LEGISLATIVE COUNCIL

Thursday 24 November 2011

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

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:02): I move:

That the sitting of the Legislative Council be not suspended during the continuation of the conference with the House of Assembly on the bill.

Motion carried.

SITTINGS AND BUSINESS

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:02): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2:15pm.

Motion carried.

ROXBY DOWNS (INDENTURE RATIFICATION) (AMENDMENT OF INDENTURE) AMENDMENT BILL

In committee.

Clause 1.

The Hon. D.W. RIDGWAY: Something I omitted to do in my second reading speech was to put on the record that I do have some shares in BHP, although only a relatively small number, and I thought that I should put that on the record. I forgot to do it the last time we debated this bill, but I expect that everybody who has a superannuation policy would have an interest in BHP.

The Hon. G.E. GAGO: I have some answers to questions that were posed during the second reading debate. In answer to a question asked by the Hon. Dennis Hood in relation to how many South Australian workers are currently trained to a level suitable for work once the mine is underway, I have been advised that in 2009-10 there were 36,800 South Australians employed in occupations related to the mining sector, including construction and engineering related to mining, and, based on recent trends, approximately 7,000 South Australians are forecast to complete qualifications in these jobs over the next five years.

The Hon. Rob Lucas asked the following questions in relation to the former premier's indicating the state's investment: what does the government believe will need to be put in the forward estimates for the period 2014-18; what does the Treasurer believe will be required in terms of public investment for the period 2018 onwards; what is the horizon for the new schools, childcare facilities and roads, etc. He also asked: what are the time lines in terms of the Treasury outlay of hundreds of millions of dollars that is going to be provided to the taxpayer for these particular services?

I have been advised that a preliminary estimate of $200 million over a period of 10 years, approximately, for state government infrastructure has been provided by the government previously, but the final cost is expected to be less. In addition, the state is responsible for the provision of certain civic and community facilities and infrastructure, with preliminary estimated costs of somewhere between $35 million and $50 million.

I have also been advised that the impact of the expansion on the provision of the government services to Roxby Downs is described in BHP Billiton's EIS. Treasury and the Olympic Dam task force, in conjunction with agencies providing services to Roxby Downs, are now planning to review previous work done on service models and associated financial impacts. I have also been advised that the time frames will depend on the confirmation of BHP Billiton's workforce projections.

In answer to the opposition's request for access to the CRU report commissioned by the state government to look at the financial viability of the project, I have been advised that the government is happy to brief the honourable member. However, the CRU report will not be made public at this stage as it contains material that is commercial in confidence.

In answer to the honourable member's question what is the budget impact on projected increases in royalty payments, I have been advised that the increased royalty revenue from ODX will have implications also for our share of the GST revenues. The Commonwealth Grants Commission's assessments will take into account the increase in our revenue-raising capacity which will reduce our share of the GST grants.

Effectively, their net effect should be that the budget benefit is equivalent to our population share of the increased royalty revenue. The net gain to the state could be anywhere between $10 million to $50 million per annum, depending on the scale of the expansion and the mix of products as between those subject to a 3.5 per cent royalty rate and those subject to a 5 per cent royalty rate. Increased royalty revenues will not commence until after the initial five to six-year open-pit construction phase.

In response to the question what is the total cost to taxpayers for negotiating the package and the cost of consultants, etc., I have been advised that the total budget provided for the Olympic Dam Task Force 2006-07 to 2011-12 is $7.5 million. This budget has funded all expenditure on matters associated with the indenture negotiation, including costs relating to ODTF salaries, Bruce Carter consultancy, other consultancies including that conducted by CRU, external legal advice and in-house public servants. Other agencies involved in the indenture negotiation process have not been provided with additional budget funds.

The Hon. M. PARNELL: I thank the honourable minister for the answers to those questions which did, in fact, have the intended purpose of at least removing the first question from my list because the minister has answered it. She said that the sum of $7.5 million has been spent on the Olympic Dam Task Force and related tasks.

Before I ask my first question in relation to clause 1, I thought I might just briefly outline the way I envisage this fairly lengthy, I imagine, committee stage might progress. Mr Chairman, I do not in any way mean any disrespect to your good self, sir; you will conduct the proceedings as you always do—fairly and giving all members the opportunity to have their say—but just so that members understand where I am coming from, I have a range of questions on clause 1.

Clearly, the bill that is before us has only 13 or so clauses, and the first 13 pages effectively are those clauses, but the remainder of this document, which goes to some 176 pages, is the actual indenture itself. I am hopeful that the approach that we will take in going through this bill is that we will go through the indenture clause by clause and I will try to confine my questions to the appropriate clause.

I have also placed on file a number of amendments in relation to this bill. Whilst there has been some interest in the media about the number of those amendments—and certainly I did, at one stage, mention the figure of 100—members will note that there are, in fact, 28 amendments that are tabled. The vast bulk of these amendments are effectively what I propose as changes to the indenture itself. These are all blocked in together in, I think, amendment No. 27. It will be my intention to test the will of the chamber, when we get to it, on that amendment as a block, so I think that is the way to proceed.

However, what I hope to do, with your guidance, Mr Chairman, as we go through the indenture, is to foreshadow, as we get to each clause, the amendments that I will be moving and why I think they are appropriate, but they will not actually be moved at that point. For example, if the committee is discussing clause 11 of the indenture and if I have changes to that clause, I will foreshadow what they are but, certainly, it is not my expectation that we will be separating my omnibus amendment into its 114 or so component parts. I will spare the council from the need to do that.

I say that with all respect, Mr Chairman; you will conduct these proceedings, but that is how I envisage the proceedings might be most efficiently disposed of. They are just some remarks that I put at the outset. In relation to clause 1, I have a number of general questions that do not conveniently fit anywhere else within the bill or the indenture itself. My first question relates to the timing of negotiations over this indenture. As members would be aware, there has been a great deal of commentary in the media in relation to the fact that outgoing premier Rann had declared

that on the top of his list of things to achieve before he left office on 20 October was the successful negotiation of the indenture.

Certainly, there has been speculation in the media, and I will invite the government to tell us whether or not that speculation was accurate. Some of the speculation was that two outstanding issues were unresolved between the announcement of the premier's departure in July and the premier's actual departure on 20 October, those issues being the rate of royalty and the level of local processing of ore that would be required, and that they were two state requirements that were yet to be agreed on when it was announced that the premier would be retiring.

My question of the minister is: which particular issues—is it those two or is it other issues—were still the subject of significant negotiation between the time former premier Rann announced that he would be leaving back in July and when the contract was finally signed? That is the question.

The Hon. G.E. Gago interjecting:

The Hon. M. PARNELL: Sorry—the unresolved issues between July and October.

The Hon. G.E. GAGO: I have been advised that the outstanding issues included the level and timing of the royalties and also the rehabilitation bond.

The Hon. M. PARNELL: In relation to royalties, what I understand from my discussions with the Olympic Dam task force—and I appreciate the time they have provided in their briefing—was that the main issue in relation to royalties was whether or not this expansion of an existing mine was entitled to the new mine royalty holiday, if you like, the lower concessional rate that applies to new mines. Was that the only royalty issue that was in dispute?

The Hon. G.E. GAGO: I have been advised that BHP was seeking a 2 per cent royalty rate over 10 years and we said no, that the prevailing rates would apply.

The Hon. M. PARNELL: In relation to the rehabilitation requirements, was the main issue in dispute the amount of the bond, the rehabilitation bond, or were there other post-closure issues that were unresolved?

The Hon. G.E. GAGO: I have been advised that the issues were around the structure of the bond, rather than the rate.

The Hon. M. PARNELL: I would now like to ask some questions about the overall economic benefit of this project. For the benefit of honourable members, as I mentioned in my second reading speech, we did take the opportunity to send a large number of questions on notice to the Olympic Dam task force, and a large number of written answers were received back. It is not my intention for either me or for the minister to need to read all of those onto the record. Of course, the minister may well want to get some of those on the record, and that is her prerogative, but it is not my intention to read them all in.

I do want to refer to one question that I asked about the overall economic benefit. My question of the government was: how does the return to the state (which was estimated at $2.5 billion to $3.4 billion over the 30-year modelling period) compare in percentage terms with other mining projects in Australia and overseas? That question was in light of the fact that the estimated size of the resource at Olympic Dam was valued at $1 trillion.

The response that I got back from the government pointed out the overall economic benefits as they saw it; there is information about jobs, the general flow-on effect to gross state product, and there is a range of other benefits that were quantified. In relation to the component of my question that looked for comparison, a chart was provided comparing the value of this mine to the Jacinth-Ambrosia mine, the Prominent Hill mine, and the small Kanmantoo mine.

The other comment that came back in the answer to my question—because I had referred to this $1 trillion resource—was:

> The $1 trillion resource refers to an imaginary figure of the in-ground value of a mineral deposit. Such figures are now severely frowned on by the Australian Stock Exchange.

The reason I want to raise that issue is that, if we refer to the ministerial statement made by premier Mike Rann just before he left office, on Tuesday 18 October, it has the following line in it: 'The ore body is valued at more than $1 trillion.'

That, it seems, is problematic if the view of the government is that this is an imaginary figure, and the use of such imaginary figures is frowned on by the Stock Exchange. So my question of the minister is: was former premier Rann talking about an imaginary figure when he gave his ministerial statement, and why is that the Olympic Dam task force is trying to talk down the overall value of the deposit, and yet the premier, in parliament, is talking it up?

The Hon. G.E. GAGO: The figure of $1 trillion is a rough indicative figure of the value. It is important to be able to express to the general public and interested parties that this is a very large, rich deposit. However, it is also important that we are able to talk about the 350 metres of cover over the top of that extremely rich deposit, and that means there is a considerable cost to extract it. The trillion dollars is a rough indicative figure. The real figure obviously includes all the costs of mine development and processing.

The Hon. M. PARNELL: I thank the minister for her answer. However, given the Stock Exchange apparently frowns on the use of these types of figures, has the government taken note of that warning and will the government now stop using imaginary figures, such as 'a trillion-dollar resource', and confine itself to figures that are more easily justifiable by the exploration activities that have been undertaken?

The Hon. G.E. GAGO: No, not at all. I think I have explained to you the importance of the government being able to explain the different values of the resource. It is important, when we do use those figures, that we use them in a qualified way so that people are able to gain a realistic figure. It is important that this government can describe the enormous potential wealth of the resource, but in a qualified way, as I have outlined.

The Hon. M. PARNELL: The part of the answer that I did not get back when I wrote to the Olympic Dam task force last week was any comparison of the share of economic return compared to equivalent projects overseas, like the Escondida mine in Chile. Does the government have any such analysis? I think the importance of that question is that we are debating whether this is a good deal for the people of South Australia or not. It would seem to me that a fairly basic test is to benchmark the returns we will be getting from equivalent-size projects overseas. As interesting as it might be to compare this with the Kanmantoo mine, I think it is probably more appropriate to compare it overseas. Does the minister have any of these international comparisons?

The Hon. G.E. GAGO: I have been advised that, no, we do not have detailed figures that would enable us to make a meaningful comparison with these other types of projects, because they are occurring in different countries with different sets of royalty rates and tax regimes, which makes it extremely difficult to compare apples with apples.

The Hon. M. PARNELL: I accept the minister's answer that she does not have that analysis. I will just make the point that many of the variables are certainly within our control: things like royalty rates, levels of local processing and other factors.

I will move on now to talk about the overall economic return from this project. The minister has already answered a question in relation to the royalties, that the additional royalties will not start flowing, obviously, until the ore body has been reached and the ore is being extracted and sold. However, we do need to make sure that we take into account both money in and money out. When it comes to the history of the Olympic Dam mine, my understanding is that, if we look at the first 10, 12 or so years of that project, the infrastructure costs to government exceeded royalties by some $10 million.

In other words, on that basis—and I accept that it is not the only basis on which to judge the economic performance of the project—but on that basis alone, we subsidised the Olympic Dam mine up until at least the end of the 1995-96 financial year. My question of the minister is: has an assessment been done, a cash flow-type assessment, that compares public subsidy with return to the state in royalties? Bear in mind the minister said that the fiscal balancing arrangements between the states mean that we only get our population's share of any royalties.

The Hon. G.E. GAGO: I think I have provided all the information that we have in respect of this already. As I have indicated, I have been advised that there is a preliminary estimate of $200 million over a period of 10 years for the state government infrastructure; however, as I have indicated, we expect that the final cost will be less than that. The state is also responsible for a provision of civic and community infrastructure at the cost of $35 million to $50 million. The return is about $350 million over 10 years.

The Hon. M. PARNELL: I thank the minister for that answer. Just on my rough calculations, it looks like 250 out and 350 back. Presumably the returns back to the state are weighted to the end of the 10-year period, presumably when the hole has been dug and when royalties start to be paid.

I would like to move now to the issue of the nature of the bill that is before us. Clearly, it is a bill that is targeted at one company, at one operation. Such bills were more common in Tom Playford's era than they have been more recently but, as I mentioned in my second reading contribution, a number of small businesspeople have contacted me upset that the world's richest resource company is getting a special deal and wondering what you need to do to get a special deal. My question of the minister is: is there a threshold? Is there any element of government policy that dictates which projects get their own special legislation and which ones do not? Certainly, we are legislating for this project as the parliament did back in 1982. The parliament has also legislated in relation to the Whyalla steelworks. My question is: what are the criteria?

The Hon. G.E. GAGO: I have been advised that it is basically assessed on a case-by-case basis, but generally the underlying principle is those very large projects that require a degree of certainty for investment purposes.

The Hon. M. PARNELL: I thank the minister for her answer. Before I move on to the next topic, which is the topic of domestic processing, I have reminded myself that my quick mathematics before completely missed the commonwealth diesel subsidy which presumably would be even higher in the first 10 years. My expectation is that for a decade at least we will be paying out, rather than having funds paid in. I will leave that there for now and I will come back to some of those subsidies later.

In terms of domestic processing, the question that I sent to the task force was: what evidence or modelling was used to justify the South Australian government forgoing the economic and employment advantages to South Australia of on-site copper processing? The government's response reminded us that the off-site production of refined copper product from concentrate was part of the description of the expanded project and, therefore, all the economic assessment has been undertaken on that basis. Of course, on-site processing of copper was also part of the process.

The response from the government indicated that of the 2.4 million tonnes of copper concentrate that would be produced at Olympic Dam, one-third would be smelted and refined on site to produce 47 per cent of the total contained copper output and 90 per cent of the uranium oxide concentration will be produced on site. So, clearly, the environmental impact statement had both on-site and off-site processing.

The company has made certain assurances, I do not know whether you would call them promises, but it has made certain statements about its intention to process minerals onshore. The question that I have is: can the minister point me to anything in the bill, anything in the indenture, that actually requires BHP Billiton to undertake the level of on-site processing that it has said it is going to do? Is there any obligation on it? If not, what assurance does the government have that the level of on-site processing suggested by the company will in fact occur?

The Hon. G.E. GAGO: I have been advised that BHP Billiton must substantially comply with the EIS, which has approved the doubling of processing.

The Hon. M. PARNELL: I thank the minister. I am not entirely satisfied with that answer because the EIS, if we go right back to the very start and look at the guidelines for the production of the EIS, one of the things that they were obliged to do was to document a range of alternatives that were considered in coming up with their preferred project.

I think the words in the guidelines are 'alternatives are to be discussed in sufficient detail to enable an understanding of the reasons for preferring certain options and rejecting others'. The minister's answer basically says, 'Well, they've said they're going to do it and therefore they have to do it.' Perhaps we are going back a step, but where have they identified where that amount was chosen, why the amount of local processing was not zero per cent and why was it not 100 per cent?

The Hon. G.E. GAGO: I have been advised that the commercial considerations of the company to mine in an optimal way is in effect the responsibility of the company itself. It is not appropriate that the government dictate how much processing it would do, as that is a matter for

commercial consideration of the company itself. The project has had several starts that have failed in the past and this one has been deemed to be economically feasible.

The Hon. M. PARNELL: Again I thank the minister for her answer, but it does not really satisfy me because she has in fact said two things that are inconsistent. In answer to my first question she said, 'Well, they've promised to do all this extra processing.' The information I got back from the task force implied that there would be an increase in 200,000 tonnes per annum processed on site. She said the reason we know they will do it is because they said it in their EIS (these are not her words, these are mine), and a condition of approval is that you have to comply with your EIS. Then she said, 'Well, however much processing they do it will be up to them on economic grounds.'

I invite the minister to revisit my question: can she point me to any section that guarantees that that level of additional local processing will occur? I will throw in a supplementary while I am at it: if BHP Billiton, for example, because of the economic considerations, which as the minister has said are entirely their own business, decide not to process either any or as much ore as they have promised, what can the government or anyone else do about that?

The Hon. G.E. GAGO: I am advised that they are required to come back to the government to seek a variation.

The Hon. M. PARNELL: I want to explore that a bit further because this is fundamentally important. Is the minister's answer that this indenture effectively obliges the company to produce on site the amount of copper, smelted as metal, that they have said they are going to do and, if they do not, they will have to come back for a variation? To tie this right down, when does that need for a variation occur? Is it the very first year where they do not produce the additional amount it promised? Do they get 10 or 20 years? Over what time frame, and what is the formal trigger for a variation of the indenture on the basis of insufficient copper metal being produced?

