this government taking to provide adequate personal support for women who may not leave relationships in spite of abuse due to the fact that their partner is their full-time family carer?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:39): The campaigns that the Office for Women are particularly focused on are about community awareness in terms of the new rape and assault legislation and also the new domestic violence legislation. The sorts of activities that we are involved in and the community grants associated with those are very much focused on that

community awareness and particularly enhancing respectful relationships between men and women, and particularly young men and women.

However, the Department for Families and Communities, as I said, is involved in undertaking a number of reforms in an effort to improve support for women with disabilities in a wide range of circumstances. I have listed some of them: the violence against women strategic plan; the domestic violence reform process; and also an improved statewide domestic violence gateway service. I have been advised that they are involved with consultation with a broad range of different stakeholders. Obviously, those advocacy groups, particularly those involving women with disabilities, and also their families and other key stakeholders, through that consultative process are identifying the key priority areas for future action and program activities.

DOMESTIC VIOLENCE

The Hon. K.L. VINCENT (14:40): I have a supplementary question. I was not actually asking about raising community awareness. I was asking: what steps are being taken to ensure that women with disabilities can access immediate personal support—that is, assistance with dressing, toileting or showering—so that they can leave an abusive relationship?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:41): That was the answer I gave; that is, Families and Communities are working on three different programs, and working with key stakeholder groups to identify all the key areas of concern that need to be addressed to ensure the improvement and protection of women who are facing domestic violence situations or who are at risk of domestic violence situations. That includes prevention, early intervention and then services that are available when people are actually victims of domestic violence. It will be exploring a wide range of issues at those three different levels. That would, obviously, include the support needed by individuals to enable them to remove themselves from a violent situation and to support themselves in alternate accommodation, along with their children.

BURNSIDE COUNCIL

The Hon. A. BRESSINGTON (14:42): My questions are to the Minister for State/Local Government Relations about the Burnside council investigation.

1. Has the Anti-Corruption Branch been provided with a copy of the draft report of the MacPherson inquiry?

2. If not, how can the minister state with any confidence that all allegations have been referred to the Anti-Corruption Branch and were found not to warrant further investigation?

3. Given the seriousness of the alleged criminal conduct and corruption found by Mr MacPherson, will the minister refer the draft report to the Anti-Corruption Branch posthaste so that those who did engage in corruption and offended against their positions can be held accountable for their conduct?

4. Finally, given that the minister has supposedly not read the draft report and relied upon advice on the prospects of potential prosecutions, can he provide to the council who provided him with this advice, and will the minister provide the actual advice he received to this council?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:43): I did not see the flowthrough between Rob Lucas and you but obviously—

Members interjecting:

The Hon. R.P. WORTLEY: As long as it is made quite clear.

An honourable member: Just answer it.

The Hon. R.P. WORTLEY: Let me answer it.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: First of all, the advice I received was from the Crown Solicitor's Office and from my department; that is where I get my advice. Secondly, there were a number of factors that you asked me and I did not quite hear the full question.

The Hon. S.G. Wade interjecting:

The Hon. R.P. WORTLEY: That is right. You can ask that again.

The Hon. A. BRESSINGTON: Which one?

The Hon. R.P. WORTLEY: I have already answered about the advice.

The Hon. A. BRESSINGTON: Which one? Has the Anti-Corruption Branch been provided with a copy of the draft report of the MacPherson inquiry? If not, how can the minister state with any confidence that all allegations have been referred to the Anti-Corruption Branch and were found not to warrant further investigation? Do you want the next two as well?

Members interjecting:

The PRESIDENT: Order! The honourable minister answered one.

The Hon. R.P. WORTLEY: We have the clowns in the public gallery. It is contagious.

The PRESIDENT: The honourable minister!

The Hon. R.P. WORTLEY: For a start, the Crown Solicitor has given me my advice. I am not aware of it being handed to the—

The Hon. A. Bressington: Have you read the report?

The Hon. R.P. WORTLEY: I have not read the report. Unlike the Hon. Mr Ridgway, I have not read the report.

Members interjecting:

The Hon. R.P. WORTLEY: I have just made the comment that I am not aware of it going to the Anti-Corruption Branch. My advice is from the Crown Solicitor and my department. It is as simple as that.

The Hon. A. Bressington: So, have they read the report?

The Hon. R.P. WORTLEY: The Crown Solicitor, obviously they have.

The PRESIDENT: The Hon. Ms Bressington in future will address her remarks through the President. The Hon. Mr Holloway.

The Hon. A. Bressington: Well, maybe you should catch up with the rest of us.

The PRESIDENT: Maybe you should stop interjecting.

OUTBACK COMMUNITIES AUTHORITY

The Hon. P. HOLLOWAY (14:45): Do you want to break the law too, do you? I seek leave to make a brief explanation before asking the—

The Hon. A. Bressington interjecting:

The Hon. P. HOLLOWAY: Why don't you just leave the chamber?

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the Outback Communities Authority.

Leave granted.

The Hon. P. HOLLOWAY: Members will recall that the Outback Communities Authority was established on 1 July 2010. It came about as a result of some reforms led by my colleague the Leader of the Government when she was the minister. As of last Friday, the authority has now been in operation for a year. Will the minister please update the chamber as to how the Outback Communities Authority is improving services to people in remote areas?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:46): I thank the honourable member for his important question. The honourable member is correct in that the Outback Communities Authority was established on 1 July 2010, pursuant to the Outback Communities (Administration and Management) Act 2009.

The functions of the authority are to manage the provision of, and promote improvements in, public services and facilities for outback communities and help articulate the views, interests and aspirations of these communities. The authority formally recognises and assists 31 communities in 28 locations across the outback, which do not fall within local government areas.

Where it supports outback communities, the authority has community affairs resourcing and management agreements with the local progress associations. These agreements can be either financial or non-monetary support to communities. This support can relate to funding to cover the administrative cost of running a progress association, town maintenance, such as public conveniences and street lighting, airstrip maintenance, town waste management and the provision of local water supply.

I am pleased to inform the council that highlights of the last year include the development and adoption of a community engagement policy that outlines the process and procedures to be followed by the authority to involve the outback community in planning and decision-making. Other highlights include the development and adoption of the 2011 to 2015 Strategic Management Plan, incorporating the 2011-12 annual business plan and budget.

I am also pleased to advise that in September 2010, the authority was successful in attracting and receiving more than $2 million in federal and state government funding to improve the safety of four outback airstrips jointly managed by the authority. The funding was for the Oodnadatta, Balcanoona, Glendambo and Mintabie airstrips.

I am advised that the upgrading of the Oodnadatta airstrip is about to commence, with an agreement nearing finalisation between the authority and the Oodnadatta Progress Association to transfer ownership of the airstrip to the authority.

Outback communities can look forward to many more years of having a far greater say in what happens in the outback. The Outback Communities Authority further empowers communities to initiate and drive proposals to seek improved services. I congratulate the Outback Communities Authority on its first successful year and look forward to working with it in the future to deliver improved services to our outback communities.

UMEEWARRA MISSION AND CHILDREN'S HOME

The Hon. T.A. FRANKS (14:49): I seek leave to make a brief explanation before asking the Minister for Industrial Relations, representing the Minister for Aboriginal Affairs and Reconciliation, a question about Umeewarra Mission and children's home.

Leave granted.

The Hon. T.A. FRANKS: The minister may be aware of the Umeewarra children's home causing some controversy of late. Certainly, my office and offices of other Greens MPs have been contacted about this issue. I understand that the Aboriginal Lands Trust say that the buildings of the Umeewarra children's home—which was once a mission run by the Christian Brethren in Port Augusta from 1937 to 1995—will be on sustainable use and derelict. It is the subject of a demolition notice and, as the pages of *The Australian* showed us last week, it is coming to a head, where it looks like these buildings will be bulldozed.

I understand that minister Portolesi has made a statement that she may undertake activities to try to preserve at least part, if not all, of the home and that this has great significance particularly to the children who were raised in this home, who see it as something very important to them. Certainly, as a member of the Aboriginal Lands Parliamentary Standing Committee, I visited that community and I understand their connection to this particular building. My questions are:

1. What consultations have taken place in the past few years on this issue?

2. What decisions were made as a result of those consultations?

3. How were they communicated to the Davenport community and other stakeholders?

4. What consideration has been given by this government in terms of repair and maintenance of the buildings that are currently derelict?

5. Have any costings been done in regard to being able to address perhaps the preservation of these buildings?

6. Is the option to preserve them still on the table?

7 What time frame does the minister give before we know the answer to these questions?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:51): I thank the honourable member for what I consider are very important questions. I will take them on notice and advise my colleague in the lower house and ensure she gets an answer as soon as possible.

PARKING FINES

The Hon. J.S.L. DAWKINS (14:51): I seek leave to make a brief explanation before asking the fourth Minister for State/Local Government Relations this year a question about increases in parking fines.

Leave granted.

The Hon. J.S.L. DAWKINS: On 11 February this year, the Premier, the then state/local government relations minister (Hon. Bernard Finnigan) and the former Local Government Association president, mayor Felicity-Ann Lewis, signed a joint agreement at Parliament House. The then minister referred to it as 'a new milestone in the collaborative relationship', and I quote from the joint media release:

> The agreement underpins the commitment of both parties to regular and effective communication, consultation and negotiation on the formulation and implementation of key policies, legislative proposals and significant programs and projects.

Many motorists were shocked to read the *Sunday Mail* article titled 'Parking, speed fines rocket' on Sunday 26 June 2011. This article detailed the exorbitant increase—in some cases almost 100 per cent—in hundreds of parking fines; for example, overstaying the time limit increasing from $22 to $43 and obstructing a driveway from $43 to $64, which has been made effective from 1 July. I will quote from the article:

> The rise is set to shock many motorists, with the changes buried in the Government Gazette published on June 9, with almost 600 other traffic and parking fine increases.
>
> Local Government Association spokesman Chris Russell said councils, which are required to enforce parking expiation fines, were not consulted or made aware of the increases before discovering them in the gazette.

I also note that now, under section 123 of the Local Government Act 1999, councils have legislative time lines and mandated public consultation in relation to their annual business plans and budgets which, at the time of the gazettal of these fee increases on 9 June, were either completed or very near completion. My questions are:

1. Will the minister concede that the former minister's actions were in breach of the agreement due to his lack of consultation with councils and the Local Government Association in relation to this policy decision?

2. Will the minister guarantee to provide greater consultation and communication and adhere to the agreement before making decisions in the future, particularly where fees are increased by up to 100 per cent?

3. Has the minister sought crown law or departmental advice as to whether these fines could withstand a legal challenge, given that the late gazettal made it impossible for councils to accurately record the increase in their Annual Business Plan and Budget documents, which must be released for public consultation?

4. Will the minister agree to indemnify any council concerned in relation to this issue if a legal challenge does arise?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:55): I would like to thank the member for his very important questions. First of all, I will just make it quite clear that I do intend, in my role as local government/state relations minister, to actually have a far greater—very wideranging consultation regarding—

The Hon. J.S.L. Dawkins: Far greater than the previous ministers, is that what you were going to say?

The Hon. R.P. WORTLEY: No. I do not need you to tell me what I was going to say. I have all the confidence in the actions of the previous ministers. They all acted on advice and in

good faith. With regards to the other issues, I will take them on notice and get back an answer to them as soon as I can.

NAIDOC WEEK

The Hon. I.K. HUNTER (14:55): I seek leave to make a brief explanation before asking the Minister for Government Enterprises a question about NAIDOC.

Leave granted.

The Hon. I.K. HUNTER: NAIDOC's origins can be traced to the emergence of the Aboriginal groups active in the 1920s, who sought to increase awareness in the wider community of the status and treatment of Indigenous Australians. Will the minister advise the council about recognition of our Aboriginal and Torres Strait Islander people?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:56): I thank the honourable member for his important question. I have spoken in this chamber before about the really important work of Service SA in providing services to the APY lands. As members would be aware, Service SA currently delivers a range of high-demand state government services to the communities of Amata and Mimili.

Through extensive consultation with the community, Service SA has recognised the importance of engaging the Aboriginal organisation, PY Media, to deliver services to this largely Aboriginal population. Through its rural transaction centres, Service SA has been able to provide extensive training and coaching to staff so that a wide number of Service SA services can be delivered to this community. Service SA contributes to support the staff and the community through regular site visits, over the phone transaction support and also the provision of Indigenous-specific resources for the community.

Since the service commenced in November 2010, it has proved to be extremely popular, with increasing numbers of transactions received through the rural transaction centres at Mimili and Amata. In addition, approximately 2,000 calls have been received through the free-call number, which provides transaction support and the ability for the communities to receive free access to government information and services.

This week marks NAIDOC Week, which recognises the achievements of Aboriginal and Torres Strait Islander people throughout Australia. NAIDOC Week is an opportunity for all Australians to celebrate Indigenous history and culture. Each year, awards are presented to recognise those outstanding Indigenous Australians who promote and improve the lives of Indigenous people in their communities. Each year, NAIDOC celebrations are based around a cultural theme. This year's theme was 'Change—the next step is ours'. I am advised that this signifies a need for planning and action in order for there to be change in the future—an important message for all Australians. As we have seen, as a nation we obviously grapple with important issues like taking action on climate change, for instance.

Service SA has engaged a number of Aboriginal employees to assist in providing its services in the community, including an Anangu woman of PY Media who is employed in the Service SA virtual call centre, working on behalf of the state government to provide advice in the Fregon community.

Naomi Parrott, a young Anangu woman, lives and works in the Mimili community. Naomi is the supervisor of the Mimili PY Ku Transaction Centre, which delivers a range of critical community services, including Centrelink and Service SA transactions, as well as processing mail for the community. Naomi has worked consistently to deliver a range of advice and services on behalf of Service SA and was recently nominated by Service SA for a NAIDOC award due to her significant contribution and effort in delivering these really important services in such an isolated part of South Australia, as well as helping to bridge the gap between the community and service providers.

I am really pleased to advise that Ms Naomi Parrott has been announced as the 2011 Young Female of the Year Award winner at the NAIDOC Awards ceremony. The award recognises Naomi's consistent and diligent efforts to deliver the Service SA services to her community. She is a role model to other young people in Mimili and the surrounding communities, and she very much deserves this award.

MOUSE PLAGUE

The Hon. R.L. BROKENSHIRE (15:00): I seek leave to make a brief explanation before asking the Minister for Regional Development a question.

Leave granted.

The Hon. R.L. BROKENSHIRE: This year is arguably the most difficult year that farmers have faced with respect to the mouse plague. Until several years ago, mouse plagues were treated like locust plagues and government contributed to coordination, management and some funding to assist farmers. Last year, to give credit where it is due, the government did provide a small amount of grain for Eyre Peninsula.

However, given the extent of the plague this year, and expert advice now saying that there has been a change in the habit of the mice to the point where they are now eating not only the grain but also the small seedlings, we could face an unprecedented mouse plague prior to harvest this spring. Not only that, the advice is that, if we do not nip the problem in the bud this year, we could see serious recurrent mouse plagues in ongoing years that will do enormous damage to the crop yield potential of this state.

My question to the minister is: will the minister undertake to communicate with the minister for primary industries, and her cabinet colleagues, to ensure that there is an urgent investigation, including the consideration of a coordinator and funding, to assist these farmers, some of whom have had to reseed the same paddock three times this year alone and who are desperate for funding support and coordination?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:02): I thank the honourable member for his important question. As discussed only yesterday, the matter is mainly the responsibility of minister O'Brien in primary industries. In terms of the mouse plague itself, I have been advised that minister Caica has, in fact, been very much involved in that program as well.

I am happy to refer the question to the relevant ministers in another place and bring back a response. Clearly, it is an area that is outside the responsibilities of my portfolio areas, but I know that both minister O'Brien and minister Caica are deeply concerned about these issues and are working with primary industries and key stakeholders to address the matter as expeditiously as they possibly can.

BURNSIDE COUNCIL

The Hon. R.I. LUCAS (15:03): My questions are to the Minister for Industrial Relations:

1. Will the minister ensure that a copy of the MacPherson report is provided to the ACB so that if there is any evidence of criminal action it can be considered for further action by the ACB?

2. Has the minister, or any of the officers in his ministerial office, had any communication with Labor lobbyist John Quirke, husband of former Burnside councillor Davina Quirke, about the inquiry by Mr MacPherson into the Burnside council?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:05): First of all, with regard to John Quirke, I have no knowledge of any communication that any of my people have had.

The Hon. R.I. Lucas: Will you check?

The Hon. R.P. WORTLEY: I will check, but I am sure they would have declared that when we were discussing this issue. I have full confidence that my staff have not had anything to do with Mr Quirke. With regard to the first question, I will take that on notice and get back to the honourable member.

LOCAL GOVERNMENT, FINANCIAL MANAGEMENT

The Hon. P. HOLLOWAY (15:05): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Are you going to be quiet?

The PRESIDENT: Order! I want to listen to a sensible question, the Hon. Mr Ridgway.

The Hon. P. HOLLOWAY: Are you quite finished? Can I continue? I will start again—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Are you going to stop?

The PRESIDENT: Good idea; start again.

The Hon. P. HOLLOWAY: Thank you, Mr President. I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question on financial management frameworks.

Leave granted.

The Hon. P. HOLLOWAY: I understand that there has been a significant improvement in the quality of council financial management and reporting as a result of the introduction of legislative requirements. My question is—

The Hon. J.S.L. Dawkins: It's pretty hard when you put up their bloody parking fees and don't tell them though.

The PRESIDENT: Order!

The Hon. J.S.L. Dawkins: It's pretty hard.

The PRESIDENT: Order! The Hon. Mr Dawkins should not be using that language.

The Hon. P. HOLLOWAY: Mr President, there has been a significant improvement in the quality of council financial management reporting as a result of the introduction of legislative requirements, which does not really say much about parking. Mr President, will you—

The Hon. J.S.L. Dawkins: Yes, but they have to include that in their reporting.

The PRESIDENT: Order, the Hon. Mr Dawkins!

The Hon. J.S.L. Dawkins: A very poorly-timed Dorothy Dixer this one, isn't it?

The Hon. P. HOLLOWAY: Can I ask the question?