The Hon. G.E. GAGO: I have been advised that we are not talking about the indenture here; we are talking about the EIS. As I have indicated, any substantial change to the EIS triggers the need for the company to come back to the government to seek a variation. In terms of the parameters around the timing of that, I do not have that detailed information here, but we can see whether we can find that level of detail and bring back that for the honourable member.

The Hon. M. PARNELL: I will take the minister up on her offer. I will just make an observation. The minister says that it is in the EIS, and presumably she means in the development approval rather than in the indenture itself. Well, it is in the Recitals to the indenture. It says:

> Decisions relating to progressing the establishment of an open pit mine and the particular configuration of the mine and supporting infrastructure—

and the smelting is obviously supporting infrastructure—

> will depend on factors including commercial considerations and other assessments undertaken by the Company.

I note that the current Premier, in *The Advertiser* just last week, claimed 'the mine will see a doubling of processing on the Olympic Dam site'.

I think the amount of processing is fundamental to this indenture. My invitation to the minister is that, perhaps later on in the debate, she can come back and point me to the trigger that says that this deal has to be renegotiated if a certain quantity of local processing is not achieved, because I certainly have not been able to find that section. I ask her again to take on notice which clause of the indenture allows the government to walk away from the contract if the company's commitments to local processing are not achieved. I would like to know exactly which clause of the indenture allows the government to do that because I certainly have not been able to find it.

Can the minister also take on notice the question: what if the government of the day decides that it is happy for 100 per cent of ore to be sent to China? If the government of the day is happy with zero processing, what are the implications of that type of government decision? Is there anything this parliament can do—is there anything anyone can do—to actually go back and renegotiate a deal that provides for local processing, which, of course, is a euphemism for local jobs because that is where the bulk of the jobs are?

The Premier, last week in *The Advertiser*, in relation to my questions about why there was not a greater commitment to local processing, said:

> Logistically it would be extremely difficult to process all the concentrate at one location and it would require a massive capital cost to do so.

My first question to the minister is: what is that massive capital cost? Is it documented anywhere as to how much it would have cost to do all the processing locally? Secondly, why would the Premier have described it as a massive capital cost rather than a massive capital investment in job creation? If the government does not have figures in relation to what it would have cost to process locally, how can it say that the cost was massive?

The Hon. G.E. GAGO: I have been advised that the cost of a new smelter is approximately $3 billion.

The Hon. M. PARNELL: Is the minister saying that that $3 billion is the cost of a new smelter that would be required to process 100 per cent of the ore from the Olympic Dam task force? What does that $3 billion actually relate to? They have already said they are going to upgrade the existing smelter and its capacity: what is the $3 billion?

The Hon. G.E. GAGO: What is your question exactly about?

The Hon. M. PARNELL: What I am trying to work out is that the company is effectively saying—and the government has accepted this—that it will be massively expensive to process more ore here in South Australia. The minister has come back saying that the cost of a new smelter will be $3 billion. What I want to know is: a new smelter to do what—a new smelter to process all the ore, half the ore, a third of the ore? What do you get for $3 billion in smelting?

The Hon. G.E. GAGO: The advice is that we believe that it would cover processing of all the ore based on the current expansion.

The Hon. M. PARNELL: If that is the capital cost of building a smelter, what analysis has been done to show how that would compare with the higher value of copper metal? Clearly, it is a more valuable product than copper ore. Does that analysis exist anywhere? It was not in the EIS or the supplementary EIS; it was not referred to in the assessment report. Is there any analysis that the government has done or is that $3 billion figure simply something that BHP Billiton has provided you with?

The Hon. G.E. GAGO: I have been advised that this is based on the figures given to us by BHP Billiton.

The Hon. M. PARNELL: What essentially has changed in the government's thinking about this project since 2007 when former premier Rann said that BHP Billiton's China option was not South Australia's option and that the government would resist any attempt by BHP Billiton to export the bulk of the ore overseas? What has changed in those four years?

The Hon. G.E. GAGO: What has changed is the project configuration, which now makes this a viable project, whereas previously the project configurations were not.

The Hon. M. PARNELL: Did the government do any analysis of its own to substantiate the claim by BHP Billiton that local processing was not viable? In other words, did the government rely entirely on the analysis done by BHP Billiton or was any independent analysis done?

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

The Hon. M. PARNELL: I thank the minister for her answer, because it is pretty much as I expected: the company has said that it does not want to process locally. The government has not asked it to justify it; it has simply accepted that most of this ore will be going to China, along with most of the jobs. Was consideration given to approving an expansion of the Olympic Dam mine as a copper, silver and gold mine only, without the uranium processing?

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

The Hon. M. PARNELL: The reason I have asked that question is that the assessment report states that it is considered that it would not be possible to mine the copper alone, as uranium is intrinsically associated with the copper mineralisation and will be processed along with the copper. I would like to know if that statement in the assessment report, that it is not possible to mine the copper alone, is the assessment of the company, or the assessment of government? I would also add that I know full well that all these minerals are mixed in together; it is not as if you get a layer of copper, a layer of gold and a layer of uranium. The words in the assessment report that 'it would not be possible': is that the government's assessment or the company's?

The Hon. G.E. GAGO: I have been advised that it is a matter of physical reality, that is, that these substances are mixed together under the ground. It is simply a matter of physical reality.

The CHAIR: I think Mr Parnell has moved on from clause 1.

The Hon. M. PARNELL: Oh no, I am still on clause 1; we're getting there. Thank you, Mr Chairman. Just in response to the minister's answers, I think the minister and other members would be aware that the work that was commissioned by the Greens in relation to the mining engineering showed that it was certainly possible to let all of the uranium stream through to the tailings and that that would actually result in significant other environmental benefits in relation to energy and water, as well, of course, as having the effect of extracting South Australia from a nuclear cycle.

I did mention in my second reading contribution that I believed, on the basis of evidence provided to the commonwealth parliamentary joint standing committee on treaties, that South Australian uranium from Olympic Dam was in all the reactors at Fukushima and having been in all the reactors is now being spread over the Japanese countryside and in their marine environment. My question of the minister is: does she have any additional information? Can she confirm that it is uranium from Olympic Dam that was involved in the nuclear disaster at Fukushima and does she have any other information about the quantity, for example, of South Australian uranium that was involved in the world's worst nuclear disaster?

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

The Hon. M. PARNELL: Does that no mean that the government knows nothing or nothing more?

The Hon. R.I. Lucas: No means no.

The Hon. M. PARNELL: Thank you. I want to now just ask about the issue of where this product will end up. I do not mean spread over the Japanese countryside. I want to ask particularly about China. I know in asking this question that the government will say that where Australian uranium ends up is nothing to do with the state government, but certainly in terms of the overall economic viability of the project, clearly the company has identified China, and the government has told us that it has been analysing this process and project itself. My question of the minister is: does she accept that sending South Australian uranium over to China in a copper concentrate form is a novel process and, in fact, not currently sanctioned by any of Australia's bilateral uranium sales agreements?

The Hon. G.E. GAGO: I have been advised that those discussions are still occurring and they have not been finalised at this point.

The Hon. M. PARNELL: The indenture agreement places certain obligations on South Australia to bat for the company, if you like—to negotiate on their behalf—in relation to a range of matters that would help progress this project. Is the government making representations? Are they batting for BHP Billiton in order to change the commonwealth's treaty arrangements so that the export of South Australian uranium infused in copper to China is possible?

The Hon. G.E. GAGO: I have been advised that, to the best of our knowledge, there has only been a meeting between then minister Foley and minister Ferguson to discuss issues around the export of copper concentrate to China, but that is all that we are aware of at this point in time.

The Hon. M. PARNELL: I thank the minister for her answer; so, she is aware of discussions between a South Australian minister and a federal minister that relate to export in a way that is not currently envisaged in Australia's treaty arrangements. My follow-on question from that is that, since there is clearly an element of risk involved, what if Australia's treaty arrangements are not altered to enable this form of uranium export to occur? What does that mean for the project, and what does it mean for the indenture?

Would the failure of a new treaty trigger, for example, mean the ending of the indenture and the obligations of the party under it? Clearly, one of the most—probably the most—important aspects of the whole project is who you can sell your product to, and if that is not yet resolved what backup plan does the government have if such a treaty is not negotiated?

The Hon. G.E. GAGO: I have been advised that, if it failed to meet the treaty obligations, Australia and South Australia simply could not export its copper concentrate to China. The indenture is not reliant on the settlement of markets, so that would have no impact on the indenture, and it would simply mean that other markets would need to be explored.

The Hon. M. PARNELL: I accept what the minister is saying, that the indenture itself (the legislation) does not oblige or require the product to go to any particular market. I am making the

point that if the business case for this project depends entirely for its success on something that is yet to be resolved—and currently it would be illegal to do what the company is proposing to do, illegal to export uranium-infused copper overseas—the minister's answers to me seem to be, 'That's not your problem,' and that, if that market falls over and the entire viability of the project falls over, it has nothing to do with South Australia.

It seems to me that if, in the meantime, we have invested vast sums in public infrastructure (the $250 million, I think, that the minister referred to before), is that not a risk that South Australia somehow needs to manage?

The Hon. G.E. GAGO: It is a risk, I have been advised, that the company needs to manage. As I have said, it is separate to the indenture. Other market options would need to be explored.

The Hon. M. PARNELL: I certainly understand that it is the company's risk, but it is going to be our $250 million that could be wasted if this project does not come to pass. I will move on.

The issue of uranium sales to India has certainly been in the media lately. Members would be aware that it featured prominently in the WikiLeaks document disclosure from some little while ago. It included various communications from the United States Consul General back to head office, if you like. One of those emails that was leaked said, 'India represents a potentially massive market for the mine'—meaning the Olympic Dam mine—'but the Rudd government will not sell uranium to India until it signs off on the non-proliferation treaty.' The minister disclosed before that minister Foley has had discussions with his counterpart at the federal level on—

The Hon. D.W. Ridgway: Former minister Foley.

The Hon. M. PARNELL: —former minister Foley, I am reminded by the Hon. David Ridgway—discussions in relation to China. Were such discussions undertaken in relation to India?

The Hon. G.E. GAGO: I will answer that question. To the best of our knowledge, no. However, I have to say that these matters are really moving right outside the indenture bill that is before us. I think we have shown a great deal of leeway and tolerance in trying to show good faith and a willingness to answer as best we can, but we are moving outside those matters that are in the indenture bill before us. We have not moved off clause 1 and we have been at this for well over an hour. Honourable members had plenty of opportunity during second reading debates and briefing sessions to pursue questioning there. I believe that it is time now that we move on and address only those matters in the indenture bill before us.

The Hon. M. PARNELL: I note the minister's answer and her forbearance. I do remind all members that the House of Assembly I think took 12½—it might have even been 13—hours going through this, and we have been one hour into it. They were my questions in relation to the impact of overseas relations, which I acknowledged up-front are not part of this government's responsibility. The bit that is part of our responsibility is if we are going to sign off and invest public money in a project that is uncertain because the markets are as yet uncertain and in two cases currently illegal. I think that does go to the heart of this entire indenture.

My next question relates to the fact that this multimetal mine is clearly focusing on copper first and foremost. We know there is gold, silver and uranium. We also know that there is iron ore and rare earths. My question of the minister is what is the government's estimate of the size of the rare earths and the iron ore deposit, and is there anything in the indenture that either allows or prohibits those other minerals to be exploited?

The Hon. G.E. GAGO: I have been advised that at this point in time we do not have an estimate of the size of rare earth or iron ore deposits. However, on advice received from BHP Billiton, their view is that it is not economically feasible at this point in time to mine those elements.

The Hon. M. PARNELL: I thank the minister for that answer. It is consistent, certainly, with what the task force told us, which was that the technology to extract the additional minerals economically at Olympic Dam is not available at the current time.

The second part of my question was: if such technologies do become available, bearing in mind that we are talking about a very long-term project, is there any impediment or additional requirements that BHP would have to go through? Is there anything that stops them exploiting those minerals if they work out a way to do it cheaply enough?

The Hon. G.E. GAGO: The simple answer to the question is no. Obviously, given the information I gave about seeking a variation in respect of the EIS, that would need to occur but there is no actual impediment to prevent that from occurring.

The Hon. M. PARNELL: Moving on, at the Australian Uranium Conference in Fremantle in July this year, mining minister Tom Koutsantonis said the following, 'I received a briefing recently that indicated that Olympic Dam will be so large after the expansion that it will change weather patterns over the area.' Can the minister answer the question: how will the expansion change the weather?

The Hon. G.E. GAGO: Obviously I cannot speak for what was in the mind of minister Koutsantonis when he made those comments. The Hon. Mark Parnell would need to ask the minister.

The Hon. M. PARNELL: In fact, it is one of the difficulties we have, and I acknowledge that the minister is not the lead minister in relation to this bill. Rather than my seeking out the mining minister, if the minister was able to find out some information about proposed change to South Australian weather, I am sure there is a range of farmers and others who would appreciate that inside knowledge.

One question I asked the task force in relation to the progress of setting conditions for this mine was in relation to what conditions in the assessment report and the development approval were more stringent than the conditions that BHP Billiton had already committed to in their EIS and their supplementary EIS. The response I got back from the government was that there were a range of conditions, that two thirds of them were considered to be new conditions that were imposed by various agencies, the other third were basically commitments that were made by BHP Billiton already. The shorthand, I guess, is that one-third were things that the company promised to do and two-thirds were imposed.

Is the minister able to clarify in any more detail the types of conditions that were stricter than the company had intended to comply with? Which ones were simply a restating of the company's existing commitments?

The Hon. G.E. GAGO: Again, this is a question that pertains to the EIS, not to the indenture. However, some examples of conditions that were made stricter include additional ecotoxicity testing around the desal plant and also additional hydrodynamic modelling.

The Hon. M. PARNELL: I thank the minister for her answer. I am getting very close to the end of my questions on clause 1. I am interested in an idea that has been recently flagged in the media, for example, the *InDaily* online newspaper from Thursday 17 November talked about how this project could be used to leverage a whole lot of other benefits for South Australia. My question of the minister is: what other benefits to South Australia were discussed and committed to by BHP Billiton as a result of this indenture? I do not need the minister to explain flow-on effects and indirect jobs and things like that, I am talking specifically about corporate sponsorships, sporting, cultural, academia, chairs at universities, art galleries, you name it. Have any of those aspects of our social infrastructure been tied to this project? Did the government ask for anything and did BHP Billiton promise anything?

The Hon. G.E. GAGO: I have been advised that BHP Billiton already has a very good track record of being a good corporate citizen. It already participates in a wide range of civic and social initiatives and, as I said, has a longstanding track record of being a good corporate citizen and we would expect that it would continue those sorts of contributions. The leveraging benefits for South Australia are enormous, particularly with job opportunities and development for various industries and such like. They have been placed on the record before, so I am not going to go through them again but they are extensive.

The Hon. M. PARNELL: Just to clarify the minister's answer, there have been no new initiatives in sporting, cultural or academic areas. The government's expectation is that BHP Billiton will continue to support those areas. Does the government have any indication of whether it would continue to support them at a level commensurate with the increased size of its mine, or does the government have no information at all about the company's intentions?

The Hon. G.E. GAGO: The government is confident that BHP Billiton will continue to be a good corporate citizen.

The Hon. R.I. LUCAS: The minister responded to some questions that I put in my second reading contribution and I want to address a couple of those. In relation to the forward estimate

cost that Treasury has put into the forward estimates for infrastructure, the minister responded that there had been provision made for $200 million over 10 years. Can the minister clarify what 10-year period we are talking about? Are we talking about from this year onwards, or from 2014? What is the start date of the 10-year period the minister is referring to?

The Hon. G.E. GAGO: I have been advised from 2011.

The Hon. R.I. LUCAS: The specific answer to the specific question I put—I am particularly interested in the period from 2011 through to 2014 and the forward estimate period from 2014 to 2018. We are essentially talking about seven of those 10 years. Will the minister indicate what provisioning the government has made already of that $200 million in the seven-year period: first, for the period between now and the end of the current forward estimates period, which is 2014-15?

What provisioning of the $200 million has been allocated by the government? Treasury clearly, given that it is in the current forward estimates, would have provisioned probably somewhere in the Treasurer's contingency, I accept, a lump of money. How much of the $200 million has been allocated in that period and what is the government's view as to the level of the $200 million, which would not currently be in the forward estimates but would be some idea Treasury would have as to the level of expenditure required by whoever is elected as the next government between 2014-18?

As I indicated in the second reading, these are reasonable questions. There will be an election in 2014. This government may be re-elected, it might not be, and whoever is in the position of governing from 2014 to 2018 will inherit whatever provisions the government has made in the forward estimates. These are reasonable questions and clearly Treasury should, at the very least, have responses in relation to those two specific questions.

The Hon. G.E. GAGO: I have been advised that those details are still being worked through with Treasury and are yet to be mapped out.

The Hon. R.I. LUCAS: I am not sure how long this debate will go on—potentially it may last beyond today and into Tuesday of next week.

The Hon. M. Parnell: We're back next week.

The Hon. R.I. LUCAS: I know we're back next week. So, I will leave the question with the minister before this bill is concluded. Clearly Treasury has an estimate of $200 million over the next 10 years. Treasury has to have allocated something over the current forward estimates period. Where that is parked, whether it is a Treasurer's contingency or in the various government departments and agencies, is essentially up to the government and I am not particularly fussed about that. But what is the current provisioning? I do not accept that these issues are still being worked out.