The PRESIDENT: There might be a very important answer. The Hon. Mr Dawkins could even help you with your problems.

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

The Hon. P. HOLLOWAY: Are you finished? It is your time. I'm happy to sit here.

The PRESIDENT: The Hon. Mr Holloway.

The Hon. P. HOLLOWAY: Ready for the question, Mr President. Will the minister please provide an update of the leadership role the government provides to councils to aid in the quality of financial management and reporting?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:07): I thank the honourable member for his very important question. The honourable member is correct in that there has been a significant improvement in the quality of council financial management and reporting as a result of the introduction of the legislative requirement for councils to adopt long-term financial plans and infrastructure asset management plans.

I am pleased to advise that South Australia was the first state to introduce legislation requiring councils to develop and adopt long-term financial plans and infrastructure and asset management plans. The purpose of a council's long-term financial plan is to express in financial terms the activities that it proposes to undertake over the medium to longer term to achieve its stated objectives.

Together with the council's infrastructure and asset management plan, the long-term financial plan enables a council to address the sustainability of its financial performance and position. Additionally, the long-term financial plan assists councils in the maintenance, replacement and development needs for infrastructure within its area and develops proposals with respect to debt levels.

Councils in South Australia are the custodians of $16 billion of infrastructure and assets on behalf of their communities. They have an obligation to ensure that current assets are managed efficiently and effectively and that decisions regarding the acquisition of new assets, the sale of existing assets and the maintenance and renewal of existing assets are undertaken in an open and transparent way. The new requirement to have infrastructure and asset management plans has helped to focus the sector to develop the appropriate tools, policies and procedures to meet this challenge.

I am pleased to highlight that the other key catalyst for financial management and reporting improvement has been the implementation and annual update of the model financial statements. The model financial statements are consistent with Australian accounting standards and incorporate the best practice of state and other local government jurisdictions in Australia. They have materially improved the reliability, comparability and consistency of data made publicly available on council finances. They have also led to significant improvements in the level of disclosure in the notes accompanying councils' financial statements.

Finally, members may be interested to know that the annual financial statements of councils must be prepared in accordance with the requirements set out in the model statements. The model financial statements document also guides the preparation of core financial information included in council long-term financial plans and annual budgets.

SOUTH AUSTRALIAN VISITOR AND TRAVEL CENTRE

The Hon. K.L. VINCENT (15:10): I seek leave to make a brief explanation before asking the minister representing the Minister for Tourism questions regarding the SA Travel Centre.

Leave granted.

The Hon. K.L. VINCENT: As members would be aware, the SA Travel Centre has been at the centre, ironically, of much discussion of late, particularly around access to the new building in which the centre is located. The Minister for Tourism, the Hon. John Rau, was on 891 this morning saying:

> I'm obviously very disappointed that this whole process [that is, the tenure] has become the focus of the attention it has, not because I personally have done anything wrong but because it's detracting from the really good work the Commission's doing.

My questions to the minister are:

1. Does the minister truly believe that focusing on improving access to the building for all people is detracting from the good work rather than adding to it?

2. Will the minister retract these comments?

3. Why did the tenure go ahead, seemingly without the knowledge of the inaccessibility of the new building on behalf of the minister?

4. Were any exemptions to accessibility standards sought and granted and, if so, which?

5. When will we see an official plan regarding accessibility to the SA Tourism Centre?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:11): I thank the honourable member for her important questions and will refer them to the Minister for Tourism in another place and bring back a response.

WUDINNA HOUSING DEVELOPMENT

The Hon. J.S. LEE (15:12): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about regional housing developments in Wudinna.

Leave granted.

The Hon. J.S. LEE: On radio last week it was reported on several occasions that the proposed $2.5 billion iron ore mine in Wudinna will see 600 jobs created for the region. However, the town does not have anywhere to house the new employees of the proposed mine. Mr Andrew Stokes, Managing Director of the Iron Road, commented to ABC West Coast SA news that:

We're not particularly keen to pursue the fly-in, fly-out model for employees. Wherever possible we like to employ locally and house locally.

Real estate agent for Wudinna, Ms Elaine Seal, stated on ABC radio on 4 July that she is getting phone calls every day about places to buy or rent in the area. She says there are virtually no houses or rental accommodation to be found as investors and locals prepare for a possible influx.

Mr Tim Scholz from Wudinna District Council believes there will be a lot of growing pains at Wudinna, and to help resolve the issue the council will need to speak to the state government about planning principles. My questions to the minister are:

1. If the $2.5 billion ore mine project does go ahead, how does the government expect to accommodate the influx of workers?

2. Has the government consulted Wudinna District Council and property managers in relation to the issues with the planning rules and regulations of the development plan for the area?

3. How is the Minister for Regional Development preparing neighbouring regional centres for the possible ore mining project?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:13): I thank the honourable member for her most important questions. There is a great deal of opportunity available throughout South Australia, particularly for a number of our regional centres, to benefit from the mining and resources boom—or we are on the cusp of a boom; I don't think we are allowed to say that it is quite a boom yet.

Nevertheless, there are enormous opportunities on our doorstep because we are rich in those primary mineral products, other precious sands and other deposits, so we have a rate of exploration occurring thought South Australia like never before, and the number of mines that have opened up and are mining again equate to an exponential increase. There is an enormous potential for wealth to be generated across the state, particularly to be captured by regional centres.

I also accept that with those opportunities are challenges, because communities are looking—many of them for the first time in many decades—at population growth and possible explosion, whereas in the past they have been facing diminishing populations and reducing sizes of their communities and service structures. The tide has turned and we are now faced with a different set of problems, if you like, which of course provides, as I said, a great deal more positive opportunity for growth and investment in our regional centres.

Indeed, Wudinna, is a beautiful place. I know it is a bit of a contradiction, really, because when you go out and visit Wudinna you pass through vast areas of pastoral land and it is very difficult to understand when one hears statements such as there is no room for extra housing in Wudinna. It is a vast space. The issue is not that there is not land available. As I said, Eyre Peninsula is indeed a very vast peninsula. The issue is about planning and appropriate zoning: that is the issue. They are challenges for us and they are challenges that involve the local council and our planning and development agencies.

I have been advised that just recently the Eyre Peninsula regional plan was released. Again, work has been done right throughout South Australia to develop these regional plans to address some of the very challenges that the Hon. Jing Lee has raised here today; that is, to assist regions to plan and equip themselves to be ready to maximise every opportunity in relation to some of the potential growth and development in our mining and resources areas.

We see that that planning is already well advanced, and that involves very extensive community consultation at local council level, RDA level, etc. It also involves discussion and consideration across government agencies, and information is fed in so that these plans are quite comprehensive. Recently I announced extra funding for an upgrade of the Port Lincoln airport. We need to be able to maximise facilities there.

Members interjecting:

The Hon. G.E. GAGO: We are talking about mining opportunities. We are talking about being able to fly in services and other support structures to be able to assist building, development and growth and, of course, Port Lincoln is the largest, nearest airport to that. We have commitments there.

We have also seen the federal government committing over $1 billion through the RDA structure to regional sustainable growth and development. Those regions like the Eyre Peninsula and the Wudinna area are in exactly the right place to be applying for these sorts of grants to assist them to meet these future challenges. Over $1 billion is going to be offered: $100 million has just been recently put on the table—$100 million worth of grants. I think the Thevenard port and Port Lincoln—

Members interjecting:

The Hon. G.E. GAGO: Mr President, if they would just let me finish.

Members interjecting:

The Hon. G.E. GAGO: I am referring to the only RDA grant proposals that came from Eyre Peninsula. There were none from Wudinna. The closest, in terms of the grant proposals from Eyre Peninsula, if my memory serves me—I think there were only two—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: I might stand corrected, and I will check my facts.

The PRESIDENT: The Hon. Ms Lee would like to learn something. If the rest of the opposition doesn't, it is up to them to be quiet.

The Hon. G.E. GAGO: I will check my facts. There was one to do with the Port Lincoln airport and the other one was to do with Thevenard. There is an opportunity that could have been maximised but clearly was not at this point in time. Let us hope that for the next grant proposal there are some applications from Wudinna and those local councils to assist them with these opportunities.

Of course, in the Upper Spencer Gulf area we know that additional funding has been made available to assist in developing particular industries to help support mining and to enable the service support and structures within that area to be able to support mining development. You can see that this state government, along with the federal government and local government, have done a great deal. There are a number of opportunities in place to assist not only Wudinna but all regions to maximise opportunities around the mining boom.

STATUTES AMENDMENT (DE FACTO RELATIONSHIPS) BILL

Adjourned debate on second reading.

(Continued from 22 June.)

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:21): I thank honourable members for their second reading contributions and look forward to this being dealt with expeditiously through the committee stage.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:25): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ELECTRONIC TRANSACTIONS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 June 2011.)

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:26): I thank members for their second reading contributions, and I thank the Hon. Mr Wade for his contribution to the debate on this bill.

There are a number of matters that I need to qualify. First, in terms of a statement that the Hon. Mr Wade made, he said:

> The government advises that there is no variation between the UN convention, the model law and the South Australian bill.

My advice is that that is not quite accurate and may have arisen from a slight misunderstanding in the briefing process. The bill faithfully follows the national model bill prepared by the Parliamentary Counsel's Committee and agreed upon by the Attorney-General.

The national model, in turn, adapts the UN convention for the purpose of domestic law, but the national model is not word for word the same as the convention, which is an international document. However, it is true to say that the changes made in this bill derive directly from the convention and that all states and territories are expected to make the same amendments to their electric transactions acts as we are making to ours. Indeed, New South Wales and Tasmania have already done so and the Western Australian parliament is currently considering the bill.

The second issue I want to clarify is that the Hon. Mr Wade stated that there was a lack of consultation. I am advised that in fact a consultation paper was published in November 2008 by the federal Attorney-General setting out the proposal for amendment of both commonwealth and state laws and inviting public comment. The consultation paper was announced by media release at the time and has remained available on the website of the federal Attorney-General's Department ever since.

Comment was received from, among others, the Law Council of Australia, informed by its E-Commerce Committee. I understand that the Law Society of South Australia is a constituent body of the Law Council of Australia and it is therefore surprising that the society, as quoted by the honourable member, complains of a lack of consultation. But, so be it.

The Law Council's submission expressed general support for the proposals but identified some issues, which were duly considered in the preparation of the model bill. The model bill has been publicly available on the SCAG website since last year.

The Australian Information Industry Association, mentioned by the Hon. Mr Wade, also commented on the 2008 consultation paper and thus cannot have been taken by surprise by this bill. To the extent that its concern relates to the possibility of exemptions, I would point out that section 12 of the present act already includes a power to make exemptions by regulation, and that has been there since the act was passed in 2000.

As I have said, I thank honourable members for their contributions and look forward to the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. S.G. WADE: I would like to respond to the minister's comments in summing up briefly, because the issues do not require detailed exposition. In relation to the minister's point on clarification, I appreciate the more technical expression of the situation, but the fact of the matter is that nothing the minister has said accords with my understanding. I was briefed on the understanding that this is consistent in substance with everything from the UN Convention down, and nothing the minister has said has indicated that that was not the case.

In relation to consultation, I just think the minister takes an opportunity to yet again show the lack of commitment this government has to consultation. What the government is saying to us in relation to this bill is that some years ago—at least three years ago—the federal government had a consultation on this issue and that that should somehow absolve this government of the responsibility of consulting with normal stakeholders on bills.

I can recall a bill that was put into the parliament last year that the Attorney-General's office assured us was routine and simple. Since then, we have had a raft of amendments; in fact, it has been referred to a parliamentary committee for further investigation. I would suggest to the government that this opposition will not assume that because the government regards things as routine and because some other government has talked about it at some other time in some other place that absolves it from the responsibility of consulting.

Consulting on routine matters can be as simple as referring a bill to the associations. I do not make a judgement in my consultations as to whether or not a matter is worthy of consideration by stakeholders. I am amazed at how apparently simple bills can raise all sorts of issues. Considering the mess that the government has got itself into in relation to the Statutes Amendment (Budget 2011) Bill—in other words, the police prosecutions issue—the fact that it was not able to foresee a whole range of factors that have been brought forward to us by legal stakeholders shows that the opposition approach of consulting key stakeholders on all bills is a good one.

I would certainly encourage the government to try to overcome its arrogance and start consulting directly. To suggest that because the Law Society is a member of the Law Council of Australia and because the federal government some years ago consulted on an issue hardly means that it is not worthy of referral to our stakeholders. They can say that they have no comment to make. They certainly often do on bills that we send to them, but at least we show them the courtesy of an opportunity.

In relation to concerns that the Law Society raised regarding the treatment of property matters in the regulations, the opposition is relying on commitments given by the government in the House of Assembly that those matters will be dealt with by the regulations. We will look forward to those regulations to ensure that those commitments are kept.

Clause passed.

Remaining clauses (2 to 12) and title passed.

Bill reported without amendment.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:35): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ADELAIDE OVAL REDEVELOPMENT AND MANAGEMENT BILL

In committee.

(Continued from 6 July 2011.)

Clause 1.

The Hon. R.I. LUCAS: Just in addressing some general comments on clause 1 before some questions, can I indicate to members that, since we last discussed this issue—whenever that was—I have consolidated my amendments into what is under my name as [Lucas-4]. So, those amendments in bill files [Lucas-2] and [Lucas-3] can be discarded.

As I have indicated to a number of the Independent and minor-party members, [Lucas-4] is just a consolidation of [Lucas-2] and [Lucas-3]. However, it has added, I think, two or three amendments as a result of suggestions from the government. I think, as I indicated when we were last discussing the issue, I was aware that the government was working on some possible amendments of its own.

I indicated that, if the government, the member for Davenport and the opposition could reach agreement, we would incorporate the agreed parts within our package of amendments. We have done that, so that is the only further change in relation to what is now before you as [Lucas-4]. The government will speak for itself. It may well be that it has other amendments of its own and will, obviously, either support or oppose various parts of the amendments that I have under [Lucas-4] as well.

I just alert members that, with the very last amendment in [Lucas-4] on page 12—the deadlock provision—the parliamentary counsel has just drafted, again, a further clarification of that as a result of an issue that has been raised from, I think, the SMA, through the government, if that is a fair description of how it has come about. Parliamentary counsel is in the process of tabling that. Given the time available today, I suspect we might not get to that particular provision this afternoon. If we do, then I will further explain it at that stage.

With that, I just turn to some general questions, appropriately asked at this stage. In the House of Assembly there was general discussion about the possibility that one of the amendments the opposition was going to move was a requirement to ensure that this project went before the

Public Works Committee process. I think the minister in charge of the project has indicated somewhere that that was the government's intention, and that it still is, but we seek from the minister here today, in the house, a commitment from the government that the project will go through the normal Public Works Committee process.

The Hon. G.E. GAGO: I am advised that yes, it will.

The Hon. R.I. LUCAS: The second issue is in relation to car parking. As the minister, and anyone who has followed this debate, will be aware, car parking has been one of the thorny issues through the whole discussion on the project, and I guess it will continue to be a thorny issue. I just want to clarify whether, under the government's current project proposal, the total number of car parks within the precinct of the four main roads that we are talking about is 1,450 in the northern car park area plus 400 in the underground car park. Is the total 1,850 or is there another element in relation to Adelaide Oval No. 2 that should be added to that number?

The Hon. G.E. GAGO: I have been advised that 1,450 in the northern car park is correct, and that includes Adelaide No. 2. Negotiations are continuing as to the number of car parks that will be provided in the underground facility.

The Hon. R.I. LUCAS: This is clearly not an issue that the minister will be able to resolve today, and I do not seek that, but there is an ongoing issue as to whether or not, when the tenders come in, the $535 million that this bill will legislate (we assume) to put a cap on the project will be sufficient for the project. One of the key parts of the project is obviously car parking, and the current proposal is for 400 car parks underground on the eastern side—and we will come to an amendment in relation to Victor Richardson Road in a moment, because that is obviously part of this issue. Can the minister guarantee that, if there is a blowout in the project cost, the government will not consider jettisoning the underground car park proposal as a way of reducing costs for this project?

The Hon. G.E. GAGO: The advice is that we expect there will be no blowout in the project proposal, and therefore we do not anticipate any changes to the considerations in which we are still participating in relation to the number of car parks.

The Hon. R.I. LUCAS: We understand that nothing will be known and finalised until the tenders come in, so I accept that, but is it not correct that current estimates do indicate that the current estimated cost is significantly above the $535 million?

The Hon. G.E. GAGO: I have been advised that we are still working through estimates. However, in terms of the car parking, the honourable member should feel reassured as there are other ways of paying for car parking, such as through private commercial arrangements. So, as I have said, we remain confident.

The Hon. R.I. LUCAS: I indicate that I do not intend to prolong the debate with unnecessary politicking at this stage; I just want to ask the questions. I do want those avid readers of *Hansard* to note that the minister, first, has not responded to the question as to whether the current estimates of the project cost are significantly above $535 million and, secondly, did not answer (on advice; I accept that) the earlier question whether she could guarantee that the 400-car underground car park would not be jettisoned in the event that there was a blowout in the total costs.

As I said, I accept that the minister can put into the public record only the advice she receives from the government's advisers on the issue. We are not in a Budget and Finance Committee stage, where we can continue to grill officers, as opposed to ministers, so I do not intend to prolong the debate, but I did want to put that on the record. The government's advice at the moment is that there is a very significant blowout in the cost of the project and, advisedly, the government's position is, 'Let's wait for the tenders.'

I accept that because, hopefully, the tenders will come in significantly below the current estimates, but the concern I have is that, if the tenders do not come in below the current estimates, which is obviously the ideal situation, the government will then have to start jettisoning various elements of the project, and one of the key ones is this issue of car parking.

We need to trace the history of this. When football first came into this debate, supposedly, one of their non-negotiable conditions, which clearly was not, because they have negotiated on it, was 3,800 car parks within the precinct. There was some doubt as to whether or not the precinct included Pinky Flat but, certainly, it meant north of the Torrens.

Clearly, even with the underground car park, we are working on around about 1,850 car parks. The government and football have compromised, obviously—this is all give and take—and are accepting that south of the Torrens there are going to be, I assume, private and some partially government-funded projects, which will provide further car parking in relation to this. If there was to be a loss of another 400 underground car parks in the project within the precinct, then it would be a significant blow, in my view, to the attractiveness and viability of the project. I list that as a concern and note the minister's responses to the questions.

When we come to some of our other amendments, the bill is seeking to amend—and we are amending—various issues in relation to Victor Richardson Road. Our understanding is that the changes to Victor Richardson Road are essentially as a result of needing to get access to the underground car park and to continue to provide traffic access off King William Road via a new and slimmer Victor Richardson Road (I guess it will still be called that) into the underground car park.

If, however, the car park gets jettisoned because of budgetary issues, then some of the changes we are going through in relation to Victor Richardson Road may not have been necessary as a result of it being a different project. Given that we will not be in a position and we will not hold it up beyond the final sitting week of this session to get final answers on that, our only opportunity to flag these issues for the government and its advisers to consider is to do so now because, if there is a possibility of no underground car park because of cost issues, then the government needs to consider whether or not the changes it wants in the bill in relation to Victor Richardson Road and that part of the precinct would still be required.

The dilemma I have, obviously, is that I am sure if I asked the government on the appropriate clauses: 'If we don't have a car park, are you still going to need these changes?' the government's response will be, 'Well, we expect we are going to have a car park,' and therefore I will not get an answer to them. All I can do at this stage is flag the issues. If the government is prepared, when we get to the Victor Richardson Road amendments, to canvass the hypothetical issues of whether its position would change if there was to be no underground car park, I would welcome a government response in relation to that when we get to those particular provisions.

Clause passed.

Clause 2.

The Hon. R.I. LUCAS: Under current planning, when does the government expect to proclaim the act, if passed?

The Hon. G.E. GAGO: I have been advised that we anticipate around November this year, if all goes to plan.

Clause passed.

Clause 3.

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

Page 3—

After line 7—Insert:

and

(e) the land referred to in section 11;

Line 10—Delete paragraph (b)

I will seek the continuing guidance from parliamentary counsel on this issue, but I believe amendments Nos 1 and 2 are closely related. Amendment No. 1 adds the area of Victor Richardson Road that is closed to the core area. This was a suggestion that had been made to all of us by the Adelaide City Council and other interested stakeholders. I think it is relatively straightforward, and amendment No. 2 is a consequential amendment in relation to amendment No. 1.

The Hon. G.E. GAGO: I rise to give government support to these amendments. The government obviously has been very clear about preserving the features of the Adelaide Oval in the park setting.

Amendments carried.

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

Page 3, after line 14—Insert:

(da) land that, immediately before the commencement of this Act, constitutes the Creswell Gardens or the Pennington Gardens West; or

This is again an amendment that has arisen as a result of discussion with the Adelaide City Council and other interested stakeholders. This simply takes Creswell Gardens and Pennington Gardens out of the licence area so that they stay under the care and control of the Adelaide City Council.

The Hon. G.E. GAGO: The government supports this amendment. The government has been very clear about preserving the features of the Adelaide Oval in a park setting. We intend to preserve Creswell Gardens and Pennington Gardens as open space, and these areas will not be used for parking. We will not oppose this amendment, which puts the land back under the control of the Adelaide City Council if the government can be satisfied on three points:

- First, the government needs to be able to build the project in a manner that enables cricket to continue at the oval during the construction period. Clearly, any use of this area to support the construction of the project will be temporary, and full remediation of the area would be required.
- Second, the government and sports want to be assured that the relevant authority, if it is to be the council, will not allow any ambush marketing to occur within this area on game days for either football or cricket.
- Third, there needs to be clarity about a responsibility for cleaning up the area and rectifying any damage that may be associated with game days.

Under the government's proposal, the SMA would have taken responsibility for all this. Under the proposed amendment, responsibilities are not clear.

Amendment carried.

The Hon. R.I. LUCAS: I have a general question on clause 3 as I flagged in clause 1, that is, is the government prepared to comment on this: if there was not to be an underground car park under the eastern grandstand, will the government continue to make the changes to the Victor Richardson Drive area that are currently envisaged in the project?

The Hon. G.E. GAGO: I have been advised that there will be an underground car park, and we still propose to repave Victor Richardson Drive.

The Hon. R.I. LUCAS: I understand that Victor Richardson Drive will be a narrower, more streamlined version than currently exists. Is that the case?

The Hon. G.E. GAGO: I am advised: yes.

Clause as amended passed.

Clause 4.

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

Page 3, lines 32 and 33—Delete subclause (1) and substitute:

(1) The Council must, at the request of the Minister, grant a lease to the Minister over all of the Adelaide Oval Core Area, or any part of that area specified by the Minister.

(1a) Subject to this section, a lease under subsection (1)—

(a) must be for a term specified by the Minister (being a term of up to 80 years including any right to an extension or renewal); and

(b) may be subject to such terms and conditions as the Minister may specify after consultation with the Council.

The government's position has been made clear in clause 4, Care, control and management of land vested in the minister. Subsection (1) provides, 'Subject to this act, the care, control and management of the Adelaide Oval Core Area is vested in the minister.' The package of amendments that the Liberal Party is moving has been—and we acknowledge this—as a result of considerable discussion with the representatives of the Adelaide City Council. Certainly, there has been considerable discussion with the member for Adelaide, Rachel Sanderson.

These and a range of other related amendments have been the result of very active lobbying in a public sense from, obviously, the Adelaide City Council, but I acknowledge the

passionate advocacy within Liberal Party fora by the member for Adelaide, Rachel Sanderson. She has fearlessly put the views of her constituents on this particular project to our various committees and our joint party room, as we arrived at a final decision on this particular bill.

To be fair—and I am sure government members will recall—former members for Adelaide of Labor persuasion, I suspect, probably put similar views in their party room or their caucus in years gone by. Certainly some of the people most affected by this particular project are going to be constituents of the member for Adelaide, residents in the nearby precincts, in particular North Adelaide, and others who will be impacted by what will be a considerably different Adelaide Oval and Adelaide Oval precinct.

There is no doubt, as I acknowledged in the second reading, that it is impossible, if you are going to spend $600 million plus on a major project, that the range of facilities available to patrons is going to be significantly improved on what exists at the moment, and there is no doubting that it will be potentially a more exciting place for events—not just football and cricket but potentially a range of other events that might be conducted there as well.

That, of course, is going to mean significantly more patrons, significantly more traffic movement, and significantly more parking in the streets. It will also impact on nearby businesses and, obviously, for some of those businesses it will be a good thing, but perhaps for the residents next to a hotel, for example, it might involve some further inconvenience if there are larger numbers of patrons at those hotels as well.

Clearly, these issues are always a matter of balance. They are always a matter of trying to ensure that we see development in the state but that we also, if we can, balance it against the wishes of other stakeholders who have a genuine view and a genuine position to put. Some of those people should not always be portrayed by their opponents as 100 per cent anti-development—some of them might be but I am sure all of them are not.

However, in many cases they wish to put their point of view, they put it passionately and they certainly believe in the views that they put. From the Liberal Party viewpoint, we have been prepared to try to strike at least some compromise between ensuring the project has the capacity to proceed and it being subjected to some significant amendments and certainly, as we will come to later with some of the other amendments, significant new accountability provisions in relation to the expenditure of public moneys.

This is the first of the major amendments. A significant number of the following 10 or 15 amendments are consequential on whether or not this particular amendment passes. The opposition's position, which we put to the committee and seek the support of the committee, is that rather than vesting the Adelaide Oval in the minister forever, this and other amendments will place the core area under an 80-year unconditional lease to the minister.

This technically means—not that it should worry anybody in this chamber, says he looking around the chamber, with the possible exception of the Hon. Kelly Vincent—the parliament of the day will need to revisit these questions. The Liberal Party puts it to the committee that we do not think that is an unreasonable proposition. It is certainly our view that in 80 years' time—clearly, the whole world will have changed—the issues of football and cricket will have changed.

We certainly hope that well before then the finances of the state and the vision of the state are sufficiently raised that the A grade plan of a covered stadium—Etihad Stadium-style that the good people of Melbourne enjoy—will be enjoyed by the good people of Adelaide. That is another debate and I do not intend to delay today with that particular debate.

So, in 80 years it will need to be revisited. We understand, from our discussions with football and cricket, that the issue of 80 years is not a drop-dead issue for them. Again, most of the people in football and cricket are not going to be here in 80 years' time either, it will be their sons and daughters, or grandsons and granddaughters running the planning.

I think their preferred position, and they have spoken for themselves and the government will speak for itself, is to leave it as the government build would leave it; that is, that the minister has absolute control. We are saying, in this amendment and some of the other amendments to an even more significant degree, that there needs to be a bit more of a balance.

In this case this particular part of the package is that there will be an 80-year unconditional lease from the council to the minister, but in 80 years' time the Adelaide City Council and this state parliament will be able to revisit the issue, together with all other stakeholders.

The Hon. G.E. GAGO: I rise to oppose this amendment. The government believes that there is no need for this amendment. The bill, as it stands, allows for the core stadium area to be vested in the minister and then a lease granted to the SMA, whereas the amendment complicates this arrangement. The Minister for Infrastructure has offered the opposition an 80-year clause, but I understand that was rejected. Therefore, the government cannot support the opposition amendment.

I have to say here that I declare a personal interest in this. I am one of the residents that will be personally affected by this development. I can put on the record that the local member, Rachel Sanderson, certainly does not represent my personal views on these matters.

The Hon. M. PARNELL: I rise to put the Greens' position on the record now that we know the government is opposing this amendment. The Greens will be supporting the amendment. The regime proposed by the government in the bill is for the care, control and management of the Adelaide Oval core area to be vested in the minister.

The opposition amendment effectively keeps the status quo in that care, control and maintenance will remain with the Adelaide City Council but subject to an obligation to lease the Adelaide Oval core area back to the minister. People might think that it is a semantic argument because for the next 80 years or so it is likely that the Adelaide Oval will be a sportsground and will not be under the direct and day-to-day management of the Adelaide City Council, they will not be the ones who are mowing the turf, for example.

Yet I think it is important for us to acknowledge the role that Adelaide City Council has played over many years as the general custodian of all of the Parklands, and I think it is sending the wrong message to, effectively, legally alienate this area and hand formal care, control and management to the minister.

The minister will have the ability under the lease that is proposed by this amendment to further sublease the land to the Stadium Management Authority, but the title documents, if you like, for the Adelaide Parklands will show that it is still part of the Adelaide Parklands. This will be even more important when we get onto the licence area, because there are very important principles that have governed—and should continue to govern—the use of the Parklands into the future. So, the Greens will be supporting this amendment.

The Hon. D.G.E. HOOD: I just have a question. I am not actually clear what the difference is between what the opposition is seeking and what the government is seeking with this amendment. So, I need some clarification before I make a final decision.

The Hon. G.E. GAGO: Under our proposal, as the bill stands, it is quite clear that the minister will manage and lease to the sports. The amendment that the Hon. Rob Lucas has put forward keeps council in the mix, so to speak, as the council will have responsibility for care and control of the area, with the requirement to lease back to the minister. We believe that that lacks clarity and is potentially confusing, which is unnecessary. We believe that our proposal is simpler and clearer in terms of the lines of responsibilities, and the amendment only serves to, if you like, cloud that.

The Hon. R.I. LUCAS: There are a number of differences, but the specific one is the one I have referred to already, and that is that, under the government proposal, whatever we pass today will be there forever and a day. So, our sons and daughters or grandsons and granddaughters in state parliament and the Adelaide City Council will not get the opportunity in 80 years' time to automatically revisit the issue. So, ours is time-limited—albeit a very long time—in terms of what is going on.

In 80 years' time, this parliament will have to revisit the issue with the Adelaide City Council in some form or another. Under the current government bill that will not have to happen. At any time, of course, a government can come back in before the 80 years if it wants to—or at the 80 years—and revisit the issue, but it would have to go through the parliamentary process. This should be automatic in relation to the 80 years. That is one issue.

The second issue is that this is a package of amendments in relation to the Adelaide City Council but, from the opposition's viewpoint, we accept—I think the important words are—that the lease will be an unconditional lease to the minister. So, whilst under the government bill the minister has the care and control, etc., the council has to issue an unconditional lease to the minister. So, the council cannot say, 'You can have this for 80 years, but we're not going to let you

have a football game played there' or, 'We're not going to let you do certain events in the middle of the oval', or whatever else it happens to be. It is an unconditional lease being issued.

In terms of the practical implications, in respect of our package, on the sorts of things that can occur in the Adelaide Oval, our legal advice is that there is no difference at all in relation to what is going to be held at the Adelaide Oval. There is football and cricket, maybe rugby and soccer, and maybe concerts and a variety of other things like that. This will be an unconditional lease that will be issued for 80 years. The difference is that, in 80 years, there will be this automatic revisiting of the whole thing because the parliament and the council would have to have another look.

The Hon. G.E. GAGO: I rise to point out that, in fact, the government, the Minister for Infrastructure, did offer the opposition an 80-year clause, but the opposition refused to accept that. We have already offered that and it has been rejected. In terms of the unconditional lease, that is not clearly articulated in this amendment at all. If you go to lines 32 and 33, subclause (1), it says:

> The Council must, at the request of the Minister, grant a lease...

It does not say 'an unconditional lease': it just says 'a lease'. Again, we think it just brings in a level of potential ambiguity and a lack of clarity that could potentially confuse things in the future. We believe our bill is clearer, more straightforward and less likely to be open to any unintended consequences, shall we say.

The Hon. M. PARNELL: I will just add my advice to the Hon. Dennis Hood, given that he has asked the question. I will disagree with the minister in relation to whether or not the lease would be unconditional because the amendment of the Hon. Rob Lucas states that the lease:

> may be subject to such terms and conditions as the Minister may specify after consultation with the Council.

If the minister can specify the conditions, then the minister can specify whatever he or she wants. There is an obligation to consult with the council, which is appropriate, but, at the end of the day, this does not give the Adelaide City Council any veto over things in the lease and that effectively makes it an unconditional lease.

The Hon. G.E. GAGO: Again, I beg to differ. It is a matter of semantics but, if you go to paragraph (b), where we are talking about this being subject to terms and conditions, it says, 'may be subject to such terms and conditions'. Of course, wherever there is a 'may be', it also may be not. It is not 'required to be'. It is not 'must be': it 'may be'. Well, it may not be.

Again, I accept we are getting down to semantics here, but I am saying that this brings in a potential for a lack of clarity that is unnecessary and unneeded. We are still putting the 80 years on the table. If that satisfies the requirement, we are still prepared to look at that, but, as I said, that has been rejected. We believe that, as it stands, it brings in a lack of clarity and a potential ambiguity that is unnecessary and unwise.

The Hon. R.I. LUCAS: I certainly do not argue that is semantics. I think it is legal interpretation of what we are about to pass. It is quite clear. Whilst I am not a lawyer and neither is the minister, the Hon. Mark Parnell is, and I would agree with his legal interpretation of paragraph (b). It is quite clear that we are talking about the terms and conditions the minister may specify. There is no capacity in the legislation, or in the proposed amendment, which allows the council to specify amendments. It is the issue of whether or not the minister wants to specify terms and conditions. It is, on our legal advice, an unconditional lease and it is one of the reasons why we have supported it.

The Hon. D.G.E. HOOD: I think that, when we start debating matters 80 years hence, it is something that will be well and truly beyond, as was already said, the lifetime of anyone in this parliament. I think the fact that we are having the debate right now about what these words actually mean suggests that there is potentially the scope for lawyers to also debate what these words actually mean, should it come to that. That is not something we want. We will not support the amendment.

The Hon. K.L. VINCENT: I wish to briefly place on record my support for this amendment. In my second reading contribution I stated very clearly that I do not support this redevelopment as a whole; however, in light of the fact that it is going ahead I will do all that I can to see that it goes ahead in the way that is the least harmful to our Parklands and their surrounds. I see that this amendment assists in doing that, particularly in view of the fact that the Adelaide City Council did

bring to the attention of members suggested amendments that it had drafted to achieve that protection of the Parklands.

I think the Liberal amendments echo many of those sentiments, so I support those amendments. With regard to the unlimited debate around the tenure, as has been pointed out I am probably the most likely to be here in 80 years' time, but just in case I am not—which is, admittedly, quite likely—I would rather there be some debate open as to whether this tenure can continue. In light of that, I support this amendment.

The Hon. A. BRESSINGTON: I will support the Liberal amendment as well.

The Hon. G.E. GAGO: Obviously, I can read the numbers and we will not divide, but at this point in time I indicate that we would look at perhaps recommitting this at a later date to consider an amendment to (b) which would remove the words 'may be' and would provide 'must be subject only to such terms and conditions as the minister may specify' to provide greater clarity. I put that on the record for members to consider, and we might consider it at a later date, perhaps at a recommittal.

Amendment carried.

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

Page 4—

Line 1—Delete 'The' and substitute:

It will be taken to be a term of a lease under subsection (1) that the

Line 2—Delete 'vested in the Minister' and substitute:

constituting the Adelaide Oval Core Area

These amendments are consequential.

Amendments carried.

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

Page 4, line 5—After 'square metres of' insert:

grassed

At the moment subclause (c) provides 'at least 1,200 square metres of open space'. This amendment inserts the word 'grassed' after 'square metres of'. The concern we had with the government's drafting was that open space could include getting rid of that wonderful grassed, open area to the north of Adelaide Oval. For example, the drafting would allow—as occurs in many stadia around Australia—terraced concrete areas, which are obviously much easier to maintain.

I guess a variety of other reasons could be given as to why terraced concrete areas might be better for stadia, and in particular the Adelaide Oval. Under the government's bill, that would be entirely possible; that is, the northern area could be a concrete jungle, with the paved area with steps stepped down to the Adelaide Oval surface.

What the Liberal Party is seeking support from members of the committee is to try, to the extent that we can, to preserve that wonderful grassed area to the north, which has been enjoyed by many patrons over the years. Obviously, it will be the last remaining area of what will be almost a fully-enclosed stadia, rather than a cricket oval, as it used to be. We think this is a worthy amendment, which I hope members of the committee will be prepared to support.

The Hon. G.E. GAGO: The government is pleased to support this amendment. It specifies that open space provided for in the bill be grassed. The minister in the other house has said that he is agreeable to this, and the government will therefore support this amendment.