Treasury has obviously come up with the $200 million figure, together with Mines and Energy. I accept the fact that that number—I think the minister said—may well become a lower figure and that might have been the previous estimate, but whatever was the previous estimate someone within Treasury, Mines and Energy, Health, Education and Transport has sat down and put together an indicative figure over the 10-year period from 2011 to 2021, and for the forward estimate purposes Treasury will have made some provision for the current four-year period.

I do not believe it is acceptable to this committee to be fobbed off with the 'this is still being worked on' line, because I do not believe that that is an accurate reflection of the current situation. Certainly the further one gets out into the never never, beyond the current forward estimates period, one could grudgingly accept that sort of explanation, but it certainly should not be the situation—and I am sure it is not the situation—in relation to the current forward estimates period.

I accept that the minister probably does not have a Treasury officer here at the moment, but given that the debate will continue for certainly the rest of today and possibly into early next week, will she take on notice and seek further advice from the Treasurer as to what the current provisions are, in aggregate, within the forward estimate period?

The Hon. G.E. GAGO: I am happy to do that.

The Hon. R.I. LUCAS: Can the minister also indicate, from 2011-14 and 2014-18, what sort of infrastructure projects are we talking about? I am assuming, for example, that we are not talking about the need to build a new hospital or health facility within that time frame. Is that the minister's advice?

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

The Hon. R.I. LUCAS: Can I also ask the question in relation to school facilities: is the minister's advice that, within that period, from 2011 through to 2018, there is no requirement to build any new government school facilities in the area?

The Hon. G.E. GAGO: I do not have the answer to that question, but we can take that on notice and bring back a response if it is available.

The Hon. R.I. LUCAS: If the minister is prepared to take that on notice, I would appreciate it. The minister also said, in response to my question, that there was some figure of $35 million to $50 million, in addition to this $200 million, for civic and community facilities, I think was the phrase—and this is taxpayer-funded infrastructure. Can I ask, in broad terms, what the minister is talking about there? Are we talking about libraries, for example, or are they included within the $200 million figure? If we are not talking about libraries, what sort of civic and community facilities, in the broad, is the minister referring to?

The Hon. G.E. GAGO: I have been advised that it will involve general community facilities and amenities, things such as sporting facilities, swimming pool, libraries and such like.

The Hon. R.I. LUCAS: So, it does include libraries, together with sporting and recreational facilities. In relation to that $35 million to $50 million, over what time frame are we talking there? Is that also within the time frame of 10 years, between 2011 and 2021?

The Hon. G.E. GAGO: I have been advised that it would be over a period of 10 years.

The Hon. R.I. LUCAS: Can I ask also, then, whether the minister will take that on notice as well; that is, what component of that $35 million to $50 million which is over that period from 2011 to 2020 would be included within the forward estimates period, which is the same question as to what component of the $200 million, and what component would be included in the period between 2014 and 2018?

The Hon. G.E. GAGO: I am happy to take that on notice.

The Hon. R.I. LUCAS: The minister was exploring with the Hon. Mr Parnell money in, money out. I had asked questions about royalties and, essentially, as I understand the minister's reply—and I think this is consistent with the advice we have—within the immediate time frame we are talking about of the period up to 2018, we are not really going to have worry about royalty inflows. Sometime after that, the government is estimating that the net gain from royalties will be somewhere between $10 million and $50 million a year, depending on how much ore is mined, etc. One understands all of that.

However, at the end of the discussion with the Hon. Mr Parnell, who was doing his calculations about how much money had been spent and what money was coming in, the minister said, and I wrote it down at the time, '$350 million over 10 years'; this was in terms of revenue coming in, or royalties. Can the minister explain what her advice is in relation to $350 million over 10 years? I have certainly heard of the number that at its peak it might be worth in gross $350 million per year, but I must admit that I am not aware of this $350 million over 10-year figure the minister has referred to.

The Hon. G.E. GAGO: I have been advised that the estimated amount will vary between $10 million to $50 million per annum, which, as a rough estimate, over a period of 10 years could be around $350 million.

The Hon. R.I. LUCAS: I will clarify that: the minister says that at some stage after the mine is up and going the net gain is $10 million to $50 million a year—that is, the net gain being the gross amount of royalties we receive netted off against the GST revenues that we lose—and the minister has said, 'Well, in net terms we might be $10 million to $50 million a year better off.' So is the minister saying, from whatever that period is—and I would ask the minister when that period is, but I am assuming we are talking certainly after 2018, so potentially 2020 to 2030—that $350 million over 10 years is the estimate for, say, the period between 2020 and 2030, as to what the net gain to the state budget will be having netted off any GST losses against whatever royalties we might receive?

The Hon. G.E. GAGO: I have been advised that, yes, that is correct.

The Hon. R.I. LUCAS: And it is just happenstance that that number of $350 million is also the same as the potential gross royalty figure at its peak? Is it correct that that $350 million is being used or am I incorrect in relation to that figure?

The Hon. G.E. GAGO: I have been advised that that is the total royalty take.

The Hon. R.I. LUCAS: Per year?

The Hon. G.E. GAGO: Yes, per year.

The Hon. R.I. LUCAS: So it is just happenstance that there are two $350 million figures and that at its peak—which will be, obviously, sometime way down the track—we will, in gross terms, collect possibly up to $350 million in royalties per year but then we will lose a significant amount though GST and we have the net benefit of $10 million to $50 million. Thank you.

The last two areas, just to clarify from my second reading: the minister indicated that the total budget for the task force was $7.5 million. I want to clarify two things in relation to that. First, what were the names of the external legal firms employed by the government to provide legal advice to it on the indenture and, I assume, related issues?

The Hon. G.E. GAGO: I have been advised that the lawyer was a man by the name of Mr Glenn Davis. We do not have the name of his firm here at the moment but we can find out what it is.

The Hon. R.I. LUCAS: If the minister can take that on notice. I am assuming that, in terms of the payments to public servants, they are calculated as part of the $7.5 million and they would specifically be those public servants on the task force itself. I am assuming that, as part of the normal workload within PIRSA, the environment department and various others, there are clearly a range of other public servants who would not have been formally on the task force but, nevertheless, would have been undertaking work in relation to advising on the indenture and related issues and that the Public Service salaries that have been included are only those small number of people actually on the task force itself.

The Hon. G.E. GAGO: I have been advised that, yes, that is correct.

The Hon. R.I. LUCAS: Finally, in relation to the CRU report, I am happy to make arrangements with the task force or whoever it is to receive a briefing on that report. I must admit that I am disappointed that the government will not provide at least something on the CRU report. My understanding is that some members of the opposition were provided with an executive summary of that report, and I would have thought, at the very least, those members in the parliament who have a close interest in this particular issue should have been afforded the same privilege. I am disappointed to hear that the government is refusing to provide that option.

My questions in relation to the CRU report are: will the minister indicate the purpose of the government in commissioning the CRU report, and, secondly, the nature of the advice that the CRU report provided to the government in terms of assisting it in making whatever decisions it has ultimately made?

The Hon. G.E. GAGO: I have been advised that the reason the CRU report was commissioned was to assist us to create an independent model for the Olympic Dam, so that we could actually test the assumptions that BHP provided, and also to provide us with advice on royalties internationally, in terms of how they applied internationally, and future metal markets. The advice that we received from the CRU report went to those matters.

The Hon. R.I. LUCAS: Did the CRU report advise the government that this project was a marginal project and that it would be problematic as to whether or not BHP would decide to go ahead with the project?

The Hon. G.E. GAGO: I have been advised that the advice showed there was a very small net present value relative to their EIS configuration.

The Hon. R.I. LUCAS: Is the minister indicating that the CRU report did not come to the conclusion that this particular project was a no-brainer in financial terms for BHP Billiton, in terms of it being hugely profitable for the company, and that there be no doubt about it going ahead?

The Hon. G.E. GAGO: The advice we received was that on a conventional analysis this project would be difficult for the board to approve.

The Hon. R.I. LUCAS: Was the CRU consultancy asked to advise on their knowledge of the sequencing of projects for the BHP Billiton board? We have heard and read through the financial media that one of the issues for the South Australian government, parliament and BHP Billiton is that they have a significant number of worldwide projects and if we miss the window of opportunity for this project, the BHP Billiton board can gobble up any number of other worldwide projects to fill its spot. Was the CRU consultancy asked to provide advice on the validity or not of those particular claims being made by BHP Billiton?

The Hon. G.E. GAGO: I have been advised that the answer to the question is no. The CRU was not asked explicitly to advise us on that particular matter. However, it is well established on public record that BHP Billiton does have a number of significant operations and interests in other parts of this country and internationally. So, it is an assumption that any prudent person could make, that clearly there is a window of opportunity and one that we should be attempting to maximise for South Australia.

The Hon. R.I. LUCAS: So, Mr Chairman, is it also fair to say that CRU did not provide advice to the government in relation to the timing of the BHP Billiton board's decision, and the validity of the window of opportunity for the decision to be taken?

The Hon. G.E. GAGO: I have been advised that is correct.

The Hon. R.I. LUCAS: In relation to the CRU report, the minister indicated that it was providing modelling to second-guess, or check, the modelling of the project that I assume BHP Billiton was providing to the government. Did the modelling from CRU validate and agree with the modelling that BHP Billiton had provided to the government, or did it disagree significantly with the modelling?

The Hon. G.E. GAGO: I have been advised that it was broadly consistent.

The Hon. R.I. LUCAS: In relation to the advice that was sought from CRU on royalties, did CRU advise that the royalty regime that was being proposed by the state government was broadly reasonable in relation to the royalty regimes that apply to projects world-wide?

The Hon. G.E. GAGO: I have been advised the answer is yes.

The Hon. R.I. LUCAS: Mr Chairman, there has been some public debate—and I think the Hon. Mr Parnell and other members have referred to some articles in the financial media which were critical of the royalty regime that we, the state parliament, are contemplating. I think there has been acknowledgment that the current indenture has—I am not sure what the correct description is and, having tried to read and understand the provisions in the indenture as it applies—in essence, what I would summarise as a super profits tax, or a super royalty tax. If I was wanting to delay the proceedings of the parliament, I would ask the minister and her advisers, during the committee stages, to actually go through the detail of how that particular provision was meant to operate, but I am not wanting to delay the proceedings—

The Hon. G.E. Gago interjecting:

The Hon. R.I. LUCAS: I am not wanting to delay the proceedings of the parliament, but it looks to be an extraordinarily complicated provision. But I have a series of questions. The first is: was the CRU consultancy asked to provide advice to the government on the appropriateness of maintaining the existing super profits—if I can call it that—regime, or some equivalent super profit regime in the new environment, and, clearly, we have federal issues now, with federal mining taxes as well. Was CRU asked to provide advice to the government on the issues of super profits royalty regimes?

The Hon. G.E. GAGO: I have been advised that profit-based royalties was one of the issues that was discussed.

The Hon. R.I. LUCAS: Given that was the case, what advice did CRU give to the government? Did CRU advise the government to seek to implement a profit-based or super profit royalty regime, or did it advise the government not to proceed down that path?

The Hon. G.E. GAGO: I am advised that CRU did not provide a conclusion; it left that up to the government.

The Hon. R.I. LUCAS: How much did we pay CRU? Was it $400,000?

The Hon. G.E. GAGO: It was about $400,000.

The Hon. R.I. LUCAS: If taxpayers are paying CRU $400,000 and one of their tasks was to actually provide advice on royalty regimes and what is fair and reasonable—and I am comforted to hear that, in terms of our base royalty regime, it is not out of kilter with the Australian experience and the international experience, which is good—why on earth would the government not ask for advice from its consultants on the issue of what is already an existing indenture here in South Australia, which has clearly been raised in the financial media and the resources industry? It is the subject of national debate at the moment. Why would the government not actually seek advice and recommendations from a consultant it is paying $400,000 for on what is an important issue in relation to the indenture arrangements?

The Hon. G.E. GAGO: I have been advised that we did in fact seek advice from CRU in relation to these matters and that options were given. They chose not to single out a particular recommendation but, rather, gave us a number of options.

The Hon. R.I. LUCAS: When I get my briefing I will be delighted to hopefully get some information on what those options were. If a range of options were given, which clearly would include some version of a profits tax or a super profits tax, why did the government then choose not to go ahead with that advice in terms of possible options from its consultant? Did it take advice from any other consultant, or was it ultimately a decision of government to decide not to go ahead with a super profit or super royalty regime?

The Hon. G.E. GAGO: I have been advised that it was a decision of government that involved discussions and considerations by Treasury, PIRSA and the task force, and this was the outcome that was believed to be in our best interest.

The Hon. R.I. LUCAS: Did the CRU report provide any advice on the current super profit arrangement in relation to the existing indenture?

The Hon. G.E. GAGO: I have been advised no, because the current clause expired in 2005.

The Hon. R.I. LUCAS: Is it correct that it was the government's view, or the view of its advisers, that the provision that was in the existing indenture was, in essence unattainable, unachievable, unworkable? Pick whichever one of those words best describes it. Is that essentially as complicated as that provision is? To read it these days, someone obviously had fun at the time drafting it. With the benefit of hindsight, was it the government's collective view that that particular provision in the existing indenture was, as I said, unworkable or unattainable?

The Hon. G.E. GAGO: I have been advised that that is correct.

The Hon. R.I. LUCAS: In relation to the modelling that CRU undertook, did they undertake modelling in relation to the job benefits? A number of members have raised questions about the direct jobs when the mine is up and operational and the indirect or flow-on jobs. Was the CRU consultancy asked to second-guess and provide estimates of the flow-on benefits of jobs, direct and indirect, that were being claimed for the project by the proponents?

The Hon. G.E. GAGO: I have been advised that, no, we did not ask CRU for that information in particular, but the model derived actually does contain that information.

The Hon. R.I. LUCAS: If CRU consultants, who we are told were commissioned to do the modelling on the project, did not actually model the job benefits, I am frankly surprised that the government would spend $400,000 of our taxpayers' money and not model the job benefits. Can the minister indicate if we did not receive advice from CRU in relation to that (perhaps that is not their area of expertise), what advice did the government receive and from whom to do the government's best estimates of what the direct and indirect job benefits will be from the mine once it is up and operational?

The Hon. G.E. GAGO: I have been advised that we relied mainly on advice from BHP Billiton.

The Hon. R.I. LUCAS: One can understand in relation to the direct jobs that that is obviously an issue of the direct knowledge of the proponents of the mine. That is, if they say they are going to employ 4,000 persons during a particular operation of the mine, they are the ones in the best position to do that. But the flow-on benefits or indirect benefit jobs that are created is an issue of considerable controversy in economic circles in terms of what the appropriate multipliers might be in terms of indirect job benefits.

The government, as I indicated in my contribution, with the 2006 election and the 2010 election, was talking about 23,000 jobs. The number we seem to be looking at now appears to be 4,000 direct and 15,000 indirect, which is obviously 19,000, which is less than the 23,000. If the minister is saying the number of 15,000 is BHP's number, why didn't the government actually commission its own advice in relation to whether or not it accepts the particular multiplier that BHP has used is appropriate and gives an accurate reflection of the number of indirect jobs that will flow from the project?

The Hon. G.E. GAGO: I have been advised that government reps went to Melbourne to validate some of the assumptions in the Monash model which led to those estimations around the indirect job benefits.

The Hon. R.I. LUCAS: So could I clarify that the government commissioned Monash to run its model and to second-guess the estimates that BHP Billiton had given?

The Hon. G.E. GAGO: I have been advised that it was BHP Billiton that funded the applying of the model. However, government reps were there to ensure and assess that the inputs and assumptions that went into the model were in fact correct and legitimate.

The Hon. R.I. LUCAS: As I understand that, BHP have commissioned Monash and the government had representatives there to assess that they were reasonable assumptions that were being fed into the sausage machine. Can the government indicate which department sent reps? Were they from Treasury or PIRSA? Which department sent representatives for that particular exercise?

The Hon. G.E. GAGO: I have been advised both Treasury and PIRSA.

Clause passed.

Clause 2.

The Hon. M. PARNELL: I have a brief question on clause 2, but before I ask that, having heard that the Hon. Rob Lucas has been offered a briefing on the CRU consultant's report, could I ask the minister whether the Greens could have a briefing as well?

The Hon. G.E. Gago: Yes.

The Hon. M. PARNELL: The minister has acknowledged that we can. Thank you for that.

The Hon. R.I. Lucas: Can we do it separately?

The Hon. M. PARNELL: For the record, I am happy to have a separate briefing or a joint briefing with the Hon. Rob Lucas. In relation to clause 2, when does the government expect the variation date to be? The variation date is the date on which the amendments set out in part 2 of the bill come into operation.

The Hon. G.E. GAGO: I have been advised that it will depend on when the board makes its final decision next year.

The Hon. M. PARNELL: I knew as much and I thank the minister for her answer. What is the latest estimate that the government has on when BHP Billiton will be making its decision next year? We have heard various estimates: the first quarter, the first half of next year. What is the minister's latest and best information?

The Hon. G.E. GAGO: I have been advised that we are expecting around mid year.

The Hon. M. PARNELL: The indenture itself is in part 3 of the bill. Under clause 2, the commencement clause, the act comes into operation on a day to be fixed by proclamation, part 2 comes into operation on the variation date, so presumably part 3 comes into operation on a date fixed by proclamation as well. Can the minister confirm that? I understand that within the indenture itself there are various other trigger dates, but from a legislative point of view does part 3 come into operation on a day to be fixed by proclamation and is it expected to be the same proclamation date as part 1?

The Hon. G.E. GAGO: I have been advised that, yes, parts 1 and 3 will come into place on the same date.

Clause passed.

Progress reported; committee to sit again.

[Sitting suspended from 12:58 to 14:19]

HOSPITAL PARKING

The Hon. R.L. BROKENSHIRE: Presented a petition signed by 45 residents of South Australia requesting the council to urge the government to—

1. reverse the decision to introduce or increase paid car parking to all public hospitals, health services and facilities; and

2. rule out privatising or otherwise reducing state ownership and control of car parking at public hospitals, health services and facilities.

PAPERS

The following papers were laid on the table:

By the President—

Reports, 2010-11—
- City of Charles Sturt
- City of Port Lincoln
- District Councils—
  - Barunga West
  - Coorong
  - Tumby Bay

By the Minister for Agriculture, Food and Fisheries (Hon. G.E. Gago)—

Reports, 2010-11—
- Administration of the Development Act 1993
- Attorney-General's Department
- Club One
- Courts Administration Authority
- Defence SA
- Department of Planning and Local Government
- Equal Opportunity Commission
- Erratum to the Serious and Organised Crime (Unexplained Wealth) Act 2009
- Fisheries Council of South Australia
- Guardianship Board
- Independent Gambling Authority
- Legal Services Commission of South Australia
- Planning Strategy for South Australia
- Primary Industries and Resources SA
- Professional Standards Councils
- Public Trustee
- Serious and Organised Crime (Control) Act 2008
- State Coroner
- Technical Regulator—
  - Electricity
  - Gas
- Veterinary Surgeons Board of South Australia

Reports—
- Adelaide (City), Adelaide Hills Council, Burnside (City), Campbelltown (City), Charles Sturt Council. Gawler (CT), Holdfast Bay (City), Land not Within a Council Area (Metropolitan), Light Regional Council, Marion Council, Mitcham (City), Mount Barker (DC), Norwood Payneham and St. Peters (City), Onkaparinga (City), Playford (City), Port Adelaide Enfield (City), Prospect (City), Salisbury (City), Tea Tree Gully (City), Unley(City), Walkerville Council, West Torrens (DC)—Regulated Trees—Development Plan Amendment, Bowden Urban Village and Environs (Interim Policy) Development Plan Amendment

By the Minister for Forests (Hon. G.E. Gago)—

Forestry SA—Report, 2010-11

By the Minister for Tourism (Hon. G.E. Gago)—

South Australian Tourism Commission—Report, 2010-11

By the Minister for Industrial Relations (Hon. R.P. Wortley)—

Reports, 2010-11—
Adelaide Festival Corporation
JamFactory contemporary Craft and Design Inc
Occupational Therapy Board of South Australia

By the Minister for State/Local Government Relations (Hon. R.P. Wortley)—

Reports, 2010-11—
Adelaide Cemeteries Authority
Local Government Finance Authority of South Australia

By the Minister for Communities and Social Inclusion (Hon. I.K. Hunter)—

Reports, 2010-11—
Children in State Care Commission of Inquiry Report—Allegations of Sexual Abuse and Death from Criminal Conduct—Progress Report, November 2011
Department for Families and Communities
Guardian for Children and Young People
Hydroponics Industry Control Act 2009
Minister for Education and Child Development to the Children on Anangu Pitjantjatjara Yankunytjatjara (APY) Lands Commissioner of Inquiry—
A Report into Sexual Abuse, November 2011
Supported Residential Facilities Advisory Committee
The Council for the Care of Children

By the Minister for Social Housing (Hon. I.K. Hunter)—

South Australian Housing Trust—Report, 2010-11

NATURAL RESOURCES COMMITTEE

The Hon. G.A. KANDELAARS (14:20): I bring up the annual report of the committee 2010-11.

Report received.

QUESTION TIME

REMOTE AREAS ENERGY SUPPLIES SCHEME

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24): I seek leave to make a brief explanation before asking the Minister for Regional Development questions regarding remote electricity supplies.

Leave granted.

The Hon. D.W. RIDGWAY: The Labor government has failed to protect metropolitan South Australians from the rapidly rising electricity prices, but the situation in rural and regional parts of the state is even more dramatic. Over several years, there has been pressure on the Remote Areas Energy Supply Scheme, particularly through increasing diesel fuel costs, which comprise over half of its operating budget.

A KPMG report, in July this year, reviewed the Remote Areas Energy Supply Scheme for the Department for Transport, Energy and Infrastructure. The report found, as I am sure the minister is aware, that there was a long-term financial case to connect Coober Pedy with the grid and an immediate case to connect Andamooka. As members would know, Andamooka's mini-grid is just 30 kilometres from the current Roxby Downs grid.

The report identified three possible ways in which to get funding for the grid to connect Andamooka, one of which was the state government to pay for the connection. In the case of Coober Pedy, the report found that, although the state government cannot itself apply for funding under the Regional Development Australia Fund, the government could support the council to make an application by assisting in negotiations with commercial parties, thus increasing the chance of a successful application. My questions are:

1. Has the minister read the KPMG report?

2. Will the government fund the grid connection to Andamooka and, if so, when and, if not, why not?

3. Has the government assisted the Coober Pedy council to make an application under the Regional Development Australia Fund?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:25): I thank the honourable member for his most important questions. I am happy to refer these matters to do with energy—and which, therefore, come under the purview of the minister for energy—to the minister for energy and for him to bring back a response. However, as Minister for Regional Development I am aware of concerns around access to reasonably priced power in a sustainable way for a number of communities, particularly Coober Pedy and Andamooka.

I have met with the mayor and other councillors at Coober Pedy on a number of occasions to discuss this with them. I think they indicated it would be something like $50 million to hook up from the closest point (which is near Prominent Hill) to Coober Pedy, and $50 million is certainly a very expensive outlay. We discussed with them different means at their disposal. I also visited Prominent Hill and raised the issue with them. I have to say that no-one at Prominent Hill embraced the idea of entering into any partnership or providing any assistance in that respect; nevertheless, I did raise it with them when I visited there.

In terms of the RDAF funding, to the best of my knowledge Coober Pedy has not considered an application or put an application forward, nor has it requested any assistance in relation to that. The RDAs create the Roadmap, which is the vision and direction for opportunity, and it is their responsibility to provide assistance to councils and other eligible bodies to put together proposals. I am not aware if Coober Pedy has approached the RDA for any assistance, either.

The Hon. D.W. Ridgway: And you haven't offered any assistance?

The Hon. G.E. GAGO: They have not asked for any assistance. The process is that a council would consider putting a proposal together and the proper body to assist them in an application is the RDA. To the best of my knowledge I am not aware if they have even approached the RDA to assist them to put together a proposal. I also have doubts whether an application of this nature would, in fact, be eligible under the RDAF guidelines—it may be, but there is some doubt about that. Nevertheless, that is a matter that is always worthwhile testing. I certainly would encourage them to do that.

I have visited there several times, and my officers have been available. No assistance has ever been requested in respect of putting a grant proposal together. They know that our door is always open, and if they do require any assistance they are welcome to contact us and we will provide whatever assistance we can.

SPEED LIMITS

The Hon. J.M.A. LENSINK (14:30): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question on speed limit reductions on country roads.

Leave granted.

The Hon. J.M.A. LENSINK: The local government says that it is actually not aware of any consultation from this government on its recent decision to reduce speeds on certain country roads. Furthermore, all the councils involved in those areas have unanimously objected to the reductions. My questions are:

1. Will the minister counsel his colleague the Minister for Road Safety now that this government is no longer supposed to be indulging in its practice of announce and defend?

2. Will the minister assist a review of this situation, particularly in relation to those roads where the local councils believe there will be an increase in overtaking accidents?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:31): I understand that there is a memorandum of understanding between the Premier and the Local Government Association president, Mr Kym McHugh.

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

The Hon. R.P. WORTLEY: Do you want me to answer this question or not?

Members interjecting:

The Hon. R.P. WORTLEY: Well, I'm happy to sit down.

ASBESTOS REMOVAL

The Hon. S.G. WADE (14:31): I seek leave to make a brief explanation before asking Shirley Temple a question relating to asbestos removal in private residences.

Leave granted.

The Hon. S.G. WADE: This week is Asbestos Awareness Week and a chance to reflect on the catastrophic impact that asbestos has had across Australia and the world. In particular, it is a chance to remember the ongoing impact of the third wave of asbestos exposure. The first wave included manufacturers and workers in asbestos product industries; the second, in construction using asbestos products; and now in the third wave homeowners and persons having to deal with the removal of asbestos are experiencing the tragic legacy of generations past as they encounter this debilitating and deadly product.

Many properties built across Australia prior to the mid-1980s, including in South Australia, contain asbestos products. Research from New South Wales suggests that up to one in three homes in that state contains asbestos. There is no reason to think that similar levels of asbestos would not be prevalent across South Australia. An ongoing risk to safety exists for renovators and builders working on older private residences. That includes the owners themselves, in other words, people not involved in businesses. Do-it-yourself renovators face significant risks. SafeWork SA spokesperson, Mr Bryan Russell, was quoted by the ABC earlier this week as saying:

> We continue to be concerned as we see the death rate from mesothelioma and asbestos-related disease increasing. It is a concern for all of us in South Australia.

My questions are:

1. What is the government doing to reduce the risk of asbestos exposure to home renovators undertaking work on private homes?

2. What obligations are there on private homeowners to be aware of and allow for asbestos that exists in their home?

3. Is the government considering expanding the National Code of Practice for the Management and Control of Asbestos to include provisions for asbestos in private residences in South Australia, including the testing and air monitoring of properties containing asbestos?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:33): I thank the member for what is a very important question. As we have come to realise in recent times, do-it-yourself renovators are being subjected to more and more cases of asbestos disease. It is a concern of the government. As for what SafeWork is doing, as you are aware, it is Asbestos Awareness Week. We fund a number of asbestos victims' associations, whose job it is to go out there and educate various organisations of the people of South Australia on asbestos. SafeWork SA itself has developed literature in regard to working on do-it-yourself renovations.

There is an issue here, but because this issue has just arisen, strategies are being developed with the SafeWork Advisory Committee. This will take a bit of time to actually get the various strategies together, but we are very aware of the fact and the need to develop the appropriate literature, training and advice to people who want to undertake do-it-yourself renovations. What I will do is find out exactly what sort of literature—I will get a copy of all the

literature—we are developing and have developed, and forward it to the honourable member opposite.

WHITE RIBBON DAY

The Hon. G.A. KANDELAARS (14:35): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about White Ribbon Day.

Leave granted.

The Hon. G.A. KANDELAARS: White Ribbon Day marks the beginning of the 16 Days of Activism Against Gender Violence held annually, culminating in International Human Rights Day on 10 December. Can the minister tell the chamber about some of the events and activities that will be taking place as part of the 20011 16 Days of Activism Against Gender Violence?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:36): I thank the honourable member for his most important question. Before I go on to talk more specifically about White Ribbon Day, I would just like to remind members that one of the key problems that we have in stamping out violence against women is the negative cultural attitudes towards women that continue to persist, particularly language that reinforces negative attitudes towards women.

Mr President, I would like to give you a very timely example. I know that most members here are familiar with Twitter, and I have been made aware of an extremely negative, thoughtless, and very sexist tweet sent out by the Liberal member for Finniss (Michael Pengilly) in another place—

Honourable members: Shame!

The Hon. G.E. GAGO: —in which he referred to Julia Gillard—and I quote from his tweet—'a real dog'. How can we continue to prevent derogatory, sexist attitudes to women when a member of parliament—a so-called leader in our community—feels that it is appropriate to refer to our Prime Minister in this way?

The use of derogatory language towards women feeds stereotypical views which can work to essentially sanction things like harassment and violence against women in our communities. This type of language suggests that women do not deserve to be treated and spoken to in a respectful manner. Our leaders should be setting an example, not perpetuating negative images.

This is really shameful, particularly on the eve of White Ribbon Day, and I call upon Ms Isobel Redmond to reprimand this member. Perhaps she should suggest that he become a White Ribbon Day ambassador and actually get out there on the ground and do some work in that area to repair some of the damage that he has created. I understand that the social network has lit up in disgust in response to Michael Pengilly's comments.

Mr President, as you know, every year on 25 November, White Ribbon Day is marked through a range of events held across Australia and around the world. In 1999 the United Nations General Assembly declared 25 November as the International Day for the Elimination of Violence Against Women, with a white ribbon as its symbol.

White Ribbon Day is part of the White Ribbon campaign, Australia's only national male-led violence prevention campaign, and the largest global male-led movement to stop men's violence against women. As part of the White Ribbon campaign, men are invited to make a difference by swearing an oath never to commit, excuse or remain silent about violence against women.

Men and women across Australia are encouraged to wear a white ribbon as a symbol of this oath. By swearing the oath and wearing a white ribbon, men and women can openly show their commitment to challenging and changing the attitudes and behaviours which contribute to violence against women.

A range of events are held throughout the month of November to mark White Ribbon Day and the 16 Days of Activism Against Gender Violence. I will provide members with a short detail of these events. The fourth annual Adelaide White Ribbon Breakfast will be held tomorrow at the Banquet Room, Adelaide Festival Centre, from 7am to 9am. The 2011 breakfast is coordinated by the White Ribbon Adelaide Breakfast Committee, which includes members from the Coalition for Men Supporting Non-Violence, Zonta, Business and Professional Women SA, and women's organisations.

The breakfast will be officially opened by Rear Admiral Kevin Scarce, Governor of South Australia. I understand the Premier, the Hon. Jay Weatherill, and the federal Minister for the Status of Women, the Hon. Kate Ellis, will also be addressing the gathering. The guest speaker is Dr Michael Flood, a nationally and internationally-recognised sociologist, researcher and academic from the University of Wollongong. Dr Flood is an activist on men's role in the primary prevention of violence against women and a White Ribbon ambassador.

As well as the breakfast, a Men in the Mall event will be held tomorrow from midday under the canopy near Gawler Place. The event features a DJ, South Australian personalities and entertainers, and aims to encourage men and women to show their support for White Ribbon Day by wearing a white ribbon and swearing the white ribbon oath. The event is coordinated by the Coalition for Men Supporting Non-Violence.

As members might recall, I provided a grant of $30,000 to the Coalition for Men Supporting Non-Violence. This one-off grant was provided to ensure that men and boys across South Australia have an opportunity to become actively engaged in a conversation around violence and abuse against women in our community. During 2011, I understand the coalition has coordinated ambassador training sessions throughout metropolitan and regional areas. This includes a forum being held tonight, featuring Dr Michael Flood, the gentleman I referred to earlier.

Other White Ribbon Day activities taking place across South Australia include the Zonta Club of Clare and Districts white ribbon awareness morning, the Murray Bridge Domestic and Family Violence Action Group barbecue and Shout No event, and the Port Augusta Family Violence Action Group Say No to Violence awareness-raising events at local pubs and hotels.

I want to acknowledge the White Ribbon ambassadors here in this place and thank them for their commitment to this important cause. We have the Hon. Ian Hunter, the Hon. John Gazzola, the Hon. John Darley, the Hon. Mark Parnell, the Hon. Stephen Wade, the Hon. Robert Brokenshire, the Hon. Russell Wortley and the Hon. John Dawkins. Thank you all for your ongoing support and commitment.

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

WHITE RIBBON DAY

The Hon. J.M.A. LENSINK (14:42): Does the minister condone the Prime Minister's description of the federal member for Sturt as a 'mincing poodle'?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:42): I think there is a world of difference between calling our Prime Minister 'a real dog' and the context in which those comments were made. However, having said that in terms of looking at the context in which comments were made, I certainly do not condone any derogatory, sexist remarks made by anybody. I think it is an absolute disgrace that the Hon. Michelle Lensink, instead of getting to her feet and condemning her colleague for the disgraceful comments, she stands up in a way that is almost supporting—

Members interjecting:

The Hon. G.E. GAGO: —exactly—almost supporting. I have always—

The Hon. J.M.A. Lensink: You are very selective.

The Hon. G.E. GAGO: —I am not selective—said in this place (and I stand by these comments) that I do not support any derogatory, sexist comments made by any person, particularly members of parliament, given our leadership responsibilities. I certainly challenge the Hon. Michelle Lensink to get to her feet and condemn the disgraceful comments made by Michael Pengilly, the member for Finniss, from another place.

WHITE RIBBON DAY

The Hon. J.A. DARLEY (14:45): I have a supplementary question. Is the minister aware of the manner in which minister Caica verbally abused the Hon. Ann Bressington in Parliament House a few weeks ago?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:45): I have no knowledge or awareness of the matter referred to, no knowledge at

all. No-one has raised that issue with me. The Hon. Ann Bressington has not raised that issue with me. Has she?

The Hon. A. Bressington: No.

The Hon. G.E. GAGO: She has not. She has confirmed that she has not. The Hon. John Darley has not raised this issue before with me. Has he? No, he has not. Has anyone else in this chamber raised this issue with me? No, they have not. There is not one person in this place that has bothered to write to me or pick up a phone. I am here day in, day out, and not one has raised this with me. So, I am saying that I am not aware. I do not know what the nature of the complaint is, if there is any, and I am absolutely confident that if there was a complaint that was made by the Hon. Ann Bressington that she would pursue that complaint to have the appropriate redress that would be appropriate in the circumstances. Given I have no knowledge of what the issue was or what the alleged complaint is, I would leave it in the hands of the Hon. Ann Bressington to pursue that.