The Hon. D.G.E. HOOD: I will not speak very often when the government and the opposition are in agreement, but I do want to place on the record Family First support for this amendment.

Amendment carried.

The Hon. R.I. LUCAS: Before I move my next amendment, I do have some questions in relation to subclause (3), which we have just canvassed, in relation to the grassed area amendment. This subclause provides that 'the area vested in the minister continues to be named

Adelaide Oval' (that is, to protect Adelaide Oval) and that 'the Adelaide Oval Scoreboard is maintained in good condition'.

Can I confirm that there is nothing in the government's bill or approvals which would prevent the Adelaide Oval Scoreboard, for example, being a sponsored scoreboard—the Telstra scoreboard or whatever it might happen to be—should the SMA make those sponsorship decisions in the future?

The Hon. G.E. GAGO: I have been advised that there is no intention to change the title of the Adelaide Oval Scoreboard, but I have been advised that there is nothing within the bill that could prevent that from happening.

The Hon. R.I. LUCAS: Obviously, Adelaide Oval will continue to be called 'Adelaide Oval', because that is subparagraph (a), but is there anything in the government's bill that would prevent the SMA taking a decision that Adelaide Oval can be referred to as 'Adelaide Oval, sponsored by Telstra Corporation?'

The Hon. G.E. GAGO: Again, I am advised that there are obviously protections in the bill in terms of the naming of the Adelaide Oval: it must continue to be called 'Adelaide Oval'. But I am advised that there is nothing in the bill that would prevent its being referred to as the Adelaide Oval, sponsored by whomever.

The Hon. R.I. LUCAS: Is there anything in the bill that prevents the naming of the stands in the proposed Adelaide Oval project as 'Telstra Stand', 'Optus Stand' or whatever commercial sponsor the SMA might choose to organise?

The Hon. G.E. GAGO: I have been advised no.

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

Page 4, after line 11—Insert:

(4a) The Minister (or any other person) must not remove or substantially alter any Moreton Bay fig tree (*Ficus macrophylla*) located within the Adelaide Oval Core Area without the approval of the Council (which approval must not be unreasonably withheld).

This amendment inserts new clause (4a). It is there to do what we can in the legislative sense to protect the Morton Bay fig trees. For many, one of the attractive elements of Adelaide Oval is obviously not only the grassed area but also the Morton Bay figs to the northern end. In looking at the government legislation there was no specific provision we could see that sought to protect the Morton Bay figs from any substantial alteration or removal. This amendment seeks, to the extent that it is legislatively possible, to protect the Morton Bay figs.

The opposition, as I am sure do all members, acknowledges that inevitably some trees die and we assume that will occur with some of the Morton Bay figs. I would hope that they will continue to be replaced by trees of a similar nature, but I guess that will be a decision for the Stadium Management Authority in future. I hope that members see the wisdom of the Liberal Party amendments in seeking to protect these small elements of what is currently very attractive about Adelaide Oval.

The Hon. G.E. GAGO: The government supports this amendment. It is about protecting the famous Morton Bay figs, which obviously give the northern view of the oval much of its beauty. The government always intended to protect the figs and all Parklands, where possible, as they are obviously what make Adelaide Oval such an attractive venue. The government believes it may be more appropriate that the Development Assessment Commission replace the Adelaide City Council in the amendment, given that council has no role within the Adelaide Oval core area under this bill. The government has no problem with the intent of the amendment.

The Hon. D.G.E. HOOD: Family First supports the amendment.

Amendment carried.

The Hon. R.I. LUCAS: I seek a nod from parliamentary counsel: I understand that amendments Nos 9, 10 and 11 are consequential on an earlier amendment and, if agreeable, I move them en bloc:

Page 4—

Lines 12 and 13—Delete subclause (5) and substitute:

(5) A lease under this section (and any use of land under a lease) is not subject to Chapter 11 of the Local Government Act 1999 or section 21 of the Adelaide Park Lands Act 2005.

Line 14—Delete 'On the vesting of the Adelaide Oval Core Area' and substitute:

When a lease is granted

Line 19—After 'Adelaide Oval Core Area' insert:

that is subject to a lease under this section

The Hon. G.E. GAGO: They are consequential, and the government opposes them.

Amendments carried; clause as amended passed.

Clause 5.

The Hon. R.I. LUCAS: Again I seek a nod from parliamentary counsel: I understand that amendments Nos 12 to 21 are all consequential on an earlier amendment, and so I move them en bloc:

Page 4—

Lines 22 and 23—Delete subclause (1) and substitute:

(1) The Minister is authorised to grant a sublease to SMA over any part of the Adelaide Oval Core Area that is subject to a lease under section 4.

Line 24—Delete 'lease' and substitute:

sublease

Line 24—Delete 'term up to 80 years' and substitute:

period not exceeding the term of the head lease

After line 25—Insert:

(2a) The consent of the Council is not required before the Minister grants a sublease under this section.

Line 26—Delete 'lease' and substitute:

sublease

Line 33—Delete 'lease' and substitute:

sublease

Line 35—After 'may allow for any' insert:

further

Line 36—After 'this Act' insert:

and to the provisions of the relevant head lease

Line 37—Delete 'lease' and substitute:

sublease

Line 38—Delete 'lease' and substitute:

sublease

The Hon. G.E. GAGO: They are consequential and the government opposes them.

Amendments carried.

The Hon. R.I. LUCAS: Mr Chairman, with your guidance, my advice is that the first part of my amendment 22, which is the insertion of subclause (8), is consequential and the second part of the amendment, which is subclause (9), is a new issue. If you are agreeable, I could move the insertion of subclause (8), which is the first part of my amendment 22 as consequential, to tidy that up and then we could proceed to the debate on the next issue.

The CHAIR: That is agreeable to me.

The Hon. G.E. GAGO: That is consequential.

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

Page 5, after line 6—Insert:

(8) A sublease under this section (and any use of land under a sublease) is not subject to Chapter 11 of the *Local Government Act 1999* or section 21 of the *Adelaide Park Lands Act 2005*.

Amendment carried.

The Hon. R.I. LUCAS: I move the remainder of my amendment 22, that is, to insert:

(9) Without limiting section 8A(3), the Minister should use his or her best endeavours to grant a sublease to SMA under this section by 15 March 2012.

This is a new issue and I touched upon it in the second reading explanation, and I have certainly discussed it with the government and Independent and minor party members briefly over the last few days. There is an associated or consequential amendment which is my amendment No. 33, and I will address both issues at the same time.

If I can put it simply first and then perhaps go into some of the detail. As I explained in the second reading, the development that we are considering in this bill has essentially been a partnership, obviously with the government on one side, but a partnership amongst the client groups, football and cricket. The Stadium Management Authority, for however long it has been working on this now—a couple of years, I guess—has been a partnership between football and cricket, the South Australian National Football League and the South Australian Cricket Association.

It is a partnership so much so that they have had equal numbers on the Stadium Management Authority: four directors each, no casting vote, the SACA provided the chairperson and the SANFL provided the executive officer. That was the partnership, or the deal, as they have worked their way through this process with the government and all other stakeholders in relation to this debate. Right through until now, it has been very much a partnership between the two groups.

There is no doubting that, come some time in 2014, if you accept the government's estimates, it will then be a partnership again. It will be football and cricket through the Stadium Management Authority, authorised by this legislation and various leases, which will be running Adelaide Oval, a partnership.

What is deliciously unclear in the government's bill is what on earth goes on in between—between now and 2014. It is the opposition's view, the Liberal Party's view, and it is certainly also football's view, that it should continue to be a partnership between now and 2014; that is, football and cricket collaboratively need to work their way through this period. It will be a difficult process. The bill will have passed, we would anticipate.

I am indicating my understanding that there is a significant blowout in the current estimates of the price, and there are going to be interminable issues needing to be managed by the government in consultation with football and cricket. So, from our viewpoint, it is common sense that football and cricket continue, through the SMA, to take the pre-eminent role on behalf of the client groups, the customers (football and cricket) during this particular period.

We acknowledge—and these amendments do not move away from that—that it is going to be the government, through, I understand, DTEI, that will manage the actual construction projects. However, during that period football and cricket, as the ultimate customers, have a view that they will need to continue to be consulted and to provide advice. There is going to be a continuing role for them through this particular period in relation to the government's management of the contracts, access to the site and all those sorts of issues.

Under the government bill, as I said, it is deliciously unclear as to when the SMA takes responsibility. It can be delayed by the minister to almost 2014 if he so chooses. It is completely at his discretion under the government arrangement. If that occurs, if it was to be left until then, then you have a situation where SACA (the cricket association) would continue to be, in essence, in control of the site. The minister, obviously, will also be in control in relation to the Adelaide Oval project and the development but SACA would continue to be there. Again, it seems to make sense that football and cricket should be partners during this particular period.

I am also told that during this period the Stadium Management Authority is going to need, if it is going to be acting sensibly, to be undertaking a range of other tasks. One of the tasks, obviously, from my viewpoint, should be that as the government manages its project, that the body comprising football and cricket in control down there (in terms of the core area) is able to provide advice to the government in terms of what it intends to do.

Clearly, we do not want to have a situation, as has occurred with the Western Stand—and I highlighted this in the second reading—where in a $115 million development, something as important as toilet facilities in the members' bar area, were omitted from the project design and construction. Clearly, you cannot afford to have those sort of errors occurring in terms of the management and oversight of the project.

Football and cricket will have their input and should have their input in terms of discussions with the government officers in terms of what is going to be required in the project. If there needs to be things cut out then clearly football and cricket, again, should be involved in terms of those ongoing discussions as to what is required, or to say, 'What you are suggesting might look good in theory in terms of cutting the project cost but it will cause these sort of problems.' It is not just cricket, because cricket will have its experience of cricket crowds and its events, in terms of test cricket and one-day cricket, but football people will have experience with football crowds and football events, and they need to be involved.

There are many other issues that the SMA and football and cricket should be getting on with. I am told, for example, that there are two catering divisions owned, operated and controlled by both SACA and SANFL. It would make sense that at an early stage—not waiting until the start of the project—there is exploration of the potential for bringing together the catering arms of football and cricket under joint management and control, with, obviously, the potential reduction in some costs for both constituent bodies.

That is an issue that ought to be considered by football and cricket during this period as the construction is going on. There are many options. There have been no decisions taken, this is just an option in terms of the sort of work that needs to be done in the interim. One option could be some sort of consolidation of the catering function and that consolidated function could then operate both SACA and SANFL separately at Adelaide Oval and AAMI Stadium for the next two years or so, if they so chose.

There are issues relating to ground staff, and they are obviously difficult, but in terms of management of ground staff clearly there are two sets of ground staff at the moment at AAMI Stadium and Adelaide Oval. That is an issue for the Stadium Management Authority. So, they are only a couple of examples that have been highlighted to me of issues that the Stadium Management Authority, collaboratively working together, could be getting on with.

The other issue is the issue of staffing of the SMA. At the moment, I think the government's advice to me has been that the money for the construction is actually going to be channelled through DTEI to the various constructors; the money to pay off SACA's debt will go from SAFA either directly to Westpac or to SACA and then to Westpac, its banker.

The Stadium Management Authority will have an ongoing role in terms of both its staffing and a requirement for working capital in terms of continuing to operate during this particular period. Clearly, it ought to be looking at not only its staffing but that, at the moment, its key executive staff are provided on a full-time basis by SANFL.

My understanding is that that might not be able to continue for the continuing period. Mr Leigh Whicker, for example, is full time at the SANFL and has basically been full time with the SMA over recent years, and the capacity for that to continue in that way for an extended period of time is in doubt. So, it may well be that the SMA needs to start appointing its executive staff and its staff during this period. Clearly, you would not want to be leaving this sort of thing until 2014, or just before 2014, before you started making those sorts of key appointments and those sorts of changes.

I am also told that one of the key issues, and it is already starting with the recent discussions of bailout money for the Crows, is the early discussions relating to marketing packages, sales teams, memberships, etc., prior to 2014 for membership of Adelaide Oval and what that membership will entail and what benefits will need to be provided.

My advice is that a lot of this work, clearly, is going to need to be funded by SANFL and SACA but also, more particularly, the SMA as the body that is going to be controlling the benefits and the facilities at the new stadium for the members of Adelaide Oval, and whatever category they happen to be.

So, for all of those sales teams and membership teams, the activity will need to increase significantly throughout this coming period, particularly in relation to the Crows and their discussions about next year and getting people to go to AAMI Stadium. It is all about seeing

whether there is some way of linking (almost) an early mover advantage; that is, if you are prepared to support us over the next year or two at AAMI Stadium let us see what might be available in terms of Adelaide Oval in terms of sponsorship of the Crows, and I am assuming that Port Power might be looking at similar marketing opportunities as well. So, all of those issues are important ongoing issues for the Stadium Management Authority.

One other area that I should highlight is that properly identifying and managing post-construction defects in the construction will require the SMA to be in control well prior to the defects period commencing. This will be an interesting issue because DTEI is going to be in control of the letting of the contracts, but the issue of the inevitable discussions of post-construction defects and those sorts of things is an issue that DTEI and the SMA are going to need to work their way through.

Even under the government's bill, at some stage the SMA is taking over and they need to be in a process to manage those particular issues. The argument put to me is that the earlier they are actively engaged in this process, the better off they will be in terms of taking over those sorts of responsibilities when inevitably they have to. The SMA will also need to be involved in establishing necessary infrastructure, not just the staffing I have referred to but IT, for example, and things like that are going to need to be established for the SMA.

For all those reasons, as I said, we take the very strong view that football and cricket should continue to have a role, whilst acknowledging that the government is going to be letting the contracts in relation to this but that football and cricket should be there providing advice to the government and its officers all along the way as equal partners in this project.

This amendment, as I said, together with an amendment in section 33 is essentially saying that the SMA should be brought into this process no later than 15 March next year and the attached amendment basically says that if the government chooses to pay down the SACA debt prior to 15 March—and my understanding is that that might occur in around about December this year or January next year—then the package of amendments that we are moving says that the changeover date or that transition date from, in essence, SACA to the SMA ought to be at that particular stage when the debt is paid down.

The government obviously controls that. I have obviously asked the question of the government as to when it proposes to make the payments to SACA, but the bill does not indicate when those payments are going to be made. However, the package of amendments we are moving is saying, in essence, the target date 15 March but if the SACA debt is paid down before then, then that should be the date where control of the Adelaide Oval moves from SACA to the SMA, obviously under the control and direction of the minister and the government.

For all those reasons, this amendment, together with the amendment in section 33, are part of a package which we see as essential in terms of allowing what has been a partnership between football and cricket and which will be a partnership between football and cricket for some time from 2014 onwards but that partnership should continue between now and 2014.

The Hon. G.E. GAGO: The government opposes this second part of the amendment. The government has discussed with the opposition that the Minister for Infrastructure is concerned about setting a time frame for the SMA to take a lease while there are still detailed transition negotiations occurring between the SANFL and SACA, as well as the Department of Treasury and Finance, SAFA and the Crown Solicitor's Office.

The amendment interferes with negotiations and accountabilities of the various parties and may not lead to the best outcome. It is unnecessary to include it in legislation. I flag that the above reasons are probably more applicable to amendment No. 33. The government understands the opposition's desire for the amendment but, obviously, we cannot support it.

Football and cricket are involved and are consulted daily, and that will continue. They are on our project control group; they are involved with us every step of the way, and will continue to be. In terms of the lease arrangements, they need to be agreed to with the sports. As at 15 March 2012, there will be no intended AFL matches at Adelaide Oval, so revenue will be from cricket alone. We agree that introducing a lease to the SMA earlier rather than later is preferred but, clearly, we want to resolve it with the sports themselves, not at some time frame determined by the opposition. We clearly want to avoid any possibility of unintended and adverse consequences.

The Hon. R.I. LUCAS: I understand that the revenue from cricket will continue to go to cricket, but what will happen in the interim period, between now and 2014, with major concerts, for

example, to be held at Adelaide Oval? Will all that revenue go just to cricket during this particular period?

The Hon. G.E. GAGO: I have been advised that, if the lease is in place with SACA, the revenue will go to SACA. Once the SMA has the lease, the revenue will go to the SMA. Clearly, we want the SMA included sooner rather than later, but we need to do that within our own time frame and in consultation with the sports themselves.

The Hon. R.I. LUCAS: I think that is just another example. I think this is going to be an exciting project for those in control during the interim period, which will be SACA, albeit for some time it will be partially a construction site. This is going to be a place of future developments so that events, such as major concerts and things like that, under what the government has just indicated will clearly flow through to cricket whereas, if the SMA were in control, under the opposition amendments, that would flow as joint revenue. It is something that would encourage football and cricket to work together, in terms of joint marketing and joint responsibility for event management—the sorts of things they should be doing after 2014 in terms of generating alternative events.

However, we are not just talking about concerts, but the use of facilities in relation to festivals and things like that, which Adelaide Oval has been used for in the past. They are all the sorts of things the SMA could be getting on with, in terms of learning from the experience together in the joint marketing of this particular project. However, under the government's arrangement, that would continue to be a responsibility for SACA—until we get to the stage where the minister is prepared to issue the lease to the SMA.

The Hon. D.G.E. HOOD: I think what is significant to note about this amendment is that it actually specifically says that the minister should use his or her best endeavours to grant a sublease to SMA; that is, it is not an absolute requirement. It is a requirement that the minister uses his or her best endeavours but not a requirement that a result is necessarily achieved, although you might assume that using their best endeavours a result would be the outcome. I think the Hon. Mr Lucas has painted a compelling case, and Family First will be supporting the amendment.

The Hon. M. PARNELL: The Greens are supporting this amendment.

Amendment carried; clause as amended passed.

New clause 5A.

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

Page 5, after line 6—Insert:

5A—Sinking fund

(1) SMA must, as soon as practicable after the grant of a sublease under section 5, establish a sinking fund out of which may be paid non recurrent expenditures associated with the sublease.

(2) SMA must keep proper accounts of the revenues and expenditures of the sinking fund.