WHITE RIBBON DAY

The Hon. J.A. DARLEY (14:46): I have another supplementary question. Is the minister inviting me to raise that issue with her?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:46): Raise what issue? Get a grip! What issue? I have just put on the record that I am not aware of any complaint. I have no knowledge of a complaint. I have no details of any complaint. How could I raise an issue that I have no knowledge or detail of? If the Hon. John Darley wants to afford me the courtesy of providing me with that detail, I will then assess whether it warrants follow-up or not but, until he bothers to afford me the courtesy of even raising any detail about the matter, I cannot possibly pursue it because I have no idea what it is that he wants me to pursue.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Vincent has a question.

BED RAIL SAFETY

The Hon. K.L. VINCENT (14:47): Thank you, Mr President.

Members interjecting:

The PRESIDENT: Order! One of our very important women of South Australia is about to ask a question.

The Hon. K.L. VINCENT: I seek leave to make a brief explanation before asking the Minister for Disabilities questions about bed entrapment and bed rail safety for people with disabilities.

Leave granted.

The Hon. K.L. VINCENT: I spoke at an occupational therapists conference in Whyalla about four weeks ago that I had learnt of a tragic case where an eight-year-old boy with disabilities had become entrapped in his bed rails and died. I understand that this boy was a client of Novita Children's Services and, since this case, Novita have implemented strict guidelines for their own bedding products to help prevent this from ever happening again. It is good that they have taken positive action but the problem is that these guidelines only apply to their products and are not enforceable safety standards about bed rails. They are simply suggested guidelines.

Additionally, while Novita is the peak body providing disability services for children under the age of 18, it is only one of many agencies that services people with disabilities and they also only work with clients from birth to 18 in their own homes, meaning that even though their products may be safe to use at home they will not necessarily be used when the child goes to respite or to stay at another house.

An SA Health report released on bed safety in hospitals followed the event. It followed a child being asphyxiated in a bed and a confused patient becoming trapped between bed rails and a mattress. The report found that there was no data on this type of incident at either a state or national level. It also found that in South Australia 94 per cent of beds are electrically operated and

60 per cent are manually adjustable; 84 per cent of all beds present an entrapment hazard. My questions to the minister are:

1. Is the minister aware that there are no enforceable standards for bed and mattress safety?

2. What strategies does the minister have in place to ensure that there are no further bed entrapment deaths in South Australian facilities that house and service people with disabilities?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:49): I thank the honourable member for her very important question. I will say at the outset that I am not aware of any standards applying to bed rail safety, particularly in relation to the case that she raises in this chamber today. I am not aware, from her question, and I will need some further information as to whether the young boy she referred to was in fact trapped in bed rails in his own home or in some sort of supported accommodation or hospital. As to the aspects of her question that apply to the portfolio responsibilities of the Minister for Health in another place, I will take those to him and seek a response, and I will do the same regarding the other question she asked about enforceable standards.

LOCAL GOVERNMENT MINISTERS FORUM

The Hon. J.M. GAZZOLA (14:50): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the Local Government Ministers Forum.

Leave granted.

The Hon. J.M. GAZZOLA: I understand that the inaugural Local Government Ministers Forum was held last week in Canberra. Minister, will you outline the outcomes of the Local Government Ministers Forum and explain some of the opportunities that exist for the three tiers of government to work together in delivering meaningful reform?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:51): I would like to thank the member for his very important question.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: A previous question was asked—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: I am just watching the clock tick down, that is all I am doing. I am happy to stand up here until the cows come home. As to a previous question by the Hon. Mr Wade regarding do-it-yourself Asbestos Awareness Week, I have some information here, some literature, and I will provide a copy to the honourable member.

I thank the honourable member for his very important question. The Local Government Ministers Forum met for the first time last Wednesday and was—

Members interjecting:

The Hon. R.P. WORTLEY: I have been asked to repeat this, the honourable member cannot hear.

The PRESIDENT: Hear, hear! Keep repeating it until they are quiet.

The Hon. R.P. WORTLEY: The Local Government Ministers Forum met for the first time last Wednesday and was chaired by the Hon. Simon Crean MP, Minister for Regional Australia, Regional Development and Local Government. Forum members include state and territory ministers with responsibility for local government matters and the president of the Australian Local Government Association, Ms Genia McCaffery.

The establishment of the forum represents the continuing strong commitment of the commonwealth, state and territory governments to local government issues. At this meeting, members agreed on a work program of reforms focused on strengthening and building the capacity and skills of local government. The forum has agreed to develop options for performance

measurement criteria to strengthen the Inter-Governmental Agreement Establishing Principles Guiding Inter-Governmental Relations on Local Government Matters (IGA) as part of building an integrated approach to improve performance measurement, capacity building and elements of grant funding. The IGA—

The Hon. R.L. Brokenshire interjecting:

The Hon. R.P. WORTLEY: Do you want to? The IGA has been in operation since 2006 and provides a framework to improve—

Members interjecting:

The Hon. R.P. WORTLEY: Can you hear me back there?

The Hon. J.M. Gazzola: No.

The Hon. G.E. Gago: No. Can you repeat that? I can't hear.

The Hon. R.P. WORTLEY: I will repeat it again. The Local Government Ministers Forum met for the first time last Wednesday and was chaired by the Hon. Simon Crean MP, Minister for Regional Australia, Regional Development and Local Government. Forum members include state and territory ministers with responsibility for local government matters and the president of the Australian Local Government Association, Ms Genia McCaffery.

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The IGA has been in operation since 2006 and provides a framework to improve the way the three spheres of government (federal, state and local) relate to each other, including to minimise cost-shifting between the spheres of government. After a recent review of its operation, members renewed their commitment to the IGA.

Members will now have regular performance measurement and a reporting framework at all three levels of government. Members will then examine the potential to broaden the scope of the IGA. Minister Crean has undertaken to provide an update of the review of financial assistance grants, and members comments will be factored into scoping that review. The minister also undertook to consult members on the proposed terms of reference.

The forum has also agreed on the need to better understand opportunities and constraints in local infrastructure provision. Minister Crean announced the Australian government has commissioned work to support improvements in the provision and financing of local infrastructure to ensure that Australia's future development needs can be met. The forum will provide input to this project, which is due to report in March 2012.

Financial sustainability of local government was also discussed, and members agreed that the forum has a role in driving continued productivity—you can hear a pin drop, Mr President. I am not used to such silence in this chamber; it is quite amazing.

The PRESIDENT: I would continue, minister. I wouldn't chance your luck.

The Hon. R.P. WORTLEY: —and efficiency gains and building discipline and continuous improvement into funding agreements with local government.

As I informed the chamber yesterday, ministers also discussed the opportunities for local government, presented by the Australian government's Clean Energy Future package, to cut carbon pollution. Members supported the proposed development of a tailored local government engagement strategy to ensure appropriate information is provided to local government on the opportunities under the climate change programs for the sector.

The forum also met with the chair of the Expert Panel of Constitutional Recognition of Local Government, the Hon. James Spigelman AC, QC, and expert panel members, Mr Greg McLean and Ms Genia McCaffery. Mr Spigelman provided an update on the progress of the expert panel's

activities, with the panel currently considering its findings before formally reporting to the government next month.

The state government of South Australia has a great respect for local government and the work it does, and we support in principle the constitutional recognition for local government. We will be putting a submission into the panel and looking forward to being a part of the debate in future. Nevertheless, the South Australian government is certainly keen to participate in the national debate in a constructive manner and the state submission to the commonwealth government will reflect this.

Forum members undertook to consider further the issue of financial recognition in both the constitutional recognition process as well as more broadly. I note with some disappointment that the Victorian and Western Australia Liberal state governments have already indicated their opposition to constitutional recognition. Other matters of national significance to local government considered by the forum include issues and lessons learned for land use planning and local government and the critical role of local government in a regional agenda. The forum has agreed to a forward work program covering the issues discussed at the recent meeting, as well as matters of national significance to local government.

The forum noted the need to consider work underway affecting the sector, such as the Productivity Commission's review of local government as a regulator and to address the challenges of infrastructure in indigenous communities. I found the forum to be valuable in progressing issues of national significance for local government and look forward to progressing the agreed work program.

LOCAL GOVERNMENT MINISTERS FORUM

The Hon. S.G. WADE (14:58): By way of supplementary question, in relation to the minister's comments about the need for governments to support constitutional recognition for local government, did the South Australian government make a submission to the Expert Panel on Constitutional Recognition of Local Government and, if so, what was the position and will he table it in the house?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:59): The submissions have not closed yet. I am speaking to Mr Spigelman in the next day or so. We will put in a submission. I have already stated that in principle we support financial recognition in the constitution. I do not know what is the opposition's position, but I know that Western Australia and Victoria have basically closed the door on them.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Darley.

SA WATER

The Hon. J.A. DARLEY (15:00): I seek leave to make a brief explanation before asking the minister representing the Minister for Water a question with regard to SA Water.

Leave granted.

The Hon. J.A. DARLEY: South Australia recently suffered from what has been reported as the worst drought it has experienced since records began in 1891. During this time, the government introduced water restrictions, which I understand were eased and replaced with water-wise measures during December 2010.

I understand that, during this period, when level 3 water restrictions were in place, a number of water restriction inspectors were employed by SA Water, who acted on information from the community with regard to individuals who may have been breaching the restrictions. I understand that these inspectors would issue warnings for possible breaches, and they also had the power to issue fines to individuals who wilfully, and often habitually, breached the water restrictions. My questions are:

1. How many water restriction inspectors were employed?

2. Were these staff employed solely for this role?

3. Were these staff recruited externally or were they redeployees from within SA Water?

4. Are these people still employed by SA Water and, if so, in what capacity?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:01): I thank the honourable member for his very important questions directed to the minister, Paul Caica, in another place. I will forward the honourable member's questions to the minister and seek a response for him.

SOUTH AUSTRALIAN AQUATIC AND LEISURE CENTRE

The Hon. T.J. STEPHENS (15:02): I seek leave to make a brief explanation before asking the Minister for Industrial Relations, representing the Minister for Recreation and Sport, questions regarding the contract to administer the South Australian Aquatic and Leisure Centre.

Leave granted.

The Hon. T.J. STEPHENS: The supplementary Auditor-General's Report released on Monday included the audit of the Attorney-General's Department, which was omitted previously. This obviously covers the Office for Recreation and Sport, which now sits under the Department of Planning and Local Government. I am surprised that the incoming Premier did not decide that the office needed to be moved again.

The report found that the contract to administer the centre was not finalised until 29 June 2011, yet the announcement of YMCA as the preferred operator was made in March. The centre opened in April, and it hosted the Swimming SA championships on 27 May. My questions are:

1. Why did it take three months to finalise the contract with YMCA after the minister's announcement in March?

2. On what legal basis was the YMCA operating the South Australian Aquatic and Leisure Centre from when it opened until when the contract was finalised on 29 June 2011?

3. What guidelines or code of conduct was the YMCA given to operate the centre?

4. Does the minister admit that the government put users of the facility, YMCA and the future of the centre in jeopardy by allowing YMCA to operate the centre without any legal certainty?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:03): I thank the member for his very important question. I will take the question on notice and get an answer back to him as soon as possible.

NATIONAL YOUTH WEEK

The Hon. CARMEL ZOLLO (15:03): My question is to the Minister for Youth. Will the minister advise the chamber of plans for the 2012 National Youth Week?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:04): I thank the honourable member for her very important question. I am pleased to advise that plans for the 2012 National Youth Week, due to be held from Friday 13 April to 22 April next year, are well underway. I can assure the chamber that the 2012 National Youth Week will be one of South Australia's most memorable—memorable, amongst other things, because, for the first time ever, the state launch will be held outside of the metropolitan Adelaide region. It will be held down in the beautiful South-East of our state.

The District Council of Grant and its youth advisory committee, together with the Mount Gambier Youth Advisory Committee, the Pangula Mannamurna Aboriginal Youth Action Committee and the Mount Gambier Migrant Resource Centre, will all help organise what will be a major event on the state's calendar. Plans so far are for the event to be held at the old Mount Gambier Gaol, with live music, dance, food and plenty of useful information. It will be a great opportunity for young people in the South-East to showcase their community.

To assist with this event and other activities through the week around the entire state of South Australia, I recently opened a total of $180,000 in grant opportunities for interested organisations to get involved with National Youth Week. Up to $2,000 is available for individual organisations and $4,000 for collaborative projects that involve multiple organisations. This will enable and assist plenty of events throughout the week across the whole state. In the 2011 National Youth Week, around 13,000 young people attended a total of 184 events. For 2012, organisers of the Mount Gambier event are already predicting at least 2,000 young people from around the Lower South-East and Limestone Coast region will attend.

I urge all honourable members to mark this week coming up in their diaries, to spread the word about the grants and, most of all, to keep an eye out for the events that they may be able to assist with in their local communities.

MEMBERS' TRAVEL PROVISIONS

The Hon. M. PARNELL (15:05): I seek leave to make a brief explanation before asking the Minister for Industrial Relations a question about MP travel allowance.

Leave granted.

The Hon. M. PARNELL: A few years ago, before he became a minister, the Hon. Russell Wortley embarked on a worthy campaign to save taxpayers money by allowing MPs to book their own domestic airfares online and thereby secure the cheapest flights, rather than having to book their flights through the government's monopoly travel agent. The savings would flow from being able to book cheaper, non-flexible fares at a fraction of the cost of flexible fares and also saving the travel agent's commission. A number of members of this place would have signed the petition that the Hon. Russell Wortley prepared at that time. My questions are:

1. Does the minister still support the position that he personally advocated when he was a backbench member of this place—that all members of parliament should be able to take advantage of cheaper online airfares, rather than having to go through the government's travel agent?

2. Is that a position the minister will be advocating in the review of travel entitlements to be conducted by the Remuneration Tribunal as announced by the Premier this week?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:06): Thank you very much for your question. The petition that I handed around was not my petition. I agreed with the petition, but I did not organise it. I did agree with it, so I took pleasure in taking it around and most people in this chamber signed it.

I do personally support members getting on the internet and getting the cheapest fare. I don't think we get that at the moment under current conditions, and I think there are significant savings to be made by booking your own online. So, I did support that position before, and I do now and into the future. In regard to making a submission to the review, no, I won't be making that as a submission to the review.

RIVERLAND STORM DAMAGE

The Hon. J.S.L. DAWKINS (15:07): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries and Minister for Regional Development, questions regarding storm damage in the Riverland.

Leave granted.

The Hon. J.S.L. DAWKINS: On 9 and 10 November this year, wild storms crippled the Riverland. Winds of up to 100 km/h were recorded at Loxton and rainfall gaugings ranged between 22 to 36 millilitres, which fell very quickly. Local residents suggested the storms were 'like a cyclone'. *The Advertiser* reported that 1,000 properties suffered blackouts amid headlines stating, 'Wild storms lash Riverland towns.'

Roofs were torn off, homes and businesses were damaged, houseboats broke free from their moorings, and crops and farming infrastructure were significantly damaged. The member for Chaffey in another place has spoken to many affected primary producers. One has lost virtually his whole livelihood, another has lost 80 per cent of this year's stone fruit crop, and there was major damage to a local piggery. However, the opposition has been advised that government assistance flowing to locals following the immediate extreme weather event has been minimal. My questions are:

1. Has the minister directed PIRSA to investigate and examine the damage caused to farming properties, particularly in the area around Waikerie, Cadell and Morgan and more broadly across the Riverland, by the severe storms of 9 and 10 November?

2. What is the minister doing to assist farmers whose properties were damaged and inform them about what assistance is available to them?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of

Women) (15:09): I thank the honourable member for his important question. I am aware of the storm damage that was incurred in the region recently. A severe weather event impacted on a number of towns and areas across the Riverland. The immediate response led by the State Emergency Service and supported by the Country Fire Service was complete by the end of Friday 11 November. I am advised that there were a number of teleconferences. I think two teleconferences of stakeholders were held in the days following the event, on 10 and 11 November. Participants included South Australia Police (SAPOL), State Emergency Service, Country Fire Service, Families SA, Mid Murray Council, Loxton Waikerie council, Berri Barmera Council, SA Ambulance Service, SA Health, PIRSA and the state recovery office.

Overall the assessment that was made was that the event was relatively small. I certainly accept that some people were impacted quite severely. Nevertheless, the overall event was assessed as being small and localised. Some direct assistance from the government and emergency services has been sought. The council of Loxton Waikerie estimates damages, I understand, of about $100,000 or more, and there was significant tree damage across public and community areas.

The clean-up operation is progressing well. In fact, I congratulate those local agencies and authorities for their tremendous efforts. The number of trees that came down on roads and other amenities was significant, and they were cleared very quickly. Roads and footpaths were cleared by early Friday and efforts then moved on to other public areas. Residents have been offered pick-up and disposal of green waste. The institute building and recreational centre roofs were damaged. At the time of the storm the recreational centre roof was being replaced, and I am advised that additional repairs are now required.

In terms of the Mid Murray Council, I understand the estimates there are between $50,000 and $100,000. The major impact was significant tree damage and considerable resulting debris. The clean-up of roads, footpaths and other public areas is reported to be going very well, and that is expected to be completed by 18 November. The report from the Berri Barmera Council is that the damage there is not as significant. Three homes, however, were damaged, with one initially being uninhabitable.

I have been advised that, although a large number of homes were damaged, most of the damage was minor, with two homes considered uninhabitable overall. One of these homes is owned by Housing SA, which promptly arranged for repairs, and the other is privately owned. This family was informed about emergency assistance, but to the best of my knowledge they have not contacted us to make any further inquiries about that assistance.

Insurance assessments on damaged homes commenced quickly and I understand some repairs were underway within a day, which is commendable. I also understand that Families SA staff in Berri contacted all affected councils, inviting them to refer residents to Families SA. Contact was also made with the Chaffey electorate officer, who was provided with information to pass on to members of the community. I understand 11 people have contacted Families SA to date for support and referral services.

Generally speaking, assistance has been applied where it was identified and requested as being needed. I have been to the area, and I have spoken with people locally. I have also spoken with Leon Stasinowsky, and I have kept in contact with him and also said to him that if there is any assistance he would like from me my door was open and to just simply contact me and I would be happy to assist in any way that I could.

Just put on the record, again I really commend the efforts of those local volunteers and local agencies there, and those who came in from other areas to assist. As I said, those clean-up efforts were quite remarkable, and it was just wonderful to see members of the community getting together and assisting each other.

The PRESIDENT: Mr Dawkins has a supplementary.

RIVERLAND STORM DAMAGE

The Hon. J.S.L. DAWKINS (15:16): What detail does PIRSA have on the level of damage, in a financial sense, to crops and irrigation infrastructure?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:16): In relation to crops, I am advised that reports provided to stakeholders during the teleconference highlighted that two piggeries—I am referring to primary industry impact

losses—sustained some losses. There was also crop damage to some stone fruit, and one grape property reported broken trellises. SES and CFS crews, I understand, provided emergency assistance.

PIRSA has confirmed that this is an event that occurs from time to time; therefore, to the extent that the damage occurred in this situation, it would not constitute exceptional circumstances. Where necessary, PIRSA has offered and will offer technical assistance, and they are available to, as I said, offer advice and assistance where that is warranted.

TOURISM

The Hon. G.A. KANDELAARS (15:17): I seek leave to make a brief explanation before asking the Minister for Tourism a question about tourism in SA.

Leave granted.

The Hon. G.A. KANDELAARS: The South Australian Tourism Commission is committed to growing the state's tourism industry. Tourism is a big business in South Australia, creating work for South Australians and offering strong prospects for long-term growth. The industry contributes to the state's economic activity, generating jobs and export dollars by attracting interstate and international visitors. Can the minister describe the campaigns that the South Australian Tourism Commission is exploring in our own backyard?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:18): I thank the honourable member for his most important question and value the opportunity to talk about this really important initiative. I am very pleased to inform the chamber that South Australians can now choose their own holiday adventure with a fun new interactive application on the southaustralia.com website. It is part of the South Australian Tourism Commission's intrastate marketing campaign, and it is a great way to find out about what's happening in South Australia.

When you go onto the site, you can pick a theme or a mood, and the site will suggest a corresponding holiday or day-trip experience—for example, a thrill-seeking experience along the coast of South Australia, or a relaxing experience along the River Murray. Themes include costal, river, landscapes, and food and wine. Moods include thrill-seeking, discover, share, relax, explore, and entertain.

The suggested experiences have been taken from the My SA campaign, which ran earlier on this year and which encouraged people to submit their favourite photo, video or holiday memory from South Australia. This was a wonderful way for South Australians to share their experiences travelling to our wonderful state. I am advised that there was an overwhelming response to the My SA campaign, with over 1,600 entries, including stories, pictures and videos. They literally poured in, proving that South Australia is a very special place indeed and that we do have a wonderful backyard.

The stories and images used for the digital component of the campaign are from real experiences and reflect real emotional engagement with people, activities and places, which will hopefully inspire others to get out and explore more of our great state. Visitors to the applications page on southaustralia.com who would like to add their own experience are encouraged to post it on the South Australian Tourism Commission's Facebook page, 'The Real South Australia'. The application can be found on www.southaustralia.com/bestbackyard, all via the application button on the southaustralia.com home page. This is an integral part of the South Australian Tourism Commission's intrastate campaign, Best Backyard.

The South Australian Tourism Commission markets this state's tourism product intrastate, interstate and internationally to ensure that South Australia is considered a versatile and exciting holiday option. The Best Backyard campaign, launched recently, is designed to remind South Australians about why they should take a holiday or break in their own town. The campaign is inspired by real holiday stories and images from real Australians, making it relatable and attractive to families of all lands.

We know that around Australia there has been a downward trend in recent years with interstate travel. I have talked about that in this place before. This campaign focuses on the emotional aspect of taking a holiday, which is about reminding people of what holidays are really about. The approach to the Best Backyard campaign is also a shift from showcasing one or two specific regions to marketing the experiences of SA's holidays, short stays and day trips. The

campaign comprises a series of television commercials, print media and digital marketing. With such a diverse state, South Australians can enjoy the privilege of experiencing our great coastlines, our exciting and culturally-diverse towns and cities, and our stunning produce-laden regions.

The target audience for the Best Backyard campaign is all South Australians, who will be encouraged through these messages to get out and explore. The key theme of the campaign is to find the magic in your own backyard. I am sure all South Australians will appreciate that and I hope they take up that opportunity.

TOURISM

The Hon. T.J. STEPHENS (15:22): A supplementary question: given that South Australian intrastate tourism is down by 25 per cent after 10 years of a Labor government, will the minister guarantee that the focus is going to be back where it needs to be and we are going to recover that ground?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:23): I have already spoken about the tourism plan for South Australia in this place. I have spoken at great length about this here before. I have talked about interstate trends and the fact that we have set up a marketing campaign, the Best Backyard campaign, to help address those trends. It is interesting to see that people are always wanting to talk down South Australian tourism, and we see the opposition wanting to do that as well. They want to come into this place and talk down South Australia. As I said, we've got a targeted—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —campaign to address that issue, and I have just spent time outlining our Best Backyard campaign. The good news story is that, for the 12 months ended June 2011, South Australia attracted 365,100 international visitors, which is an increase over the last 12 months. As far as domestic travel goes, obviously we are working hard on that. South Australia's performance for the past 12 months (ended June 2011) has improved somewhat. Our overall visitors were up 2.5 per cent, and I have been advised that our total travel expenditure for both domestic and international (ending 2011) was 4.6 billion, up 2 per cent on a year ago. You can see that there are lots of good news stories in our tourism industry, but what do we have the opposition doing? Whingeing, whining, carping and talking down our state. He should be ashamed of himself.

TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) 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) (15:26): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill seeks to amend the *Tobacco Products Regulation Act 1997* and is about further protecting the community from passive smoking. We have known for a long time that second hand tobacco smoke can lead to serious health problems, including coronary heart disease and lung cancer in adults, and asthma and other respiratory illnesses in children.

This Government has already taken strong steps to improve air quality for indoor environments by banning smoking in all enclosed public places, workplaces, shared areas and also in vehicles when children under 16 years are present. These measures have been very effective and well supported by the South Australian public.

We know that there is no safe level of exposure to second hand tobacco smoke, inside or outside. Research demonstrates that outdoor smoking is a potential hazard, particularly around larger numbers of active smokers and under certain wind conditions. This means that passive smoking is a risk for those who spend time in confined outdoor public places and this is especially so for children and people with a pre-existing health condition.

In 2010, 71 per cent of South Australians surveyed reported that they were concerned about exposure to someone else's cigarette smoke, while 66 per cent reported that they actually had been exposed in the previous two weeks. SA Health regularly receives complaints from the general public about smoke drift and passive smoking in

outdoor public places. These include areas where smokers congregate, such as outdoor public events and bus stops.

This Bill proposes to ban smoking in a number of public areas to protect the community from the dangers of passive smoking. For this reason we want to make all covered passenger transport waiting areas free of tobacco smoke. This includes bus, tram and train stops, as well as taxi ranks and any other covered outdoor area where people need to congregate to wait for public transport. This will allow passengers to access public transport, while seeking protection from the weather, without the risk of passive smoking, due to the confined nature of covered transport stops. Given that the South Australian public are concerned about passive smoking and support smoking bans in outdoor areas, it is likely that this initiative, like others before it, will establish a self regulating norm in these areas.

This Bill being brought before the House today is also about protecting children from thinking that smoking is normal. Children are not only vulnerable to exposure to tobacco smoke, but they are also influenced by seeing adults smoking. It is proposed that smoking be banned within 10 metres of children's playground equipment that is located in a public area. This would include all playground equipment in public areas, such as parks, as well as in areas such as fast food outlets and other venues. The distance of 10 metres is in line with similar bans in Queensland and Western Australia. In 2010, restricting smoking in children's playgrounds had the highest level of public support with 96 per cent of South Australians surveyed supporting a restriction in these areas.

With this Bill we also propose to allow local councils and other incorporated entities to apply to SA Health to have an area or event declared smoke-free. This allows the Government to respond effectively to known and unforseen localised smoking problems but also gives local councils and other bodies the flexibility to identify and apply to have a certain area or an event declared non-smoking under the Act.

The intent is that the following types of events or areas could be declared non-smoking:

- one-off, time-limited major events such as the Christmas Pageant; and
- popular public places, for example an unenclosed shopping mall.

It is not intended that this Bill be used to regulate seated outdoor drinking and dining areas that are part of the normal day to day business operations of premises.

Effective enforcement that is consistent is crucial, and so under this Bill we propose to give enforcement officers the option to issue expiations to people 15 years and over. The rationale for this is that young people are likely to congregate in the areas affected by the Bill, particularly in regard to passenger transport areas. The *Expiation of Offences Act 1996* allows for other Acts to set the minimum age of a person who can be given an expiation notice. Lowering that age to 15 years in the *Tobacco Products Regulations Act 1997* will allow for the effective enforcement of these amendments and is also consistent with the *Passenger Transport Act 1994*.

Should the Bill be passed by the Parliament, the provisions inserted by the measure will be brought into operation on 2 January 2012, immediately after the commencement of regulations further restricting tobacco retailer point of sale displays. Commencement on that day will avoid any confusion in enforcing this new law on New Year's Eve, especially in regard to passenger transport waiting areas.

I commend this Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Tobacco Products Regulation Act 1997*

4—Insertion of sections 49, 50 and 51

This clause inserts new sections into the principal Act as follows:

49—Smoking banned in certain public transport areas

This section proscribes smoking in a prescribed public transport area. Subsection (5) defines what a prescribed public transport area is, namely any part of a bus stop, tram stop, railway station, taxi rank, airport or similar place that is a public place, is used, or is intended to be used, by passengers boarding or alighting from public transport and is wholly or partly covered by a roof.

The section also clarifies when a person will be taken to be in a prescribed public transport area and sets out evidentiary matters.

The maximum penalty for a contravention of the section is a fine of $200.

50—Smoking banned near certain playground equipment

This section proscribes smoking in public areas within 10 metres of playground equipment (being playground equipment that is itself in a public area).

The section also clarifies when a person will be taken to be in a public area and sets out evidentiary matters.

The maximum penalty for a contravention of the section is a fine of $200.

51—Minister may ban smoking in public areas

This section allows the Minister, by notice in the Gazette, to declare that smoking is banned in the public area or areas specified in the notice. Signs setting out the effect of the ban must be erected so as to be seen by members of the public using the area.

The section also sets out procedural matters in relation to a notice under the section, as well as clarifies when a person will be taken to be in a public area and sets out evidentiary matters.

The maximum penalty for contravening a notice under the section is a fine of $200.

5—Insertion of section 83

This clause inserts new section 83 into the principal Act allowing expiation notices for offences against the Act to be given to a child who is 15 years of age or older.

Debate adjourned on motion of Hon. J.M.A. Lensink.

CRIMINAL LAW CONSOLIDATION (LOOTING) AMENDMENT BILL

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

ROXBY DOWNS (INDENTURE RATIFICATION) (AMENDMENT OF INDENTURE) AMENDMENT BILL

In committee (resumed on motion).

Clauses 3 and 4 passed.

Clause 5.

The Hon. M. PARNELL: Clause 5 of the bill deletes and adds definitions to the legislation. The first definition that is deleted is the definition of the joint venturers. Throughout the bill we find that wherever the words 'joint venturers' appear it is deleted and replaced by the words 'the company'. The regime created by this act is that special provisions apply to, previously, the joint venturers, now, the company. When we look at this legislation we can track what those special arrangements are, but there is one other piece of legislation that refers to the joint venturers and that is the Radiation Protection and Control Act. I refer the minister to section 5 of that act, which provides:

the Joint Venturers has the same meaning as in the Roxby Downs (Indenture Ratification) Act 1982.

So, the first thing to notice is that the Radiation Protection and Control Act now refers to a definition and concept that no longer appears in the head legislation. The definition of joint venturer has been removed, yet it is still referred to in the Radiation Protection and Control Act. For the benefit of members, I might explain why that is important.

Under the Radiation Protection and Control Act, there is a schedule to the act. The schedule is headed, 'Application of this Act to the Roxby Downs Joint Venturers'. When you go through that schedule it has some 13 clauses, and the last of those clauses, clause 13 of the schedule to the Radiation Protection and Control Act, basically states that there are a number of sections in the Radiation Protection and Control Act that do not apply to the joint venturers. I will not go through all of those sections in detail, but first of all, there is a requirement in the act, under section 24, that:

The minister must not grant a licence under this section unless satisfied that the proposed operations would comply with the regulations.

By the schedule, the joint venturers were exempted from that provision. In other words, the joint venturers do not have to satisfy the regulations, they have a special exemption. Another provision which the joint venturers are exempted from having to comply with relates to the minister needing to consult with the Radiation Protection Committee under section 35 of the act, which provides that before determining an application for a licence the minister must refer the application to the committee for its advice and give due consideration to the advice of the committee. That does not apply to the joint venturers; their licence does not have to go to the committee and the minister does not have to have regard to the committee's advice.

There are other regimes, such as the ability of the minister under the act to revoke or vary the condition of a licence. That does not apply to the joint venturers. Similarly, the minister has the

power to suspend and cancel licences under section 40. That does not apply to the joint venturers. Finally, the licence regime under the Radiation Protection and Control Act allows for a review of decisions by the Supreme Court. That does not apply to the joint venturers.

My question is a fairly simple one, to start with; it is a matter of statutory interpretation. Given the deletion of the definition of joint venturers from the Roxby Downs (Indenture Ratification) Act, does the schedule to the Radiation Protection and Control Act apply to the company?

The Hon. G.E. GAGO: I have been advised that, under the Radiation Protection and Control Act, 'the joint venturers' would be read to mean 'the company', and that if there was any doubt regulations can be passed under the Roxby Downs act to make that clear or to provide whatever clarity is necessary.

The Hon. M. PARNELL: I will get the minister to clarify a little bit more. She said it 'would be read'. Can the minister point me to the section of the act or the indenture which says anywhere that a reference to the joint venturers in an old act is now a reference to the company in the new act, because I have hunted through it and I cannot find it.

The Hon. G.E. GAGO: I have been advised that it is a matter of statutory interpretation. It is not actually written down, but it is a precedent that has been established.

The Hon. M. PARNELL: The minister's answer I think means that, on a wing and a prayer, they hope that if this thing ever gets into court, a court would take the initiative to, notwithstanding the deletion of the definition in the act, somehow pretend that the words in the act mean something different. The minister in her first answer said, 'Well, maybe we will need to pass a regulation.' My question is: if the government is admitting that it has this wrong, will the government now pass a regulation or will it now pass an amendment to the Radiation Protection and Control Act to fix up this mistake?

The Hon. G.E. GAGO: I have been advised that the government believes that the current provisions are adequate.

The Hon. M. PARNELL: I beg to disagree with the minister. This is clearly an oversight on any view of statutory interpretation. I cast no blame on the part of parliamentary counsel; I understand they did not write the indenture—they weighed into this part way through. A logical follow-up question that I will not ask is: if this is a mistake we have found, what are the other mistakes that we have not found? What are the other unknown unknowns, because clearly this is a matter that should have been addressed in the drafting of this act. So, whenever the government says how many years it has taken to get to this point, we can just point them to clause 5 and say, 'You couldn't even get that right.'

But I do have a question in relation to subclause (2) of clause 5. This inserts a new definition of the statement of environmental objectives, and this is a concept that comes from the Petroleum and Geothermal Energy Act 2001. Basically, under that act, someone wanting to carry out regulated activities in relation to oil or gas or geothermal has to have a statement of environmental objectives in force. If they do not do so, they are liable to a maximum penalty of $120,000. The Petroleum and Geothermal Energy Act also puts an obligation on licensees that they must comply with an approved statement of environmental objectives.

It is unclear (or maybe the minister can tell me whether it is clear) that, when it comes to exploration for oil or gas or geothermal energy within the 500 square kilometres or so of the special licence area, that could be undertaken by BHP Billiton, or it could be undertaken by third parties that have requested access. What I would like the minister to clarify is: which provisions of the Petroleum and Geothermal Energy Act would apply to licence holders, given that that is one of the acts that must be read down to be consistent with the indenture? How much of that act applies to these activities in this area?

The Hon. G.E. GAGO: I have been advised the whole act.

The Hon. M. PARNELL: So, by the whole act, that includes all of the criminal penalties. If I can expand that question further: would those penalties apply equally to BHP Billiton or to third parties?