(3) SMA must, before 1 September in each year, report to the Minister—

(a) the amount of money paid into, and out of, the sinking fund during the financial year ending on the preceding 30 June; and

(b) the amount of money proposed to be paid into, and out of, the sinking fund during the current financial year.

(4) As soon as practicable after receipt of the report from SMA, the Treasurer must, after consultation with SMA, approve or determine the amount of money to be paid into the sinking fund during the current financial year (and SMA must comply with any determination of the Treasurer).

(5) The Auditor General may at any time and must, at least once in every year, (and without further authorisation) audit the accounts of the sinking fund and examine the matters to be dealt with under subsections (3) and (4).

(6) The Auditor General may, for the purpose of subsection (5), exercise any power that the Auditor General has in relation to an audit or examination under Part 3 of the Public Finance and Audit Act 1987 (and that Part will apply in relation to the exercise of any such power under this section as if the power were exercised under that Act and as if any reference to a public authority included a reference to SMA).

(7) If an audit or examination by the Auditor General under subsection (5) indicates that—

(a) SMA has not complied with a relevant recommendation; or

(b) money has been paid out of the sinking fund for a purpose other than non recurrent expenditure associated with the lease,

the Auditor General must prepare a report on the matter and deliver copies of the report to the President of the Legislative Council and the Speaker of the House of Assembly.

(8) When the President of the Legislative Council and the Speaker of the House of Assembly receive a report from the Auditor General under this section, the President and the Speaker must—

(a) immediately cause the report to be published; and

(b) lay the report before their respective Houses at the earliest opportunity.

(9) If the President of the Legislative Council or the Speaker of the House of Assembly is absent at the time the Auditor General delivers to the Parliament a report under this section, the Clerk of the relevant House will receive the report on behalf of the President or Speaker (as the case may be) (and the report or document will then be taken to have been received by the President or the Speaker).

(10) If a report is received by the President of the Legislative Council or the Speaker of the House of Assembly at a time when Parliament is not sitting, the report will be taken to have been published under subsection (8)(a) at the expiration of 1 clear day after the day of receipt of the report.

(11) A report or document will, when published under subsection (8)(a), be taken for the purposes of any other Act or law to be a report of the Parliament published under the authority of the Legislative Council and the House of Assembly.

(12) In this section—

non recurrent, in relation to expenditure, means expenditure for a particular purpose that is normally made less frequently than once a year;

relevant recommendation means—

(a) if SMA has referred a recommendation to the Treasurer under subsection (5)—the recommendation as confirmed or substituted under that subsection; or

(b) in any other case—the recommendation of the Minister under subsection (4).

My sense of the discussions with the government and minor parties is that there is broad agreement. If that is the case, I do not intend to speak at length. If I find out the government is opposing it, then I will go back and argue the case. The government is supporting it. It is a very sensible amendment in relation to the establishment of a sinking fund. It makes sense in terms of managing this particular asset and project over the 80 years, and if everyone is agreeing with it I will leave it at that.

The Hon. G.E. GAGO: The government supports this amendment. We had always intended that the SMA have a sinking fund for the stadium. We think this provision is actually unnecessary, but we are not going to oppose it.

The Hon. R.I. LUCAS: I should say that in some of the latter subclauses we do introduce for the first time the notion of the Auditor-General. I will come back to that later but, in terms of the financial accountability of this project, we see a significant role for the Auditor-General. This amendment does include for the first time the Auditor-General's role in the legislation, and we welcome the government's support for it.

The Hon. D.G.E. HOOD: Just very quickly, for the record, Family First supports the amendment.

New clause inserted.

Clause 6.

The Hon. R.I. LUCAS: The opposition's position is opposing clause 6 so I will just speak in general terms in relation to that. If this is removed, this is part of a package of amendments that the opposition is moving. In simple terms, the opposition's position is that the Adelaide Oval redevelopment has got to go through what we would call normal planning processes, as opposed to the government's position which, in essence, is that whatever the minister decides goes.

Again this is part of a package of amendments. I indicated at the outset that there had been discussions with the Adelaide City Council and various stakeholders. We see it as a

compromise position between the government's position and others. I suspect the Hon. Mr Parnell—I will leave him to explain his position—will argue his position, which is at the other end of the continuum. We would portray our position as somewhere in between both the government position and the position that perhaps the Hon. Mr Parnell and other stakeholders might push.

From our viewpoint, it is essential for us to oppose clause 6, firstly, so that, in later clauses and subclauses, we can introduce our package of amendments. Broadly, our argument is that the minister is in control of everything in relation to the government bill. We do see a role, in relation to this, for the normal planning processes to go through. As we will argue later, we do not believe that will hinder or stop the development, because we are all intent on ensuring that a proper development goes through after this legislation is concluded. At this stage, I just indicate our opposition to clause 6.

The Hon. G.E. GAGO: The government supports this deletion. It removes the government clause regarding development approvals, which will be dealt with later on.

The Hon. M. PARNELL: I have a question and it might be that I have to ask it again later on. I am pleased to see that the government is supporting this because, in this parliament, we have a very sad and sorry history of legislatively granting development approval to projects, many of which did not deserve it. I am not saying that this project should not go ahead, but this is a very poor process when, by stroke of a legislative pen, we hereby provide development approval.

My question of the minister relates to the two aspects to development approval. First of all, you have planning approval or planning consent, but you also have building approval—the need to comply with building rules around safety, fire protection and things like that. What will the mechanism be to ensure that building rules, in particular, the Building Code of Australia—to the extent that it applies—will apply to this development?

The Hon. G.E. GAGO: I have been advised that it will be subject to the normal mechanisms in the planning act. The DAC has to approve and then it will be subject to normal building approvals.

Clause negatived.

Clause 7.

The Hon. M. PARNELL: I move:

Page 5, line 33—Delete 'must' and substitute:

may

This is amendment [Parnell-1] 1, and I suggest that this be a test for amendments [Parnell-1] 2, 3 and 4. These amendments are fundamental, I think, to the way that the Adelaide Oval licence area is going to be managed. Under the government's bill, the provision in clause 7 is that the council 'must' at the request of the minister grant a licence to the minister over all of the Adelaide Oval licence area or any part of that area specified by the minister.

Under the bill, the council has no option but to grant a licence to the minister. That puts this clause completely at odds with the regime that exists under the Adelaide Park Lands Act. What members should reflect on is the fact that only six short years ago this parliament passed an act to set out how the Adelaide Parklands could be managed, and it set out the rules governing leases and licences. It is quite remarkable that some six years later, before that act has actually had the chance to do much work (if any) in relation to that, the government is asking this parliament to override that regime.

My amendment is straightforward. Basically, rather than saying the council 'must' grant a licence to the minister, it says that the council 'may' grant a licence to the minister. In other words, it removes that level of compulsion. That is not to say that this is some recipe for there to be no licence over the surrounding areas in relation to things like car parking, but it puts the Adelaide City Council back into the picture where they are currently being ruled out by having a legislative obligation to not be able to refuse a licence or any particular aspect of a licence that they are not comfortable with.

I think that is important and I think it is a proper reflection of the role that the Adelaide City Council has played over many decades in managing the Parklands. It seems to me that the fact that the council has care and control over this area has not stopped cars being parked on the

Parklands for test matches, it has not stopped cars being parked on the South Parklands for the Royal Show. I think that writing out the council, effectively removing them from the picture other than some fairly token consultation, is the wrong way to go.

Under my amendment, the council will be able to negotiate with the minister on an equal footing, and it leaves the door open for an agreement to be reached. In relation to the consequential amendments that flow from that, they really do reflect simply a change in wording that recognises the fact that the licence area, the area surrounding the core area, is going to be subject to genuine negotiation with the council and in all likelihood a licence agreement that reflects the sensible approach that Adelaide City Council has taken until now. But it would give the Adelaide City Council the option to make sure that conditions were put into the licence such as conditions dealing with extraordinary wet weather periods.

The council, as I understand it from my conversations with them, is not proposing or intending to stand in the way or make life too difficult for football and cricket but, as the custodians, they do have regard to things like ensuring that the grass is not unreasonably chewed up by vehicles during wet weather, which is why during a recent Royal Show we saw that the council said, 'We are sorry, but you can't park here because it is going to be too wet and it is going to cause damage to the grassed areas.'

We hope that does not happen and, as I understand it, there is going to be significant drainage work and significant other improvements that will hopefully ensure that the grassland areas there do not get so boggy that cars cannot be parked. However, I think it is important to put the Adelaide City Council back into the equation and allow it to negotiate on an equal footing with the government—and effectively with football and cricket—so that the licence agreement that does result is one that reflects everyone's interests and not just the interests of football and cricket.

The Hon. G.E. GAGO: The government opposes the Hon. Mr Parnell's amendment Nos 1 through to 9, just in case—

The Hon. M. Parnell: I haven't spoken about the others yet.

The Hon. G.E. GAGO: I know, but just so that you are clear about the direction we are heading in. The amendments remove government and opposition agreements and allow the council to basically refuse everything. It provides complete discretion to the council to grant a licence and vary it. Clearly, what the sports want is certainty, and that is what the government legislation provides. Those amendments remove that certainty.

The Hon. D.G.E. HOOD: I have met with the Adelaide City Council a number of times over this bill, as you might expect—no doubt as all members have—and I want to make my comments within this context. I have found the current city council to be very reasonable. I have found the leadership I have met with to have a very progressive attitude towards development, certainly towards this development, and I do not see any risk of the current council making any decisions that may, in fact, go against this development, whether now or in the future.

However, having said that, there is a risk with future councils, and if this amendment were passed—and correct me if I am wrong—my understanding is that the council could then refuse car parking, it could refuse access to the Adelaide Oval core area, it could refuse any other activities that are ancillary to the redevelopment of the Adelaide Oval, and it could refuse providing facilities for playing sport at Adelaide Oval, or any other activity prescribed by regulations. I concede that is unlikely—and, again, I believe it is almost unthinkable of the current council, because it is quite supportive of this project—but for that reason alone I cannot support this amendment.

The Hon. R.I. LUCAS: For the reasons I outlined earlier, we see our position as a compromise position between the government position and the position the Hon. Mr Parnell has just put. Other stakeholders support the Hon. Mr Parnell's position, and we appreciate and understand that, but we see the Liberal Party package that we have put as a compromise between the government and that position. For those reasons we obviously cannot, therefore, support the Hon. Mr Parnell's amendment.

Amendment negatived.

The Hon. M. PARNELL: My amendments Nos 2, 3 and 4 are consequential, so I will not move those.

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

Page 5, lines 37 and 38—Delete paragraph (a) and substitute:

(a) must be for a term specified by the minister (being a term of up to 20 years); and

(ab) must at the request of the minister, be extended or renewed for 1 or more periods of up to 20 years at a time subject to the qualification that the total term of a licence under this section must not exceed 80 years; and

As I briefly canvassed in earlier amendments of this package of amendments, this is just a further part of that package. This particular amendment guarantees a licence to the minister and guarantees renewal to the minister, but it restricts the term to 20 years so that the licence conditions are renewed every 20 years.

As I indicated earlier, we see the Liberal Party's position as being a compromise between the government's position and the position that other stakeholders would wish. It has been arrived at as a result of discussions held with the Adelaide City Council and others, not to say that they necessarily agree with this particular position; however, as a result of those discussions we move this amendment.

The Hon. G.E. GAGO: The government opposes this amendment. As with clause 4 and other consequential clauses, this amendment changes the government's negotiated offer to cricket, which is well known. SACA has a desire to play cricket at both Adelaide Oval and the Adelaide Oval No. 2 and operate a successful sport administration at this venue. This amendment reduces that certainty offered by the government to 20 years, and therefore we cannot support it.

The Hon. M. PARNELL: The Greens are supporting this amendment.

Amendment carried.

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

Page 6—

Line 1—Before 'may be subject' insert:

Subject to subsections (2a) and (2b),

After line 2—Insert:

(2a) If the Council considers, at the time that a licence under this section is granted, extended or renewed, that the Minister is acting unreasonably in relation to the terms and conditions to be specified under subsection (2)(b), the Council may apply to the Development Assessment Commission for a review.

(2b) The Development Assessment Commission may, on application under subsection (2a)—

(a) determine whether or not a term or condition, or a proposed term or condition, is unreasonable ; and

(b) subject to a determination under paragraph (a), direct—

(i) that a term or condition of the licence be varied or revoked; or

(ii) that the licence be subject to a term or condition specified by the Development Assessment Commission; or

(iii) that any related action be taken,

(and a direction under this paragraph will have effect according to its terms).

These are not strictly consequential, although my notes and advice indicate that it is consequential but, having discussed it with parliamentary counsel, this is part of the package of amendments that the opposition has moved. The earlier key elements of the package have been passed; that is, in relation to the 80 years and the 20-year licence. So, whilst it is not strictly consequential, it nevertheless remains part of a package of amendments the opposition is moving.

What we are doing with these amendments, for example, is allowing, in essence, a role for the Development Assessment Commission. It allows DAC to resolve issues if the minister were to act unreasonably in licence conditions; in essence, the DAC becomes the umpire. This is part of the package the member for Davenport outlined in another place. As I said, whilst not strictly consequential, the earlier parts of the package have been supported, and we urge support of this next element of the package, as outlined in amendments Nos 26 and 27.

The Hon. M. PARNELL: I have a question of the mover. If these amendments pass and the Development Assessment Commission effectively becomes the umpire, the test they are required to apply under these amendments is whether or not a term and condition, or a proposed term and condition, of the licence is reasonable. Can the member explain what types of considerations he expects the Development Assessment Commission will take into account in determining what is reasonable and, in particular, what other statutory documents, management plans and the like might come into play?

The Hon. R.I. LUCAS: The Hon. Mr Parnell was kind enough to raise these general issues with me. He knows that I am not a planning expert, so I have taken advice from the member for Davenport, who has taken advice. As I understand it, the Hon. Mr Parnell may be moving an amendment later in the committee stage on this particular issue.

The Hon. M. Parnell: It might be now or never.

The Hon. R.I. LUCAS: Exactly. The Hon. Mr Parnell has (I forget the exact title for it) a precinct plan or an existing plan, which outlines terms and conditions of what he might see to reasonable for the Adelaide Oval precinct, or whatever the correct title for this particular area is. The advice I took from the member for Davenport, in response to the Hon. Mr Parnell's question, was that he was not inclined to support what he understood to be the prescriptive amendment the Hon. Mr Parnell may well contemplate moving and was prepared to leave it as 'reasonable'.

In response to the member's question as to what is reasonable, his response was broadly, 'This is a sporting precinct. Adelaide Oval has been known as a football and cricket ground for many years. There are obviously associated activities that go on with it being a sporting arena.'

The member for Davenport's view, based on the advice he got (and it may well be that the minister, with advice available at hand, can offer a comment on this as well), was that, in terms of our package of amendments, what was reasonable would be interpreted by the DAC in the context of what had occurred there for a long period of time, and that is, sporting events and related activities would be, I guess, the interpretation by the Development Assessment Commission.

The Hon. Mr Parnell, as a planning lawyer, I suspect will be able to raise many detailed questions as to past decisions of the DAC (that may or may not cast doubt on the issue of how it would interpret 'reasonable') but I cannot offer a more detailed response than I have gathered from the member for Davenport when I have raised the member's questions with him during the last 48 hours.

The Hon. G.E. GAGO: The government supports amendments 26 and 27, but I would like to raise the following points (because they are part of a set of amendments from 26 to 31). These amendments seek to set the conditions by which the government protects the Parklands around Adelaide Oval. It has always been the government's intention and ambition to not only protect but enhance the Parklands, and in fact the government bill places those requirements on the minister.

The opposition's amendments are somewhat confusing in that, on the one hand, they allow Adelaide City Council to challenge the minister's management of a licence to the DAC but they then allow the minister to challenge the council's management plan provisions on which the licence is judged by the DAC as well. The government's view is that it makes more sense to allow the government to develop a management plan in consultation with the council based on council's current management plans, and to then allow the council the opportunity to challenge its appropriateness to the DAC. Obviously, we may consider further amendments in between houses.

This would remove the uncertainty of constant referrals to the DAC should the Adelaide City Council choose to update management plans, say, for instance, yearly, and to use this as a basis for challenging the licence which the minister has issued. I understand the member for Davenport believes this not to be an issue and he is not concerned with it, but the government continues to remain concerned. The government has reservations about supporting the amendment as put, but not with its intent.

The Hon. M. PARNELL: As alluded to by the Hon. Rob Lucas, this is a matter on which I have had some discussions with the opposition, but I have not specifically discussed with the government. I share the minister's concerns in relation to the mechanism of going to DAC and that there are some situations where the council is the one making the application. There are other situations where the Stadium Management Authority might make an application and the bunny in the middle, if you like, is the Development Assessment Commission which does not have a great

deal of guidance—certainly, not legislative guidance—other than to try to work out what is reasonable.

Perhaps the minister can respond to this—but I prepared some amendments for this eventuality but did not table them because I was hoping that my earlier amendments would get up, which would have made these redundant. If the minister is prepared to agree to recommitting this clause at the end then I will have the opportunity to put my case to the government to see whether we can make the Hon. Rob Lucas's amendments even better.

To foreshadow what I have in mind, it is simply to make sure that when the Development Assessment Commission is deciding what is reasonable they should have regard to what is in the management plan that the council has prepared under the Adelaide Parklands Act (which I understand is the same management plan that they prepare under the Local Government Act) and that that should be taken into account by the Development Assessment Commission.

The Development Assessment Commission should also take into account what the planning scheme says. I know the government's view is that the planning scheme is inadequate, but there are still important principles in there, such as the need to maintain a park-like setting for this area we are talking about, which I do not think anyone disagrees with. If the minister is prepared to agree to a recommittal, we can perhaps move on from this clause, and I will discuss whether there are some improvements that add the clarity I think the minister is also looking for in this amendment.

The Hon. G.E. GAGO: I take it that the honourable member would not be satisfied by simply dealing with the development of amendments between the houses. Although I did indicate that I might recommit a previous clause, I have since considered that it probably would be more practical, given that it has to go back to the other house, to deal with the amendments there rather than hold it up further here. I am happy to do the same with this, but if that does not satisfy the honourable member's concerns I am happy to recommit this clause in this house.