The Hon. G.E. GAGO: I have been advised that, yes, if BHP has a licence.

The Hon. M. PARNELL: I ask the minister: is there anything in the indenture that could be relied on by BHP Billiton to avoid its liability under the act and to avoid criminal penalties under the

act and, secondly, would any potential charges be required to be mediated, or could they be dealt with immediately in the criminal courts?

The Hon. G.E. GAGO: I think we are sort of wandering off the indenture bill somewhat. The indenture bill deals with mining, not gas and other geothermal exploration. If BHP Billiton wanted to pursue exploration in that area and obtained a licence, etc., it would be bound by the same provisions anyone else would is the advice I have received.

The Hon. M. PARNELL: That is the end of my questions on clause 5. I just make the comment that I would hope that BHP Billiton is out there looking for geothermal energy sources, looking for ways to offset some of the greenhouse emissions that will come from this venture.

Clause passed.

Clause 6.

The Hon. M. PARNELL: I have six amendments to this clause but before moving them, this particular provision of the original legislation as modified has been one of the most contentious because within this section is the list of acts which are specifically said not to apply to this project. That is not quite correct; it is not that they do not apply but they are to be read down so that they are consistent with the indenture. If there is anything in any of these acts that is more onerous than that required by the indenture, the act must be read down. The law of South Australia must be read down to be consistent with the indenture.

However, in this section that is being amended there are two provisions. The first provision talks about the whole of the laws of South Australia being subject to the indenture and then there is a specific list of legislation. Can the minister explain what the difference is between those two approaches? The first approach is to say that all laws of the state are to be read down, and then to go on to say, 'But without limiting the generality of that, here is a list of ones in particular that have to be read down.' What is the purpose of that structure? What is the difference between reading a law down generally and reading a specific act down because it is listed?

The Hon. G.E. GAGO: I have been advised that those listed specifically refer to the indenture or are ones that are most likely to impact on the indenture.

The Hon. M. PARNELL: Just so I understand the minister's answer: what the previous act did and what this amending bill does is to extract the acts that are most likely to relate to the indenture but it does not purport to be an exclusive list, in which case I will proceed to identify one act that I think does have implications—it is not on the list—and that is the Freedom of Information Act.

My question is: if there is a dispute between an applicant for documents under the Freedom of Information Act and the company—and I say at the outset that I am not talking about people applying to the company under the act because we do not do that; we apply to government agencies—and let us say the company does not want a member of the public or a member of parliament to have access to a document, how does the Freedom of Information Act and this indenture read together resolve that dispute?

The Hon. G.E. GAGO: I have been advised that the Freedom of Information Act would apply normally, so in the same way it would elsewhere.

The Hon. M. PARNELL: I thank the minister for her answer. It would be nice if that was correct, yet the history of the last 20 years shows that people who seek documents in relation to the Olympic Dam mine under the Freedom of Information Act are told that they cannot have those documents, either because of one of the exemptions under the act itself, or, more likely, because of the confidentiality provisions that are in the indenture act itself. The minister says that the act would apply. Do the confidentiality provisions of the indenture become part of the considerations of the agency when determining whether to disclose documents?

The Hon. G.E. GAGO: I have been advised that commercially confidential information is relevant in the consideration of all FOI deliberations, and it also has to be considered here.

The Hon. M. PARNELL: I understand what the minister is saying. The big difference, of course, is that whether something is commercially confidential or not could be considered by the Ombudsman, for example, because it is a claim that is made all time and it is often not found to have any basis in fact. Yet if there is a special contract between the state and the company that says that something is confidential, then it certainly makes it harder.

The minister said the act applies, so I will just get her to clarify one other point in relation to that. If there was a dispute, if someone went to a government department seeking documents and they were refused, can the minister clarify that they could go to the Ombudsman on an external review and that the Ombudsman would make the determination, that it would not need to go through any other process by virtue of the indenture? For example, there is an arbitration process in here for disputes between the government and the company. Can you clarify that third parties seeking documents would not have to go through that process?

The Hon. G.E. GAGO: I am advised that the dispute mechanisms under the FOI Act would apply.

The Hon. M. PARNELL: Sorry, the dispute?

The Hon. G.E. GAGO: The dispute mechanisms.

The CHAIR: Would you like to move your amendments?

The Hon. M. PARNELL: Yes, if it is the will of the committee. My amendments Nos 1 to 6 all relate to clause 6, and, if it is possible, I am happy to move them en bloc if it suits the committee. I move:

Page 4—

Line 6—Delete subparagraph (ii)

Line 8—Delete subparagraph (iv)

Line 16—Delete subparagraph (xii)

Line 17—Delete subparagraph (xiii)

Page 5—

Lines 20 and 21—Delete subclause (9)

After line 21—Insert:

(10) Section 7—after subsection (5) insert:

(6) Clause 7 of the Indenture does not apply to or in relation to any permit, consent, approval, authorisation, permission or determination of any kind whatever (including a determination that is required for obtaining the benefit of an exemption) under—

(a) the *Development Act 1993*;

(b) the *Environment Protection Act 1993*; or

(c) the *Native Vegetation Act 1991*; or

(d) the *Natural Resources Management Act 2004*; or

(e) the *Radiation Protection and Control Act 1982*.

I will just take a very brief moment to explain what these amendments would do. In this long list of acts that are to be read down in relation to the Roxby Downs (Indenture Ratification) Act, I have effectively picked out four or five of those acts to take them out of that list, to give extra attention to those particular statutes.

I have sought to remove the Development Act and the Environment Protection Act. Of course, the importance of removing that act is that there are a number of provisions that are important to the community. We have the public register under section 109; again, that would be caught by the confidentiality provisions of the indenture. The community will not have access to the same amount of information.

Notwithstanding the minister's answer in relation to freedom of information, the public register is a regime where you do not have to ask for the documents; they are automatically published, and I have no doubt that the full scope of documents will not be published. For example, the public register includes fairly new provisions that relate to contamination of land. I can bet you that the EPA's public register is not going to have details of the contaminated land around the tailings facility—for example, the eight million litres a day of toxic liquid waste that will escape from that facility that will not be recorded on the public register.

Similarly, in relation to the Native Vegetation Act, we know there will be a massive clearance of vegetation over many, many kilometres. According to the environment department's submissions to the EIS, from memory up to 40 kilometres from the mine site the drawdown of local

water will impact on vegetation, such as myall trees. The Natural Resources Management Act, of course, is the act primarily dealing with, amongst other things, allocation of water resources. So, I am proposing to remove those from the act.

Members will recall that I think on at least one or two occasions I have actually moved in this parliament to remove the entirety of section 7 of this act. It is a section that basically says that this project is so important that there is not one law of South Australia—other than its own law that it wrote—that takes precedence over the commercial considerations of the company, as expressed through this indenture. I think that this is an appalling section, and I think the whole thing needs to go.

I have moved a few tokenistic amendments, you might say, to draw attention to it, but really this particular section goes to the heart of what is wrong with this legislation: the fact that we have adequate laws to do with mining, water and vegetation and they are all to be read down in the interests of this company and this project. Whilst I did not declare this at the outset, it is my intention to move rapidly through the amendments. If I can do them in blocks, I will. I am not proposing to divide on the amendments, but I will be dividing on the clause.

The Hon. G.E. GAGO: The government opposes this series of amendments proposed by the Hon. Mark Parnell to remove the Development Act 1993 as being construed subject to the provisions of the indenture, which is to prevail to the extent of any inconsistency with the Development Act. This primarily relates to indenture clause 28—Major Development, which provides that only the major developments or project provisions of the Development Act are to apply to land areas for a special mining lease and for any infrastructure supporting the mine development. It is only appropriate that the process for the highest level of development assessment and associated public consultation available in South Australia apply to future applications for the development of the Olympic Dam and any other mining prospects.

The Hon. D.W. RIDGWAY: I rise on behalf of the opposition to indicate—as Mr Parnell and other honourable members would be well aware and as was indicated in the other place and here—that we will be supporting this bill without amendment. We had extensive briefings. We asked days and days of questions prior to this bill coming to the parliament, and the opposition will not be supporting this group of amendments or any other amendments.

Amendments negatived.

The committee divided on the clause:

AYES (16)

Brokenshire, R.L.	Darley, J.A.	Dawkins, J.S.L.
Finnigan, B.V.	Gago, G.E. (teller)	Gazzola, J.M.
Hunter, I.K.	Kandelaars, G.A.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I.	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	Wortley, R.P.
Zollo, C.		

NOES (4)

Bressington, A.	Franks, T.A.	Parnell, M. (teller)
Vincent, K.L.		

Majority of 12 for the ayes.

Clause thus passed.

Clause 7.

The Hon. M. PARNELL: I have a very simple amendment to delete the clause. The government's amendment is fairly straightforward in that it changes the references from 'joint ventures' to 'the company'. We canvassed that before. They have done that fairly diligently throughout the bill, but they missed the big one. They missed the one in the Radiation Protection and Control Act and now they are just on a wing and a prayer hoping that if it ever gets to court that the court will do some imaginative statutory interpretation.

In relation to the merits of this particular clause, it relates to licensing in respect of the mining and milling of radioactive ores. Both the current section 8 and this proposed section 8 requires the minister, or other body, to give licences in relation to radioactive material, such as under the Radiation Protection and Control Act, in respect of the mining and milling of radioactive ores. Presumably the licensing body would be able to attach conditions, but my understand of this is that they could not attach any conditions that had the effect of preventing the company from dealing with these materials. So, my question of the minister is: is that correct? Are they effectively obliged to licence?

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

The Hon. M. PARNELL: So, in relation to radiation, because that is the subject of the clause, I have a number of questions that relate to the safety of workers in the wider community, safety from exposure to radiation. Could the minister confirm that when there is a reference to the phrase 'the minister' in approval condition No. 34, which is headed, 'Radiation'—this is a condition that requires a dose constraint for members of the public for radiation exposure and sets a limit of 0.3 millisieverts per year, and the words are 'unless otherwise agreed by the relevant minister'—is the relevant minister the Minister for Sustainability, Environment and Conservation or is it the minister under the indenture act?

The Hon. G.E. GAGO: I have been advised that it would be the minister responsible for the radiation act.

The Hon. M. PARNELL: I thank the minister for her answer. I asked the task force earlier whether the 0.3 millisieverts per year exposure limit would also apply to non-designated uranium mine workers at the Olympic Dam site in the special mining lease area. I was told that the dose constraint of 0.3 millisieverts per year was specific to members of the public and that that level will not be applied to workers. My question of the minister is: how will this dose constraint be monitored and assessed, and by whom?

The Hon. G.E. GAGO: I have been advised that it will be monitored by BHP and regulated by the EPA.

The Hon. M. PARNELL: I asked the task force in relation to this about how the public would be notified of the results, and the minister has just said that BHP will do the monitoring but that the EPA will be responsible. I was told in relation to public notification, 'As is current practice for the operating Olympic Dam mine, results of monitoring and compliance would be made publically available on the EPA website as part of the annual radiation protection report for Olympic Dam.' My question of the minister is: first, how much of a time lag is there between the actual monitoring data being collected and its reporting; and, secondly, is there any reason why the data could not be published on the website either more frequently or in real time?

The Hon. G.E. GAGO: I have been advised that it is in fact the accumulation of an annual dose that is the standard and that therefore it would be reasonable to report on an annual basis. In terms of the time lag, I do not have the answer to that detail, except to say that the data is required to be available for that annual report.

The Hon. M. PARNELL: If we turn now to the radiation exposure of workers rather than the general public, the task force confirmed to me that all uranium mine workers are subject to the regulatory occupational dose limit of 20 millisieverts per year, rather than the current public exposure limit of one millisievert a year, and that this includes train drivers, who would be transporting the uranium-infused copper concentrate, and truck drivers, who would be transporting the uranium oxide.

I posed the question of the task force about why the workers at Roxby Downs are not protected by the higher standard, which is the standard set by the Independent European Committee on Radiation Risk. It recommends a total ionising radiation permissible dose standard of five millisieverts per year for designated nuclear and uranium mine workers, rather than the much higher current standard of 20 millisieverts. The response I got from the task force was that Australia does not base its regulatory standards on the Independent European Committee on Radiation Risk but, rather, on the recommendations of the International Commission of Radiological Protection.

The task force pointed out that the ICRP, in its latest recommendations, concluded that the existing dose limit that it had recommended was still appropriate. The question to which I did not get an answer was: what is the expected total ionising radiation dose for the population of

designated workers at the proposed expanded new open pit Olympic Dam mine, or in the special mining lease, compared with that at existing operations—so, a comparison between exposure for existing workers and potential exposure for new workers?

The Hon. G.E. GAGO: I would just ask the honourable member to explain the question? I do not actually understand what he is asking me for.

The Hon. M. PARNELL: The recommended occupational limit, as I have been saying, is 20 millisieverts per year, and it is averaged over defined periods of five years, with further provision that the effective dose should not exceed 50 millisieverts in any single year. The question I asked is: what is the expected total ionising radiation dose for the population of designated workers at the proposed expanded new open-pit mine compared with that at the existing operations? Clearly, there are different risks and different forms of exposure. What is the outcome expected to be? How much more or less exposed will workers at the new operation be compared with workers at the current operation?

The Hon. G.E. GAGO: It is good news! I have been advised that the existing average is 3.5 millisieverts, with a maximum of nine, and under the new arrangements, the average is expected to be 3.5 millisieverts, with a maximum of eight millisieverts. So, in fact, it is less.

The Hon. M. PARNELL: I thank the minister for her answer. I will just follow that up by saying that both of those standards would not comply, at least at the higher range, with the European Committee on Radiation Risk standards but they clearly do comply with the International Commission on Radiological Protection standards. My question is: is there any reason why the government prefers the international commission's standards over the European committee standards, other than the fact that the exposure allowed is much higher under the international standard? Is there any other reason why that standard is preferred over the European standard?

The Hon. G.E. GAGO: I have been advised that Australia does not base its regulatory standards on the independent European Committee on Radiation Risk but on the recommendations of the International Commission on Radiological Protection (ICRP). The ICRP, in its latest recommendations (Publication 103), has concluded that the existing dose limits that are recommended in ICRP Publication 60 continue to provide an appropriate level of protection. The recommended occupational limit is 20 millisieverts averaged, and we have talked about that. The ICRP is, in fact, the recognised group.

The Hon. M. PARNELL: In relation to worker safety, I asked the task force: are there any plans to conduct a health study of past, current and future uranium mine workers in South Australia, including at Olympic Dam, to ensure worker health and, if not, why not?

I made the point that without such a study how can the government say with any confidence that the current monitoring and protection process at Olympic Dam for workers is adequate? The government's response was, 'No health study of past, current and future uranium mine workers is being considered by the government. All workers are monitored and health checks provided by the company each year.'

What I would like the minister to answer is: whilst that might seem adequate for people who are continuing to work there on site, how does the government or the company track people who may have worked at the mine in the 1980s or 1990s and gone on to other fields of endeavour? They may have contracted cancers. Is there any tracking or follow-up so that every exposed worker is on some database somewhere and you can find out what might have happened to them and what their health history might have been? Is any record of that type kept and, if not, why not?

The Hon. G.E. GAGO: I have been advised that there is no evidence that a health study is warranted. I also draw to your attention that the national dose register is being implemented by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA).

The Hon. M. PARNELL: I would like to correct what I said before. I had not actually posed that second part of my question to the Olympic Dam task force; it was inadvertently included in the same box in my notes, but I did ask the question just now, clearly. The minister has said that there is no proven need for that type of follow-up. My question would be, if evidence emerges that exposure leads to some health impacts, 20, 30 or 40 years later, is there anything to prevent this follow-up work being done? If it added to the expense of BHP Billiton in tracking these former workers down, is that a cost that could be imposed on the company or would the company turn around and try to impose that cost back on the state? Is there anything in the indenture that stands in the way of doing these follow-up studies if it turns out that they are required?

The Hon. G.E. GAGO: I have been advised no and that obviously it is a hypothetical situation that the honourable member is raising. Clearly parties would assess any evidence or research that might come to light in the future and take responsible action as required when needed.

The Hon. M. PARNELL: I do not accept that it is hypothetical. We know that there is no safe radiation dose and we know that the impact on human health can be latent for a very long time. It is not that different in many ways to asbestos. People exposed, often in childhood, develop problems later on. I will not pursue that. I will move directly to moving the amendments that I have tabled. I am not sure if I can do them together. The first one is to delete the clause of the bill and the second one is to delete—

The ACTING CHAIR (Hon. Carmel Zollo): I understand we have to put the clause first.

The Hon. M. PARNELL: Yes, okay. My amendment is first of all to delete the clause. I will move my second amendment after that.

The ACTING CHAIR (Hon. Carmel Zollo): You do not need to move it, apparently. I will put the question that clause 7 stand as printed.

Clause passed.

The Hon. M. PARNELL: My second amendment, No. 8 standing in my name, is to delete the whole of the current section 8 of the act. This section provides that a radiation licence must be granted and it also limits the ability of regulatory authorities to impose tougher conditions. I just remind members that when it comes to health conditions and environmental conditions, history shows that they generally are toughened over time. One of the greatest faults in this legislation is that we are locking in for a very long time current understanding, current thinking and current standards.

The ACTING CHAIR (Hon. Carmel Zollo): Hon. Mr Parnell, please wait one moment while we take some advice.