The Hon. M. PARNELL: I thank the minister for offering that way forward, but the only problem I have is that I think I now need to move my amendments, otherwise they will not be part of the debate between the houses. They possibly need to be moved, voted down and then we can deal with it, unless the minister is happy to give an assurance that she will take my amendments and consider them as alternatives when the other house considers it.

The Hon. G.E. GAGO: I am willing to give that reassurance, but if the honourable member would prefer an assurance to recommit this clause, obviously not today but before it goes back to the other house, I am happy to do that as well.

The Hon. M. PARNELL: I am happy with the assurance to recommit if necessary.

Amendments carried.

The Hon. R.I. LUCAS: My understanding is that there are really two issues with my amendment No. 28. One is canvassed in subclause (5a). If possible, we might be able to handle that. My understanding is the government is agreeing with that, and I suspect most others are as well. Then I could move new subclauses (5b), (5c) and (5d) as a package. Are you agreeable to that process?

The CHAIR: Yes, okay. The table staff seem to be happy with that.

The Hon. R.I. LUCAS: I am trying to assist the government because, as I understand it, the government is supporting new subclause (5a) but they will probably be opposing (5b), (5c) and (5d). With your agreement, I move:

Page 6, after line 18—Insert:

(5a) Subsection (3)(d) only applies in relation to Adelaide Oval No. 2.

As I said, my understanding is that the majority of members are likely to be supporting this, so I will not speak at any great length, other than to say that this restricts the licence that allows the facilities for playing sport to Adelaide Oval No. 2.

The Hon. G.E. GAGO: The government supports this amendment, (5a).

The Hon. D.G.E. HOOD: Family First supports the amendment.

Amendment carried.

The Hon. R.I. LUCAS: I move the remainder of amendment No. 28, that is, to insert:

(5b) Subject to subsections (5c) and (5d), any use of land under a licence (or sub-licence) under this section, and any associated works on land subject to the licence, will be subject to the provisions of the Council's management plan under Chapter 11 of the *Local Government Act 1999* that relates to the relevant part of the Adelaide Oval Licence Area.

(5c) If the Minister considers—

(a) that a provision of a management plan that applies under subsection (5b) is unreasonable in connection with the use of any part of the Adelaide Oval Licence Area; or

(b) that the Council is acting unreasonably in relation to the administration or implementation of the management plan,

the Minister may apply to the Development Assessment Commission for a review of the matter.

(5d) The Development Assessment Commission may, on application under subsection (5c)—

(a) determine whether or not a provision of the relevant management plan or an act of the Council (as the case may be) is reasonable; and

(b) subject to a determination under paragraph (a)—

(i) direct—

(A) that a provision of the relevant management plan be varied or revoked; or

(B) that a decision of the Council be varied or revoked or that a different decision be made; or

(C) that any related action be taken,

(and a direction under this subparagraph will have effect according to its terms and despite the provisions of Chapter 11 of the *Local Government Act 1999* or the Adelaide Park Lands Management Strategy under the *Adelaide Park Lands Act 2005*); or

(ii) confirm any act or decision of the Council to be reasonable in the circumstances.

Thank you for your forbearance: I had a discussion with the government members and those minor party and Independent members in the chamber at the time. My understanding of the government's position, which they will outline in a moment, is that they are going to oppose (5b), (5c) and (5d). However, in discussions with the Independent and minor party members in the house at the time, there are sufficient numbers for this amendment to pass the chamber this evening.

The reason I have had that discussion is that I understand from the government's advisers that the member for Davenport has had a discussion with the government's advisers about the possibility of us further amending this particular amendment and that the member for Davenport is further considering that and taking advice on it at the moment. However, given the timing of the debate, he has been unable to conclude those considerations now and obviously, given the timing, we will not be able to conclude it in this sitting week.

Noting the government's opposition, but also that there are the numbers for this to go through and, given that the minister has indicated earlier she was going to recommit when next we sit on the Tuesday, the opposition would be agreeable to recommitting this, with the potential that we may well have negotiated a compromise amendment with the government's advisers which would make these particular sections acceptable to the government.

This is also the area where I think the Hon. Parnell has indicated he wishes to move further amendments, which I would obviously need to talk to the member for Davenport about. My understanding of the Hon. Mr Parnell's position is that we are highly unlikely to be supporting his amendment, based on the advice of the member for Davenport.

I know the proposed amendments are here now but I have not actually read them, but I understand from previous discussions whence the Hon. Mr Parnell was coming, and the member for Davenport's position was that he was unlikely to recommend support for those amendments.

Nevertheless, they have now been drafted. We are prepared also to reconsider those on recommittal on the first Tuesday when we come back.

I indicate to the minister, as we have indicated in the second reading, that the Liberal Party is not intending to delay this particular debate. We will have broken the back of this debate by the end of the session today and, certainly, it would be our intention to assist the government in consideration of this on the first Tuesday when we return, which would then leave the minister in another place to reflect on it for another couple of sitting days before the house gets up.

The Hon. G.E. GAGO: The government opposes this amendment relating to subclauses 5(b), (c) and (d) for the reasons we have already outlined. We believe the relationship with the council management plan is unclear and unacceptable.

The Hon. M. PARNELL: Following discussion and the minister's agreement and, as I understand the Hon. Rob Lucas, he accepts as well that we will be having further discussions on this and recommitting this clause, I will allow both the government and opposition to consider the amendments that I have circulated and move them formally if we recommit and if I think there is some support for them.

The CHAIR: Are you supporting or opposing the amendment in the name of the Hon. Mr Lucas?

The Hon. M. PARNELL: I am supporting all the Hon. Mr Lucas' amendments.

The CHAIR: I know some Independents or smaller parties have indicated to the Hon. Mr Lucas what they are doing, but they have not indicated to the Chair.

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

The Hon. D.G.E. HOOD: I will be supporting.

The Hon. A. BRESSINGTON: I will be supporting.

The Hon. K.L. VINCENT: Supporting, sir.

Amendment carried.

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

Page 6, line 26—After 'public' insert:

or with the provisions of a management plan that applies under subsection (5b)

This makes the licensed areas, the northern car park and Adelaide Oval No. 2 subject to the council management plan and the Development Assessment Commission as the umpire in a dispute.

The Hon. G.E. GAGO: This is consequential, and we oppose it.

Amendment carried.

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

Page 6, lines 27 to 29—Delete subclause (8) and substitute:

(8) A licence under this section is not subject to section 21 of the *Adelaide Park Lands Act 2005*.

I am advised this is consequential on amendment 29, which has just passed.

The Hon. M. PARNELL: I move:

Page 6, lines 27 to 29—Delete subclause (8) and substitute:

(8) A licence under subsection (1) for a term of 10 years or more (taking into account any right of renewal) is subject to section 21(2) to (5) (inclusive) of the *Adelaide Park Lands Act 2005* (but is not subject to section 21(1) of that act).

This amendment and amendments Nos 6 and 7 are consequential. This amendment reinstates into this bill the provisions that currently apply to licences over areas of the Parklands. Members might not be familiar with the mechanism, so I will explain it.

In 2005, when the Adelaide Park Lands Act came into operation, section 21 was included. It was entitled 'Leases and licences granted by the council.' This section was put in to make sure that if the Adelaide City Council was to grant a long-term lease or a licence there would be some method of scrutiny, in particular, parliamentary scrutiny.

The way section 21 currently reads is that the maximum term that any licence can be issued for is 42 years. I do not propose that should apply, because we have already gone past that and we are now talking about 80 years, but the remainder of section 21 of the Adelaide Park Lands Act is an important accountability measure that should be included in this legislation.

It provides that if the council was to grant a long-term lease on a licence—and we are talking about a licence here—of 10 years or more, then the council has to submit copies of that lease or license to the presiding members of both houses of parliament. The presiding members of each house of parliament have to lay a copy before their respective houses, and either house of parliament can resolve to disallow the grant or the renewal of a lease or licence pursuant to a notice of motion given in the house within 14 sitting days. The section concludes that the lease or licence does not come into operation until that parliamentary scrutiny process is concluded.

Whilst the arrangements we are talking about here are over the licence areas—in other words, we are not talking about the actual oval, the core area, but the outlying areas where the car parks are likely to go—this was precisely the part of the Parklands (or the type of parkland) that was envisaged back in 2005 that should be subject to parliamentary scrutiny.

Back then, only six years ago, the parliament in its wisdom decided that, when dealing with the Parklands (being for all South Australians), we needed to make sure that there was a final level of scrutiny to make sure that whatever lease or licence the council had granted was actually in the best interests of the people of South Australia, not just, for example, the residents and ratepayers of the city.

This mechanism was included. To my knowledge, this mechanism has never been used. I will stand corrected if I am wrong, but my understanding is that the Adelaide City Council has not issued a long-term licence that has then been tabled before both houses of parliament. If it has, then, again to the best of my knowledge, we have never thrown it out, but my feeling is that it has not happened before. My question would be: why is this parliament now removing from our statute books a provision which we put in only six years ago, which has never been used and which we are now deciding is redundant?

My amendment basically reinstates the parliamentary scrutiny provisions, but it does not reinstate the 42-year cap. We have already gone past that. It is going to be 80 years, made up probably of 20-year extensions. It seems to me that what was a good and sensible approach to leases and licences in 2005 remains a sensible approach. Therefore, I urge all honourable members to support this amendment which retains the status quo in terms of parliamentary scrutiny of licences such as the one we are now talking about.

The Hon. G.E. GAGO: The government opposes this amendment. The government believes that the minister should have the ability to develop the management plan. I guess one of the core premises that this bill is based on is to provide certainty to sports. The more complicated these elements are, the more parties that we buy into, the less certainty there is. As I said, we are about trying to provide certainty. I am advised that if this amendment did not succeed that we would consider supporting that we not be subject to section 21. I do not know whether that is of any consolation to you.

The Hon. R.I. LUCAS: I am just seeking your guidance, Mr Chairman. I have moved my amendment and so has the Hon. Mr Parnell. How are you proposing to—

The CHAIR: I will put your amendment first. If people want to eventually support the Hon. Mr Parnell's amendment, they will knock yours off.

The Hon. R.I. LUCAS: If I can indicate our position: obviously, we support our amendment and we are not supporting the amendment from the Hon. Mr Parnell. In particular, the part of the Hon. Mr Parnell's package where there would, in essence, be a potential vote in the parliament on the particular issue is something, as part of the package, that the member for Davenport has outlined that we are not supporting as a party.

The Hon. M. PARNELL: I just need a little bit more clarification from the minister about what might be acceptable, because the way I have drafted my amendment it basically says that section 21(2), (3), (4) and (5) apply to these licences granted by the minister, so that same mechanism applies. I am wondering which part, if any, of that mechanism the government is saying they will accept. As I explained, the mechanism involves tabling before parliament, parliamentary disallowance and, unlike when we disallow regulations, the actual licence would not come into operation until after parliamentary scrutiny was over, so we would not have the situation we have

with delegated legislation. Is the minister saying that the part you would accept is the tabling of the licence before both houses of parliament but not the disallowance? I would like some clarification of that.

The Hon. G.E. GAGO: I think it is probably best if we dealt with this as part of the recommittal process. However, we do have problems with sections 2, 3, 4 and 5. Perhaps it might be better if we had these discussions prior to recommittal.

The Hon. M. PARNELL: Two, three, four and five are the only bits I am moving. You have a problem with everything I have moved. The only bit that I have not moved and, therefore, you do not need to be unhappy with, is the bit that says the maximum licence is 42 years. As I said, we have already moved beyond that. I will move it but I will accept the will of the committee if it goes down.

The CHAIR: Can I explain to honourable members that I intend to put the Hon. Mr Lucas's amendment and, if you want to support the Hon. Mr Parnell's, you will vote against the Hon. Mr Lucas's. If you want to support it standing as it is, you will vote against both amendments. Do you understand that?

The Hon. R.I. LUCAS: I understand the government is supporting my amendment.

The CHAIR: Yes, I just explained it for the benefit of the Independents. The Hon. Mr Hood, did you want to say anything?

The Hon. D.G.E. HOOD: No, thank you. That has clarified it.

The Hon. G.E. GAGO: Just for clarification, the government is supporting this amendment. We have obviously flagged our concerns around earlier provisions but we are prepared to support this.

The Hon. R.I. Lucas's amendment carried.

The Hon. R.I. LUCAS: This amendment is consequential on the last discussion. I move:

Page 6, after line 32—Insert:

(10) In this section—

Adelaide Oval No 2 is the area identified as *SA Cricket Association Licensed Area—Park 26* in Schedules 1 and 2 and Annexure A to the *Park Lands Lease Agreement* entered into by the Council and SACA on 4 January 2007 (as that agreement exists immediately before the commencement of this Act).

Amendment carried; clause as amended passed.

Progress reported; committee to sit again.

APPROPRIATION BILL

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

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (18:02): I move:

That this bill be now read a second time.

I would like to take this opportunity to remind members that the Treasurer's Budget speech was tabled in this house on budget day, 9 June. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

1—Short title

This clause is formal.

2—Commencement

This clause provides for the Bill to operate retrospectively to 1 July 2011. Until the Bill is passed, expenditure is financed from appropriation authority provided by the *Supply Act*.

3—Interpretation

This clause provides relevant definitions.

4—Issue and application of money

This clause provides for the issue and application of the sums shown in Schedule 1 to the Bill. Subsection (2) makes it clear that the appropriation authority provided by the *Supply Act* is superseded by this Bill.

5—Application of money if functions or duties of agency are transferred

This clause is designed to ensure that where Parliament has appropriated funds to an agency to enable it to carry out particular functions or duties and those functions or duties become the responsibility of another agency, the funds may be used by the responsible agency in accordance with Parliament's original intentions without further appropriation.

6—Expenditure from Hospitals Fund

This clause provides authority for the Treasurer to issue and apply money from the Hospitals Fund for the provision of facilities in public hospitals.

7—Additional appropriation under other Acts

This clause makes it clear that appropriation authority provided by this Bill is additional to authority provided in other Acts of Parliament, except, of course, in the *Supply Act*.

8—Overdraft limit

This sets a limit of $50 million on the amount which the Government may borrow by way of overdraft.

Schedule 1—Amounts proposed to be expended from the Consolidated Account during the financial year ending 30 June 2012

Debate adjourned on motion of Hon. D.W. Ridgway.

STATUTES AMENDMENT (LAND HOLDING ENTITIES AND TAX AVOIDANCE SCHEMES) BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

ELECTRICAL PRODUCTS (ENERGY PRODUCTS) AMENDMENT BILL

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

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (16:03): I move:

That this bill be now read a second time.

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

Leave granted.

The Bill I am introducing today is a key step in implementing South Australia's commitment to improving residential and business energy efficiency and reducing greenhouse gas emissions.

The purpose of this Bill is to amend and rename the *Electrical Products Act 2000* and make consequential amendments to the *Gas Act 1997* to enable Minimum Energy Performance Standards (MEPS) to be applied to gas and other energy products, and thereby reduce greenhouse gas emissions.

The *Electrical Products Act 2000*, which is administered by the Technical Regulator, provides for certain electrical products to display labelling to indicate their compliance with applicable safety and performance standards and energy efficiency (the 'star rating system'). It also provides for registration of products to indicate their compliance with MEPS before they may be sold, as well as the power to prohibit the sale or use of unsafe electrical products.

The MEPS and labelling program is a national program to implement measures to address energy efficiency requirements in the residential and commercial/industrial sectors. MEPS is an energy performance measure that a given product type must meet while an energy label is for the benefit of consumers to compare the energy efficiency/performance of appliances prior to purchase. Any MEPS and labelling is subject to public consultation, requiring public meetings, publishing of technical reports, fact sheets and culminating in a publicly released Regulatory Impact Statement.

The products to which this Act applies, and the standards that are to apply to particular products, are established once these rigorous regulatory assessments and consultations are completed, and then implemented through proclamation by the Governor.

The *Gas Act 1997* enables the Technical Regulator to declare particular classes of gas appliances, thereby requiring them to be safety approved and labelled by a declared body or the Technical Regulator before sale, but does not specifically provide for MEPS or energy rating for gas appliances.

The impetus for the Bill came from the decision of the Ministerial Council on Energy (MCE) to bring the existing industry sponsored gas labelling scheme within a consistent regulatory framework. This required the

development of MEPS and energy efficiency labelling for gas products similar to that for electrical products. The first gas appliances to which this will apply are gas water heaters. Other gas appliances are likely to follow after MEPS and labelling requirements have been developed for them.

The Bill extends the scope of the *Electrical Products Act 2000* to cover gas appliances (natural gas and LPG) and also, in the future, further products powered by other energy sources (such as solar powered products or products powered by more than one energy source), and renames it the *Energy Products (Safety and Efficiency) Act*. This creates a single Act able to cover all appliances.

The requirements relating to energy performance and energy efficiency labelling are addressed in a new and separate section to those relating to safety.

The Bill extends the Governor's power to make proclamations from electrical products to energy products and also to declare a body to be a certification body which is able to certify energy products. The range of standards that may be proclaimed has also been expanded to include energy efficiency labelling standards and information standards.

The Bill enables the Technical Regulator to issue public warning statements about unsafe energy products and uses of such products or installation practices that, in the opinion of the Technical Regulator, are likely to pose a danger to persons or property.

The Bill extends the existing administrative framework of the *Electrical Products Act 2000* to gas and other products, but also makes some significant improvements.

The 'authorised persons' under the *Electrical Products Act 2000* are renamed as 'authorised officers.' This is the term used in numerous other Acts including the *Electricity Act 1996* and *Gas Act 1997*. The information gathering powers of authorised officers have been expanded to bring them more into line with the powers of authorised officers under other Acts. Such new powers include power to stop and inspect vehicles and to require persons reasonably expected to have committed a contravention of the Act to identify themselves. This will discourage the loading of unsafe energy products onto vehicles to prevent authorised officers from inspecting them. Another power is to seize energy products pursuant to a seizure order and have them tested, where the authorised officer reasonably suspects that they may constitute evidence of a contravention of the Act. This expands the more limited power in the existing power in the *Electrical Products Act 2000* to seize stocks of electrical products that are suspected to have been prohibited from sale, and also formalises a clear procedure for their disposal or return.

The Bill modifies the privilege against self incrimination. The existing privilege against self incrimination in section 11 of the Act has been used by traders to avoid answering questions and providing information, thereby making it difficult to enforce the requirements of the Act and regulations. In view of this, it is proposed to modify the privilege with respect to safety issues, so that it is retained for natural persons including directors of bodies corporate, but removed for bodies corporate. It is proposed that incriminating information must be provided, but cannot be used in legal proceedings (except with respect to an offence relating to the making of a false or misleading statement or declaration) against a natural person. The proposal is based on section 70(5) of the *Gas Act 1997*, which applies to gas rationing.

The Bill provides that information classified by the Technical Regulator as of a commercially sensitive or private confidential nature is not liable to disclosure under the *Freedom of Information Act 1991*. This brings the Act into line with the *Gas Act 1997* and the *Electricity Act 1996*. The aim of this change is to maximise the ability to elicit critical information by ensuring that commercially sensitive or private confidential information that has been provided to the Technical Regulator will be protected from disclosure to third parties such as competitors.

The Bill contains 'grace period' and 'grandfathering' provisions that enable traders, within a certain time, to clear stocks of energy products manufactured in or imported into the State before compliance with requirements or changes in requirements become applicable to them. The existing 6 month grace period in the *Electrical Products Act 2000* is retained for applicable safety and performance standards, certification and information standards. A 12 months 'grandfathering' arrangement is established for energy performance standards and energy efficiency labelling. These aim to addresses industry concerns about the risk of retailers being left with stocks of unsold 'old' stock.

The Bill also exempts the Crown from liability for an act of the Technical Regulator in good faith in the exercise of powers with respect to the prohibition of sale or use of unsafe energy products and with respect to the making of public warning statements.

The Bill makes consequential amendments to the *Gas Act 1997*, the most notable of which is to repeal provisions dealing with the approval and labelling of gas appliances, as this will be dealt with in the *Energy Products (Safety and Efficiency) Act 2000*. The installation of all gas appliances, and the commissioning or modifying of industrial and commercial appliances will continue to be regulated under the *Gas Act 1997*.

The Department for Transport, Energy and Infrastructure (DTEI) has consulted with the gas industry, including manufacturers and retailers of gas appliances and the industry association. The participants indicated general support for the proposals and their concerns have been addressed in this new legislation.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

Clauses 1, 2 and 3 are formal.

Part 2—Amendment of *Electrical Products Act 2000*

4—Amendment of long title

Clause 4 is consequential on the proposed inclusion of gas and other energy products in the principal Act.

5—Amendment of section 1—Short title

Clause 5 proposes to amend the short title of the principal Act, resulting in the Act being known as the *Energy Products (Safety and Efficiency) Act 2000* rather than the *Electrical Products Act 2000*. This is to reflect the proposed inclusion of gas and other energy products in the principal Act.

6—Amendment of section 3—Interpretation

Clause 6 proposes to insert various definitions into the principal Act deemed necessary for the measure. In particular, it includes a definition of *energy product*. This is defined as—

- an electrical appliance or a component of an electrical appliance; or
- a gas appliance or a component of a gas appliance; or
- an appliance powered by an energy source other than electricity or gas (such as solar, wind or water) or a component of such an appliance; or
- an appliance powered by any combination of electricity, gas or other energy source, or a component of such an appliance; or
- a device used for, or in connection with, the conveyance of electricity, gas or other energy source or a component of such a device (including a meter for measuring consumption); or
- an instrument for measuring a characteristic of electricity, gas or other energy source,

but does not include an appliance, component, device or instrument excluded by regulation.

7—Amendment of heading to Part 2

Clause 7 is consequential on the proposed change to the principal Act from being an Act about electrical products to an Act about energy products.

8—Amendment of section 5—Proclamation for purposes of Part

Clause 8 proposes to amend section 5 of the Act to provide that the Governor can make proclamations with respect to energy products rather than only electrical products. It also provides for the Governor to declare, by proclamation, a body to be a certification body and includes energy efficiency labelling standards and information standards as standards to be declared by proclamation.

9—Amendment of section 6—Offences relating to safety and performance, certification and information

Section 6 of the principal Act makes it an offence for a trader to sell declared products unless those products are labelled or registered to indicate compliance with safety and performance standards or energy performance standards, or labelled to indicate energy efficiency. Clause 9 proposes removing the subsections dealing with energy efficiency from section 6 in order that it be dealt with in proposed new section 6A. It also creates 2 new offences. Firstly, a trader must not sell an energy product of a particular class unless it is labelled under the authority of a certification body or the Technical Regulator so as to indicate its certification by that body or the Technical Regulator. Secondly, a trader must not sell a particular energy product unless the trader provides information in respect of the product to the purchaser in accordance with applicable information standards. For both offences the proposed maximum penalty is $5,000 with an expiation fee of $315.

10—Insertion of section 6A

Clause 10 proposes to insert a new section 6A into the principal Act to deal with offences relating to energy performance. It is proposed that the offences with respect to energy performance that are currently in section 6 of the principal Act be moved to this new section.

11—Amendment of section 7—Offences relating to labels

Clause 11 is consequential on the proposed change to the principal Act from being an Act about electrical products to an Act about energy products.

12—Amendment of section 8—Prohibition of sale or use of unsafe energy products

Section 8 of the principal Act provides, amongst other things, that if the Technical Regulator is of the opinion that an energy product of a particular class is unsafe, the Technical Regulator may prohibit the sale or use of energy products of that class. The proposed amendment provides that the Crown incurs no liability for an act of the Technical Regulator in good faith in the exercise or purported exercise of powers under this section. Section 8 also provides that a prohibition or requirement under the section may be imposed by notice in writing to a particular

person or by public notice. The proposed amendment provides that a person incurs no liability for publishing in good faith a notice under this section or a fair report or summary of such a notice.

13—Amendment of section 9—Mutual recognition

Clause 13 is consequential on the proposed change to the principal Act from being an Act about electrical products to an Act about energy products.

14—Insertion of section 9A

Clause 14 proposes to insert a new section 9A into the principal Act to deal with public warning statements about unsafe energy products. It provides that the Technical Regulator may make a public statement identifying and giving warnings or information about any of the following:

- energy products that, in the opinion of the Technical Regulator, are or are likely to become unsafe in use and persons who supply the products;
- uses of energy products, or installation practices, that, in the opinion of the Technical Regulator, pose a danger to persons or property;
- any other dangers to persons or property associated with energy products.

Under this proposed clause the Crown incurs no liability for a statement made by the Technical Regulator in good faith in the exercise or purported exercise of powers under the clause and a person incurs no liability for publishing in good faith a statement made by the Technical Regulator under the clause or a fair report or summary of such a statement.

15—Substitution of Part 3

Clause 15 proposes to substitute Part 3 of the principal Act, constituting of sections 10 to 13 inclusive. Both section 10 of the principal Act, and the proposed new clause 10 provide for the appointment of authorised officers. Under section 10, the Technical Regulator appoints a person to be an authorised person for the purposes of the Act. The proposed new clause 10 provides that the Minister appoints a person as an authorised officer.

Both section 11 of the principal Act and the proposed new clause 11 deal with the general powers of authorised officers. The proposed new clause 11 gives authorised officers new powers to—

- enter and inspect;
- give directions with respect to the stopping or movement of a vehicle to which the clause applies;
- take photographs, films or audio, video or other recordings;
- examine any energy product made available to the authorised officer or found in the course of an inspection;
- examine, copy or take extracts from a document produced to the authorised officer or found in the course of an inspection or require a person to provide a copy of any such document;
- seize and retain, or issue a seizure order in respect of, an energy product that the authorised officer reasonably suspects has been used in, or may constitute evidence of, a contravention of the Act;
- cause tests to be carried out on an energy product that has been purchased or seized or in respect of which a seizure order is in force;
- give a direction required in connection with the exercise of a power.

The proposed new clause 12 contains provisions relating to seizure. The provision provides that if a seizure order is issued, a person who, knowing of the order, removes or interferes with the energy product to which the order relates without the approval of an authorised officer before the product is dealt with under the section or the seizure order discharged is guilty of an offence. There is a maximum penalty of $10,000.

The proposed new clause 13 provides for the recovery of costs. It provides that if an energy product tested under the Act does not conform with an applicable safety and performance standard or an applicable energy performance standard, or does not conform with the information as to its energy efficiency contained in a label affixed to the energy product in accordance with the Act, the Minister may recover from the trader by whom the energy product was sold the costs incurred in purchasing, seizing and storing, or issuing a seizure order in respect of, the energy product and in having it tested.

Section 13 of the principal Act contains an offence for the hindering or obstructing of an authorised person. The proposed new clause 13A also makes this an offence and adds the extra offences of—

- refusing or failing to comply with a requirement or direction of an authorised officer under the Act;
- refusing or failing to answer a question to the best of the person's knowledge, information and belief when required to do so by an authorised officer under the Act;
- falsely representing, by words or conduct, that he or she is an authorised officer.

A maximum penalty of $10,000 is proposed.

16—Amendment of section 14—Power of exemption

Section 14 of the principal Act provides that the Technical Regulator may exempt a person from the Act, or specified provisions of the Act. Clause 16 proposes to provide that such an exemption may be varied or revoked by the Technical Regulator.

17—Amendment of section 20—Evidence

Clause 17 is consequential on the proposed change in the principal Act from a person being appointed as an authorised person to a person being appointed as an authorised officer.

18—Amendment of section 22—Delegation

Section 22 of the principal Act provides for the Technical Regulator to delegate his or her powers under the Act. Clause 18 proposes a new subclause to allow the Minister to delegate his or her powers under the Act to the Technical Regulator or any other person.

19—Amendment of section 23—Confidential information

Clause 19 proposes a new subclause to section 23 to provide that information classified by the Technical Regulator as of a commercially sensitive or private confidential nature is not liable to disclosure under the *Freedom of Information Act 1991*.

20—Amendment of section 26—Regulations

Clause 20 is consequential on the proposed change to the principal Act from being an Act about electrical products to an Act about energy products.

21—Repeal of Schedule

Clause 21 is a drafting amendment.

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *Gas Act 1997*

1—Amendment of long title

Clause 1 is consequential on the proposal that gas appliances be dealt with in the *Electrical Products Act 2000* (as amended by this measure) rather than in the *Gas Act 1997*.

2—Amendment of section 8—Functions of Technical Regulator

Clause 2 is consequential on the proposal that gas appliances be dealt with in the *Electrical Products Act 2000* (as amended by this measure) rather than in the *Gas Act 1997*.

3—Repeal of heading to Part 5 Division 1

Clause 3 is consequential on the proposal that gas appliances be dealt with in the *Electrical Products Act 2000* (as amended by this measure) rather than in the *Gas Act 1997*.

4—Repeal of Part 5 Division 2

Clause 4 proposes to remove gas appliances (other than fixed gas appliances) from the *Gas Act 1997*.

5—Amendment of section 67—General investigative powers of authorised officers

Clause 5 is consequential on the proposal that gas appliances be dealt with in the *Electrical Products Act 2000* (as amended by this measure) rather than in the *Gas Act 1997*.

6—Amendment of section 95—Regulations

Clause 6 is consequential on the proposal that gas appliances be dealt with in the *Electrical Products Act 2000* (as amended by this measure) rather than in the *Gas Act 1997*.

Part 2—Transitional provisions

7—Authorised officers

The proposed transitional provision provides that a person who held office as an authorised person under the *Electrical Products Act 2000* immediately before the commencement of this clause continues to hold office under that Act (as amended by this measure) as an authorised officer.

Debate adjourned on motion of Hon. D.W. Ridgway.

COMMERCIAL ARBITRATION BILL

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

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (18:04): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill proposes to amend the *Commercial Arbitration and Industrial Referral Act 1986* so as to enact a new framework for the conduct of domestic commercial arbitrations. The current Act is part of uniform domestic arbitration legislation across all States and Territories but requires updating to match the United Nations Commission on International Trade Law [UNCITRAL] Model Law on International Commercial Arbitration, which was amended in 2006.

There are good reasons for adopting the amended UNCITRAL Model Law as the basis for the domestic law. First, the UNCITRAL model has legitimacy and familiarity worldwide. It provides a well-understood procedural framework to deal with issues such as the appointment of arbitrators, jurisdiction of arbitrators, conduct of arbitral proceedings and the makings of awards, and therefore is easily adapted to the conduct of domestic arbitrations.

Second, this creates national consistency in the regulation and conduct of international and domestic commercial arbitration. The Commonwealth *International Arbitration Act 1974* gives effect to the model law in relation to international arbitrations. Many businesses trade both domestically and internationally, so one set of procedures for managing commercial disputes makes sense. Third, practitioners and courts will be able to draw on case law and practice in the Commonwealth and overseas to inform the interpretation and application of its provisions.

However, the UNCITRAL model law, being designed for international rather than domestic arbitration, required some modifications to serve domestic purposes. A draft of the model Bill was therefore released by Attorneys-General for targeted consultation. No commentator was opposed to the adoption of the UNCITRAL model as the foundation of the domestic law and comment generally related to the detail of the Bill. After considering the results of consultation and making some changes to the model, Attorneys-General in May 2010 adopted the model to be enacted. Since then, the model has become law in New South Wales. A Bill to enact the model is before the Tasmanian Parliament.

The purpose of the law is found in section 1AC of the Bill, which says that the paramount object of the Bill is to facilitate the fair and final resolution of commercial disputes by impartial arbitral tribunals without unnecessary delay or expense. Stakeholders supported the inclusion of a paramount object clause, noting the absence of such a provision as a weakness in the present uniform commercial arbitration Acts.

Part 1 of the Bill applies the Bill to domestic commercial arbitration and clarifies that this excludes an international arbitration for the purposes of the Commonwealth Act. Part 2 of the Bill defines an arbitration agreement and requires a court before which an action is brought to refer that matter to arbitration if it is the subject of a arbitration agreement and a party makes a request in time. Part 3 deals with the composition of arbitral tribunals and provides flexibility and autonomy to parties in selecting the arbitrator or arbitral tribunal to decide their dispute. It enables parties to agree on the number or arbitrators, the process by which they will be selected and how they may be challenged. It also provides a default position should the parties not agree. Clause 12 sets out the grounds on which the appointment of an arbitrator may be challenged and obliges proposed arbitrators to disclose any circumstances likely to give rise to justifiable doubts as to their impartiality or independence.

Part 4 makes it clear that an arbitral tribunal is competent to determine whether it has jurisdiction in a dispute but also enables a party to seek a ruling on the matter from the court where a tribunal determines that it has jurisdiction. Part 4A enables arbitral tribunals to grant and enforce interim measures for purposes such as the preservation of assets and evidence.

Part 5 deals with the conduct of arbitral proceedings, providing that parties must be given a fair hearing and that they are free to agree on the procedure to be followed, or, failing agreement, for the arbitral tribunal to conduct the arbitration as it considers appropriate. Part 5 includes some provisions additional to those in the model law to ensure that arbitrations can be conducted efficiently and cost-effectively. Clause 24B imposes a duty on parties to do all things necessary for the proper and expeditious conduct of arbitral proceedings. Clause 24B sets out general duties of the parties, including complying with evidentiary and procedural directions without delay. Clause 25 provides the powers of an arbitral tribunal in case of default of a party, enabling arbitral tribunals to deal with delay by parties or failure to comply with a direction of the tribunal. Clause 27D provides that an arbitrator can act as a mediator, conciliator or other non-arbitral intermediary, if the parties so agree. If, however, a mediation or conciliation is not successful an arbitrator can only continue to act as arbitrator with the written consent of all parties. Part 5 also provides a confidentiality regime based on the Commonwealth Act.

Part 6 of the Bill covers the making of awards and the termination of proceedings. The UNCITRAL Model Law has been supplemented by additional provisions to deal with the issue of costs and the awarding of interest, drafted consistently with the Commonwealth Act.

Part 7 outlines the circumstances in which a party can apply to set aside an award, or can appeal if the parties have agreed to allow appeals under the optional provision.

Part 8 deals with the recognition of awards and the grounds on which enforcement can be refused.

The Bill preserves the industrial referral provisions of the Act, which were added in 2007. By Schedule 1, these provisions become a separate Act, the *Industrial Referral Agreements Act 1986*.

This Bill aims to ensure that our domestic arbitration laws reflect accepted international practice for resolving commercial disputes and will provide business with a cost-effective and efficient alternative to litigation.

I commend the Bill to Members.

Explanation of Clauses

Part 1A—Preliminary

1A—Short title

1B—Commencement

Clauses 1A and 1B are formal.

1C—Paramount object of Act

Clause 1C states that the paramount object of the proposed Act is to facilitate the fair and final resolution of commercial disputes by impartial arbitral tribunals without unnecessary delay or expense.

Part 1—General provisions

1—Scope of application

Clause 1 applies the proposed Act to domestic commercial arbitrations. An arbitration is a domestic arbitration if the parties to an arbitration agreement have, at the time of the conclusion of that agreement, their places of business in Australia and have (whether in the arbitration agreement or in any other document in writing) agreed that any dispute that has arisen or may arise between them is to be settled by arbitration. It is not a domestic arbitration if it is an arbitration to which the Model Law (as given effect by the Commonwealth Act) applies as that Act covers the field with respect to international commercial arbitrations. Clause 1(5) also makes it clear that the proposed Act is not intended to affect any other Act that provides that certain disputes may not be submitted to arbitration or may only be submitted according to provisions other than those of the proposed Act.

2—Definitions and rules of interpretation

Clause 2 defines certain words and expressions used in the proposed Act. In particular, it defines confidential information, disclose, Model Law and party. The clause also contains provisions for interpreting referential phrases in the proposed Act, including provisions relating to the meaning of a reference to the fact that the parties have agreed and that a reference to leaving the parties free to determine an issue includes the right of the parties to authorise a third party (including an institution) to determine the issue.

2A—International origin and general principles

Clause 2A makes it clear that in interpreting the proposed Act regard should be had to promoting uniformity between the application of the proposed Act to domestic commercial arbitrations and the application of the Model Law (as given effect by the Commonwealth Act) to international commercial arbitrations.

3—Receipt of written communications

Clause 3 deems written communications to have been received by a party in specified circumstances.

4—Waiver of right to object

Clause 4 waives the right of a party to object to non-compliance with a provision of the proposed Act or of an arbitration agreement if the party proceeds with arbitration but fails to object to that non-compliance either without delay or within any time-limit.

5—Extent of court intervention

Clause 5 makes it clear that a court is not to intervene in matters governed by the proposed Act, except as provided by the Act.

6—Court for certain functions of arbitration assistance and supervision

Clause 6 specifies the functions of arbitration assistance and supervision to be performed by the Supreme Court, or by the District Court or Magistrates Court if the parties so provide in the arbitration agreement, under the proposed Act.

Part 2—Arbitration agreement

7—Definition and form of arbitration agreement

Clause 7 defines an arbitration agreement as an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement must be 'in writing'. The proposed section makes it clear that 'in writing' has an expanded meaning. An agreement may be concluded orally, by conduct or other means, provided that its content is recorded in some form, including electronic communication. An agreement will also be in writing if it is contained 'in an exchange of statements of claim and defence in which the existence of the agreement is alleged by 1 party and not denied by the other'.

8—Arbitration agreement and substantive claim before court

Clause 8 requires a court before which an action is brought in a matter that is the subject of an arbitration agreement to refer the matter to arbitration if a party so requests in the circumstances specified in the proposed section. It also enables an arbitration to be commenced or continued while the issue is pending before the court.

9—Arbitration agreement and interim measures by court

Clause 9 enables a party to obtain an interim measure of protection from a court, before or during arbitral proceedings.

Part 3—Composition of arbitral tribunal

10—Number of arbitrators

Clause 10 enables the parties to determine the number of arbitrators and specifies that, in the absence of agreement between the parties, the default number of arbitrators is 1.

11—Appointment of arbitrators

Clause 11 allows the parties to agree on the procedure for appointing arbitrators. It provides a default procedure with ultimate recourse to the Supreme Court (or another court agreed by the parties as referred to in proposed section 6) if agreement cannot be reached or the agreed procedure is not followed.

12—Grounds for challenge

Clause 12 sets out the grounds on which the appointment of an arbitrator may be challenged. It obliges proposed arbitrators to disclose any circumstances likely to give rise to justifiable doubts as to their impartiality or independence. This obligation starts when a person is approached to be an arbitrator and continues throughout the person's appointment as an arbitrator. Clause 12(5) and (6) provide that the test for whether there are justifiable doubts as to the impartiality or independence of an arbitrator is whether there is a real danger of bias. This is based on the test for bias applied by the House of Lords in R v Gough [1993] AC 646.

13—Challenge procedure

Clause 13 provides that the parties are free to determine the procedure for challenging an arbitrator and provides a default procedure for challenging the appointment or continued appointment of an arbitrator in the absence of agreement for such a challenge. It also provides that if a challenge fails, a party may have recourse to a court to determine the matter.

14—Failure or impossibility to act

Clause 14 provides for the termination of the mandate of an arbitrator in certain circumstances.

15—Appointment of substitute arbitrator

Clause 15 requires the appointment of a substitute arbitrator according to the appointment procedure and any other eligibility requirements that were applicable to the arbitrator being replaced.

Part 4—Jurisdiction of arbitral tribunal

16—Competence of arbitral tribunal to rule on its jurisdiction

Clause 16 makes it clear that an arbitral tribunal is competent to make a determination as to whether or not it has jurisdiction to arbitrate a commercial dispute. It also makes it clear that an arbitration agreement may be severed from the contract in which it is contained (if applicable) so that it may stand independently. It expressly provides that any determination that the contract is invalid does not mean that the arbitration clause is invalid. The provision also enables a party to seek a ruling from the Supreme Court (or another court agreed by the parties as referred to in proposed section 6) from a determination of the tribunal that it has jurisdiction.

Part 4A—Interim measures

Division 1—Interim measures

17—Power of arbitral tribunal to order interim measures

Clause 17 confers power on an arbitral tribunal to grant interim measures (unless otherwise agreed by the parties) similar to the ex parte orders that could be obtained from a court during litigation prior to the final determination of a dispute for purposes such as maintenance of the status quo and preservation of assets and evidence.

17A—Conditions for granting interim measures

Clause 17A requires a party requesting certain interim measures to satisfy the arbitral tribunal (to the extent the arbitral tribunal considers appropriate) that if the measure concerned is not ordered then harm not adequately reparable by an award of damages is likely to result and that there is a reasonable possibility that the requesting party will succeed on the merits of the claim.

Division 2—Preliminary orders

Articles 17B and 17C of the Model Law are not adopted by the proposed Act but the clause numbering is retained to maintain consistency with the numbering of the Model Law.

Division 3—Provisions applicable to interim measures

17D—Modification, suspension, termination

Clause 17D enables an arbitral tribunal to modify, suspend or terminate an interim measure either on the application of any party or, in exceptional circumstances and having given prior notice, on the tribunal's own initiative.

17E—Provision of security

Clause 17E enables an arbitral tribunal to require a party that requests an interim measure to provide appropriate security.

17F—Disclosure

Clause 17F enables an arbitral tribunal to require any party to disclose any material change in the circumstances on the basis of which an interim measure was requested or granted.

17G—Costs and damages

Clause 17G imposes a liability on a party that requests an interim measure for any costs and damages caused by the measure to any party to the arbitration agreement, if the tribunal subsequently determines that it should not have granted that interim measure.

Division 4—Recognition and enforcement of interim measures

17H—Recognition and enforcement

Clause 17H provides for the recognition and enforcement of an interim measure issued under a law of this State, or an interim measure issued under a law of another State or Territory of Australia, in certain circumstances.

17I—Grounds for refusing recognition or enforcement

Clause 17I outlines the circumstances in which the recognition or enforcement of an interim measure may be refused.

Division 5—Court-ordered interim measures

17J—Court-ordered interim measures

Clause 17J makes it clear that the Supreme Court (or another court agreed by the parties as referred to in proposed section 6) has the same power to issue an interim measure in arbitration proceedings as it has in relation to proceedings in courts.

Part 5—Conduct of arbitral proceedings

18—Equal treatment of parties

Clause 18 makes it clear that parties must be given a fair hearing.

19—Determination of rules of procedure

Clause 19 provides that the parties are free to agree on the procedure to be followed by the arbitral tribunal and enables the arbitral tribunal to conduct the arbitration in such manner as it considers appropriate in the absence of such agreement. The clause specifies the powers conferred on the arbitral tribunal and provides that, by leave of the Supreme Court (or another court agreed by the parties as referred to in proposed section 6), an arbitral tribunal's order or direction may be enforced by a judgment being entered in terms of the order or direction.

20—Place of arbitration

Clause 20 provides that the parties are free to agree on the place of arbitration and enables an arbitral tribunal to determine the place of arbitration in the absence of such agreement.

21—Commencement of arbitral proceedings

Clause 21 provides for arbitral proceedings to commence on the date that a request for the referral to arbitration is received by the respondent. The clause applies unless otherwise agreed by the parties.

22—Language

Clause 22 provides that the parties are free to agree on the language or languages to be used in arbitral proceedings. Failing such agreement the arbitral tribunal is to determine the language or languages to be used. The agreement or determination applies to written statements and any hearing, award, decision or other communication of the arbitral tribunal unless otherwise agreed by the parties. The proposed section also enables an arbitral tribunal to make an order for documentary evidence to be accompanied by an appropriate translation.

23—Statements of claim and defence

Clause 23 sets out requirements with respect to statements of claim and defence. The clause applies unless otherwise agreed by the parties and is subject to directions of the arbitral tribunal.

24—Hearings and written proceedings

Clause 24 sets out the procedure for the conduct of the arbitral proceedings. Unless otherwise agreed by the parties, the arbitral tribunal is enabled to decide whether to hold an oral hearing or to make a decision on the papers and other materials submitted. The discretion to make a decision on the papers is limited in so far as the arbitral tribunal must hold an oral hearing if requested by a party, provided that they have not agreed beforehand that no hearings are to be held. The proposed section makes it clear that documents sought to be relied upon must be communicated to another party to the arbitration.

24A—Representation

Clause 24A enables a party to appear in person or be represented by any person of their choice in oral hearings of the tribunal.

24B—General duties of parties

Clause 24B imposes a duty on the parties to do all things necessary for the proper and expeditious conduct of arbitral proceedings.

25—Default of party

Clause 25 states the powers of an arbitral tribunal in the event of a party's failure to communicate a statement of claim or a statement of defence or to appear at a hearing or produce documentary evidence. The clause applies unless otherwise agreed by the parties.

26—Expert appointed by arbitral tribunal

Clause 26 empowers an arbitral tribunal, unless otherwise agreed by the parties, to appoint experts to report on specific issues determined by the tribunal, and if necessary to appear at a hearing for the purpose of examination. It also empowers the arbitral tribunal, unless otherwise agreed by the parties, to require a party to give information or to provide access in order to inspect documents, goods or other property.

27—Court assistance in taking evidence

Clause 27 enables a request to be made to the Supreme Court (or another court agreed by the parties as referred to in proposed section 6) by an arbitral tribunal or a party with the approval of an arbitral tribunal, for assistance in taking evidence.

27A—Parties may obtain subpoenas

Clause 27A enables the Supreme Court (or another court agreed by the parties as referred to in proposed section 6) to issue a subpoena requiring a person to attend the arbitral proceedings for examination, or to produce documents, on the application of a party made with the consent of the arbitral tribunal.

27B—Refusal or failure to attend before arbitral tribunal or to produce document

Clause 27B provides that, unless otherwise agreed by the parties, on application to the Supreme Court (or another court agreed by the parties as referred to in proposed section 6) by a party or the arbitral tribunal the court may order a person in default to comply with a subpoena or a requirement of the arbitral tribunal and may make consequential orders as to the transmission of evidence or documents to the arbitral tribunal.

27C—Consolidation of arbitral proceedings

Clause 27C enables the consolidation of certain arbitral proceedings. The clause applies unless otherwise agreed by the parties.

27D—Power of arbitrator to act as mediator, conciliator or other non-arbitral intermediary

Clause 27D provides that an arbitrator can act as mediator in the proceedings if the parties so agree. It also outlines the circumstances in which mediation can be terminated. This includes where any party withdraws their consent to the mediation. It also prohibits an arbitrator who has acted in mediation proceedings that have been terminated from conducting subsequent arbitration, unless the written consent of all the parties to the arbitration has been obtained.

27E—Disclosure of confidential information

Clause 27E provides for the protection of confidential information. Confidential information is defined in proposed section 2 as information that relates to arbitral proceedings or to an award made in those proceedings and covers documents associated with the proceedings such as statements of claim and pleadings, evidence supplied to the arbitral tribunal, transcripts of evidence, submissions and rulings and awards of the arbitral tribunal. The clause applies unless otherwise agreed by the parties. It prohibits the disclosure of confidential information by either the parties to the arbitration or the tribunal, except as allowed by proposed sections 27F-27I. Disclose is defined in proposed section 2 to include publishing or communicating or otherwise supplying confidential information. The provisions are adapted (with modifications) from similar provisions of the Arbitration Act 1996 of New Zealand.

27F—Circumstances in which confidential information may be disclosed

Clause 27F sets out the general circumstances in which confidential information can be disclosed by a party to the proceedings or the arbitral tribunal. These circumstances include where all the parties have consented, it is necessary for the establishment or protection of the legal rights of a party, disclosure is required by subpoena or a court order or where disclosure is authorised or required by another relevant law (including a law of the Commonwealth or of another State or Territory) or for the purposes of enforcing an arbitral award.

27G—Arbitral tribunal may allow disclosure of confidential information in certain circumstances

Clause 27G allows an arbitral tribunal to authorise the disclosure of confidential information in circumstances other than those mentioned in proposed section 27F at the request of 1 of the parties and only once the other parties have been heard.

27H—Court may prohibit disclosure of confidential information in certain circumstances

Clause 27H outlines the circumstances in which the Supreme Court (or another court agreed by the parties as referred to in proposed section 6) may make an order prohibiting the disclosure of confidential information on the

application of a party and after giving all parties an opportunity to be heard. It requires consideration of whether or not the public interest would be served by disclosure or non-disclosure and whether disclosure is more than reasonable for the purpose. The proposed section deals with the situation where consent of all the parties has not been obtained under proposed section 27F(2) or where the arbitral tribunal refuses to make an order under proposed section 27G.

27I—Court may allow disclosure of confidential information in certain circumstances

Clause 27I outlines the circumstances in which the Supreme Court (or another court agreed by the parties as referred to in proposed section 6) may make an order allowing the disclosure of confidential information and sets out the matters the court must take into consideration before making an order.

27J—Determination of preliminary point of law by Court

Clause 27J enables a party to make an application to the Supreme Court (or another court agreed by the parties as referred to in proposed section 6), and confers jurisdiction on the court, to determine a question of law that arises in the course of arbitration, unless otherwise agreed.

Part 6—Making of award and termination of proceedings

28—Rules applicable to substance of dispute

Clause 28 enables the parties to choose the substantive law to be applied to the particular facts of the matter in dispute (as opposed to determining the arbitral law under which the dispute is resolved). It makes it clear that an arbitral tribunal is to make a determination in accordance with the terms of the contract, taking into account the usages of the trade applicable to it.

29—Decision-making by panel of arbitrators

Clause 29 specifies that a majority of arbitral tribunal members (if there is more than one arbitrator) is necessary to constitute a decision of the tribunal unless otherwise agreed by the parties.

30—Settlement

Clause 30 provides for the recording of a settlement between the parties in the form of an award.

31—Form and contents of award

Clause 31 prescribes the form and content of an award.

32—Termination of proceedings

Clause 32 describes the circumstances in which arbitral proceedings are terminated.

33—Correction and interpretation of award; additional award

Clause 33 enables the correction or interpretation of a provision of the award, or the making of an additional award. It makes it clear that any interpretation of the tribunal forms part of the award.

33A—Specific performance

Clause 33A enables an arbitrator to make an order for specific performance of a contract in circumstances where the Supreme Court would have power to do so, unless otherwise agreed by the parties.

33B—Costs

Clause 33B allows the arbitral tribunal (unless otherwise agreed by the parties) to determine costs (including the fees and expenses of the arbitrator or arbitrators) at its discretion and to direct that they be limited to a specified amount. A direction limiting the amount must be given sufficiently in advance for the parties to take it into account in managing their own costs.

33C—Application of Legal Profession Acts

This clause has been omitted as it is not relevant to South Australia, but the clause numbering is retained to maintain consistency with the numbering of the Model Law.

33D—Costs of abortive arbitration

Clause 33D enables the Supreme Court (or another court agreed by the parties as referred to in proposed section 6), to make orders with respect to the costs of an abortive arbitration.

33E—Interest up to making of award

Clause 33E provides for the imposition (unless otherwise agreed by the parties) by the arbitral tribunal of interest in an award for payment of money for the period before the making of the award.

33F—Interest on debt under award

Clause 33F provides for the imposition (unless otherwise agreed by the parties) by the arbitral tribunal of interest on the debt under an award.

Part 7—Recourse against award

34—Application for setting aside as exclusive recourse against arbitral award

Clause 34 outlines the circumstances in which an application to the Supreme Court (or another court agreed by the parties as referred to in proposed section 6) may be made for the setting aside of an award, or an appeal against an award, and the criteria to be applied. In particular it requires the court to find either that the subject matter of the dispute is not capable of settlement by arbitration under a law of this State, or that the award is in conflict with public policy. Section 19 of the Commonwealth Act declares that, for the purposes of the application of the Model Law by that Act, an award is in conflict with public policy if the making of the award was induced or affected by fraud or corruption or a breach of the rules of natural justice occurred in connection with the making of the award.

34A—Appeals against awards

Clause 34A enables an appeal to the Supreme Court (or another court agreed by the parties as referred to in proposed section 6) on a question of law, if the parties have agreed prior to the commencement of arbitration that such appeals may be made and the court grants leave.

Part 8—Recognition and enforcement of awards

35—Recognition and enforcement

36—Grounds for refusing recognition or enforcement

Clauses 35 and 36 establish a framework for the recognition and enforcement of arbitral awards.

Part 9—Miscellaneous

37—Death of party

Clause 37 outlines the effect that the death of a party has on an arbitration agreement.

38—Interpleader

Clause 38 makes provision for relief by way of interpleader.

39—Immunity

Clause 39 confers immunity on an arbitrator acting in good faith.

40—Act to bind Crown

Clause 40 provides that the proposed Act binds the Crown.

41—Court rules

Clause 41 enables rules of court to make further provision for giving effect to the proposed Act.

42—Regulations

Clause 42 enables the making of regulations.

Schedule 1—Related amendments and transitional provisions

Part 1—Preliminary

1—Amendment provisions

Clause 1 is formal.

Part 2—Amendment of *Commercial Arbitration and Industrial Referral Agreements Act 1986*

2—Amendment of long title

Clause 2 proposes to amend the long title of the *Commercial Arbitration and Industrial Referral Agreements Act 1986* to reflect the proposed further amendments to that Act.

3—Amendment of section 1—Short title

Clause 3 amends the short title of the *Commercial Arbitration and Industrial Referral Agreements Act 1986* so that it becomes the *Industrial Referral Agreements Act 1986*.

4—Repeal of sections 3 to 56

Clause 4 repeals sections 3 to 56 (inclusive) of the Act as these provisions are to be covered by the proposed new *Commercial Arbitration Bill 2011*.

5—Redesignation of section 57

Clause 5 proposes to redesignate the regulation making provision of the Act as section 4.

6—Amendment, redesignation and relocation of Schedule 1 clauses 1 and 2

Clause 6 redesignates clauses 1 and 2 of the schedule to the *Commercial Arbitration and Industrial Referral Agreements Act 1986* as sections 2 and 3 of the *Industrial Referral Agreements Act 1986*.

7—Repeal of Part and Schedule headings

Clause 7 is a drafting amendment.

Part 3—Savings, transitional and other provisions

8—Savings and transitional provisions

Clause 8 contains transitional provisions.

9—Other provisions

Clause 9 provides that the regulations may contain provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Debate adjourned on motion of Hon. D.W. Ridgway

At 18:05 the council adjourned until Tuesday 26 July 2011 at 14:15.