The Hon. M. PARNELL: I think I am amendment No. 8, which is a new clause in the bill to amend a section of the act. My amendment includes a new clause 7 and my new clause 7 amends section 8.

The CHAIR: Because clause 7 is staying, you will not be able to proceed with the next amendment.

The Hon. M. PARNELL: Because it is already passed? Okay, provided, Mr Chairman, the record shows my attempt to delete section 8. If I cannot technically move the amendment then we will move on.

The CHAIR: I am sure that everything you said will be recorded with due diligence.

Clause 8.

The Hon. M. PARNELL: I want to delete this clause, and I want to speak to it, as well. This is a most remarkable clause that deals with a most remarkable section of the current act. Section 9, which relates to the application of the Aboriginal Heritage Act to the Stuart Shelf and Olympic Dam areas. My main difficulty with this provision is that it imposes an outdated set of legal privileges to the company over Aboriginal heritage legislation. The reason I say 'remarkable' is that the regime here is that an old act (the old Aboriginal Heritage Act 1979) is the reference point, rather than the Aboriginal Heritage Act 1988, in the defined Stuart Shelf area and in the Olympic Dam area, which includes the special mining lease. I will go into some detail shortly as to why that is a remarkable legislative provision.

The first question I have relates to Stuart Shelf. When you look at the Stuart Shelf area map (map 2 on page 171 of the bill), and you also look at the description of the Stuart Shelf area (page 152 of the bill), we can see—but not that clearly—that it is a large part of South Australia. My understanding is that it was the original exploration area of interest to the original Roxby proponents. My question is: how big an area is that?

The Hon. G.E. GAGO: We do not know the—

The Hon. M. PARNELL: Well, I am guessing thousands of square kilometres, but if the minister can find out with any more certainty than that I would appreciate that.

The Hon. G.E. GAGO: We will do what we can.

The Hon. M. PARNELL: Thank you. As I understand it, the 1979 Aboriginal Heritage Act was passed by the parliament, but it was not proclaimed and was ultimately repealed, with the exception that it still applies in the case of the indenture in relation to these defined geographic areas I have been talking about; we do not know their size, but we know they are massive.

When you go to the South Australian legislation website and you click on the link for acts of parliament, you do not even find the Aboriginal Heritage Act 1979; in fact, you have to click on the secret tab for ceased acts and acts of limited application. When you do that, you come up with the heading, 'Aboriginal Heritage Act 1979 (ceased)'. The notation says that the responsible minister is the Minister for Aboriginal Affairs and Reconciliation, and it states:

> This Act has never been brought into operation but has not been expressly repealed. Section 9 of the Roxby Downs (Indenture Ratification) Act 1982 applies this Act to certain operations. Apart from that, the Act has been effectively impliedly repealed by the Aboriginal Heritage Act 1988 and is, consequently, treated as a historical version.

My question of the minister (and I think it is the obvious question) is: why on earth is the Aboriginal heritage regime referred to in this legislation, a regime that was never passed into general South Australian law and has since been repealed, still the standard for this area and for this project?

The Hon. G.E. GAGO: I have been advised that that is what the agreement was at the time and that BHP currently are only willing to consider the continuation of the current arrangements.

The Hon. M. PARNELL: I thank the minister for her answer, but what a remarkable answer. A company has said to the people of South Australia, 'We don't like your Aboriginal heritage laws. The only laws that we are prepared to countenance even partially complying with are laws that have never been proclaimed and have never been applied anywhere else in the state of South Australia, and yet they applied under the 1982 indenture act.'

The follow-on question has to be that, okay, even if you accept—which I do not—that that was an appropriate thing to do in 1982, to apply an act that had never ever been proclaimed, why on earth did the government not take the opportunity in relation to the renegotiation of this indenture to at least insist that the current Aboriginal Heritage Act be the basis for the dealings between this company and Aboriginal people in South Australia, especially given that we are talking about a much bigger area, a new project and a new open-cut mine? Surely this was the opportunity to say to BHP Billiton, 'Sorry, but we are not going to give you the benefit of the 1979 act, you have to comply with the law of South Australia.' Why was that opportunity not taken?

The Hon. G.E. GAGO: I have been advised that BHP insisted that the current arrangements continue and they were not prepared to consider changes to that.

The Hon. M. PARNELL: I understand there have been negotiations in relation to an Indigenous land use agreement and other negotiations, but what negotiations did the government undertake with, for example, the Aboriginal Legal Rights Movement or other Aboriginal groups in relation to whether this old act should continue to apply or whether the government should insist on the more modern act applying? What consultation was there?

The Hon. G.E. GAGO: I have been advised that BHP were satisfied with the current arrangements and insisted on the continuation of these arrangements, and the government did not consult further than that.

The Hon. M. PARNELL: To take a slightly different tack, is the minister able to identify the key differences between the 1979 act and the 1988 act that made the older act so much more attractive to BHP Billiton in relation to Aboriginal heritage?

The Hon. G.E. GAGO: I have been advised that the 1979 act does not have a mandatory consultation provision equivalent to the 1988 act for determining sites and/or authorising damage, disturbance or interference. However, contemporary administrative law principles, particularly in relation to procedural fairness, necessitate the same or similar consultation.

The Hon. M. PARNELL: It seems that there is a lot less consultation involved. It just seems remarkable that the minister has talked about this good corporate citizen and hoping that their goodness will continue into the future, yet when it comes to being obliged to consult with Aboriginal communities they opt for the lowest standard that they can get.

I refer members to the select committee report of the other place, and that report did not mention Aboriginal heritage issues but it did refer to the indigenous land use agreement (ILUA)

issues. They did that at page 8 of their report. My question of the government is: in relation to the negotiations for that agreement, is the government obliged by the indenture to effectively take the side of the company in those negotiations? I refer to indenture clause 24A(5). Does that effectively put the government on the side of the company to use its reasonable endeavours to deliver the company's interests?

The Hon. G.E. GAGO: No, the advice is that we are there to facilitate.

The Hon. M. PARNELL: I think it is more than that, minister, because the obligation is to facilitate registration of an indigenous land use agreement that 'is not inconsistent with the terms of the indenture'. So, by definition, if Aboriginal people want something that is inconsistent with the indenture, the government is obliged to weigh in on the side of the company. Isn't that correct?

The Hon. G.E. GAGO: I have been advised that if the ILUA is consistent with the terms of the indenture, then the government is required is to facilitate. If the ILUA is inconsistent, then we are not required to facilitate.

The Hon. M. PARNELL: It was not my interpretation, but I thank the minister for her answer. The regime for Aboriginal heritage protection, as we have been saying, is clearly that there are two separate regimes. We have the 1979 regime, which applies in this area, and we have the 1988 regime, which applies in the rest of the state. It would seem to me that that has an impact on Aboriginal traditional owners and native title claimants, many of whose traditional lands would be included both inside and outside the relevant area, in which case they need to work with and understand two pieces of legislation with differing standards. Is there any consideration or compensation? How does the government assist those groups with coming to grips with their responsibilities under separate pieces of legislation? Does the government provide free legal advice to them? How does the government assist them coming to grips with both these regimes?

The Hon. G.E. GAGO: I am advised that BHP provides financial assistance and independent legal advice to claimants.

The Hon. M. PARNELL: One other aspect that goes to the rights of Aboriginal people and to native title in particular is this idea that the company is now entitled to apply for freehold over parts of this land. Can the minister explain why that was deemed necessary and why the other long-term security arrangements built into the bill and the indenture are not enough?

The Hon. G.E. GAGO: I am advised they are required for the long-term security of a multi-million dollar project.

The Hon. M. PARNELL: Clearly, the grant of freehold title will extinguish native title. How will that process be handled and what is the situation if traditional owners do not want the company to have freehold?

The Hon. G.E. GAGO: I am advised that we cannot grant freehold until the native title agreement is in place.

The Hon. M. PARNELL: The proposal in this bill to grant freehold title over the special mining lease was not a part of the environmental impact statement. I remind members that whilst we use the shorthand of environmental impact statement, under the Development Act it is effectively environmental, social and economic impact, not just environmental. So, it was not part of the EIS, it was not in any of the public consultation documents and it was not addressed in the South Australian government's own assessment report. The first that I heard of it, and I think the first that most people heard of it, was when it was announced on 12 October 2011 after the agreement between the government and BHP. My question of the minister is: was this an issue that was always on the agenda, and, if so, why was it not part of the public consultation?

The Hon. G.E. GAGO: I have been advised that this aspect was agreed to quite late in the negotiations.

The Hon. M. PARNELL: In relation to the potential freeholding of this land, what charge, if any, will the government apply to BHP Billiton to receive this freehold title for over 500 square kilometres of crown land? In particular, will any charge be levied in relation to the land itself or the administration of the issuing of a title or any other aspect of the proposed freeholding?

The Hon. G.E. GAGO: I have been advised that they will be required to pay the normal Mining Act rate rental for the SML, which I am advised is $2.5 million per annum.

The Hon. M. PARNELL: So that I understand the minister's answer, she said they would be required to pay the normal Mining Act rental of $2.5 million a year: does that include once they are freehold? Why are they renting it back if it is freehold? The minister is saying that, whilst they may own the land, they will still be subject to the normal mining lease fee. That is not quite the question I asked. The question is: in relation to the actual transfer, will they be obliged to pay any capital sum for the land itself? Will they be obliged to pay any of the administration costs of turning the land from presumably pastoral lease, unallotted crown land or whatever it is currently into a freehold title?

The Hon. G.E. GAGO: I am advised no.

The Hon. M. PARNELL: It is nice work if you can get it, several hundred square kilometres of South Australia for free, which leads me to my next question: is the government contemplating this as a technique to attract other mining companies to South Australia? Have any other mining companies asked for freehold land and would the government consider giving freehold land to mining companies if they want it?

The Hon. G.E. GAGO: I think we have offered a lot of latitude to questions that do not necessarily apply to the indenture but which might have some remote relevance. This line of questioning is simply not relevant to the indenture bill before us.

The CHAIR: There is an amendment on the table. Have you moved that yet?

The Hon. M. PARNELL: No, I have a couple more questions before I get on to that. The issue of freeholding is fundamental to the indenture—it is in the indenture. I have a couple more questions on it and then we will proceed if that is the committee's will. Clause 24 of the indenture sets out that the freehold land reverts back to the state at the expiry period of the special mining lease. My question of the minister is: what responsibilities are then effectively avoided on BHP's part and what responsibilities then become the responsibility of the state once that reversion of freehold has occurred?

The Hon. G.E. GAGO: I have been advised that BHP Billiton will be required to complete their rehabilitation obligations.

The Hon. M. PARNELL: Once they have completed their rehabilitation obligations—and we know from mining operations elsewhere that even once a mine tailings facility has been capped that the actions of wind and rain over a period of years can expose the ore body—what maintenance obligations then rest with the company, or are all those future obligations, which could be centuries or longer, left to the state? As a supplementary question: is there any potential in this indenture for rehabilitation bonds, if you like, to be maintained for a period longer than the currency of the special mining lease?

The Hon. G.E. GAGO: I have been advised that, under the rehabilitation obligations, the standard of rehabilitation is such that the protections are extremely long term and, in effect, indefinite. So, the risk of that resulting in any long-term risk or impost to the state, once it is reverted back to the state, is absolutely minimal I have been advised.

The Hon. M. PARNELL: So, when they are made to rehabilitate and, for example, to cap their radioactive tailings facility, the minister is guaranteeing that that will be safe, without the additional intervention of the state by additional works, for as long as it needs to be. Is that the minister's advice?

The Hon. G.E. GAGO: I have been advised that the company will have to demonstrate to the state that that is the case.

The Hon. M. PARNELL: I will disagree with the minister there, but I will not pursue it. We know that radioactive waste, and that is what we are talking about here, is dangerous for tens of thousands of years. I think we are kidding ourselves if we think that we can impose standards on a company that will keep us safe for that period of time, allow the company to walk away and not expect that, ultimately, it will be the state that picks up the tab.

Other members might have questions on this clause, otherwise I will move my amendment to delete this clause. So that we do not have the same discussion we had previously, I have a subsequent amendment, which is to delete the section of the act that relates to it. I imagine that, if I am unsuccessful in deleting the clause, probably I will not be able to move my amendment to delete the section. However, I want the record to show that was my intention.

The Hon. G.E. GAGO: The government opposes this amendment. The amendments proposed in the government's bill aim to remove the redundant provisions of the ratifying act relating to the Aboriginal Heritage Act 1979, section 9(2), (3) and (4) and new provisions, section 9(5) and (6), to bring up to date the circumstances whereby land considered part of a project may or may not be declared a protected area under section 21 of the Aboriginal Heritage Act 1979. These are not substantive amendments, rather they are consistent with the existing provisions of the ratifying act. Consequential amendments relate to amendment No. 10 to repeal section 9 of the ratifying act.

The Hon. D.W. RIDGWAY: As I explained earlier, the opposition will not be supporting the amendment.

Clause passed.

Clause 9.

The Hon. M. PARNELL: Clause 9 of the bill amends, by substitution, section 12 of the act, which relates to special provisions in relation to local government. So, the whole of the existing section 12 is replaced with a new section 12. The best shorthand way of describing this is that the people of Roxby Downs will have themselves a municipality to which some aspects of the Local Government Act will apply but, effectively, it will never lose the taint or the benefit, depending on how you look at, of being a company town. So of the two amendments that I have put forward, one relates to by-laws and the other relates to compulsory acquisition.

My first amendment (No. 11) basically brings the town of Roxby Downs into line with other municipalities in South Australia; namely, that they are able to introduce by-laws for the good governance of the people under their control. The provision in the bill that relates to by-laws states:

> ...a by-law that will affect the operation of the Company must not be made without the approval of the Minister and the Minister must, before approving a proposed by-law—
>
> (i) inform the Company of the terms of the proposed by-law and allow it a reasonable opportunity to comment; and
>
> (ii) consider any comments made by the Company.

My question is: why does the company have a special role in relation to by-laws that is normally reserved exclusively for the parliament? Secondly, what other company in South Australia has the same benefit of being directly consulted in relation to municipal by-laws before they come into operation?

The Hon. G.E. GAGO: I have been advised that, essentially, the town is a company town. There is a current provision in the act and it is, therefore, reasonable that the company should be consulted and, to the best of our knowledge, this is a fairly unique circumstance.

The Hon. M. PARNELL: The minister said that it is fairly unique by which I take it she means it does not apply anywhere else. Leigh Creek is a company town and, while you might say Whyalla is no longer a company town, the steelworks is still a dominant industry. Is there any other company in South Australia that gets this special access to by-laws before they come into operation?

The Hon. G.E. GAGO: The examples that the honourable member gives are nowhere near the scope of this. This is a unique circumstance. I guess the simple answer to the question is no, to the best of my knowledge, this is the only set of circumstances that exist in this way.

The Hon. M. PARNELL: I think I can probably move 11 and 12 together because they relate to the same clause so I might speak to my amendment No. 12, as well. This amendment deletes the following paragraph, which states:

> ...compulsory acquisition of land may not be exercised contrary to the provisions of clause 30 of the Indenture.

When you look at clause 30 of the indenture that, in fact, gives the company considerably more rights than people would normally have when they are faced with a compulsory acquisition. My question is: why is it that it is good enough for everyone else in this state to go through the compulsory acquisition process—including its appeal rights I should say; the right to challenge the legitimacy of the acquisition, the right to challenge the compensation to be payable—but why are those provisions not good enough for BHP Billiton when it comes to potential compulsory acquisition at Roxby Downs?

The Hon. G.E. GAGO: I have been advised, and I have put on the record previously, that these arrangements are already in the existing indenture and BHP indicated that it wanted those arrangements to continue.

The Hon. M. PARNELL: I simply make the point before we resolve these amendments that one of the most disappointing aspects of this whole exercise is that here we had the opportunity, here we had the ability to leverage some changes, to introduce some fairness, to try to bring the operations here back within the fold of the statute book of South Australia, and yet that opportunity has been missed because all the great negotiating that the joint venturers did back in the 1980s has been continued. I think that is disappointing, but for now I move:

Page 9—

Lines 4 to 10—Delete paragraph (e)

Lines 11 to 13—Delete paragraph (f)

I urge all honourable members to support these amendments.

The Hon. G.E. GAGO: The government opposes these amendments. They would result in the removal of amendments relating to section 12 of the ratifying act regarding local government arrangements, being that council by-laws that would affect BHPB's operations require the approval of the indenture minister after consulting with BHPB. This provision is in the current ratifying act.

The government's proposed amendment simply modifies section 12 to remove the references to joint venturers and replace them with the company, as BHPB is now the ultimate holding company. The policy intent in section 12 is to ensure that BHPB has the opportunity to comment on a by-law that may affect its operations. Section 12 does not give BHPB the right to veto such a by-law being made.

The second amendment proposes to remove the amendments relating to section 12. This provision has been part of the ratifying act since 1982. It does mean the municipality cannot compulsorily acquire land in general, rather that it must not be land that BHPB either reasonably requires or uses for its operations or a transaction that would hinder BHPB's operations. It must be remembered that the overriding purpose of the ratifying act in the indenture is to facilitate the current and future operations (which are significant) of Olympic Dam and the associated infrastructure, and this existing provision is entirely consistent with this purpose.

Amendments negatived; clause passed.

Clause 10.

The Hon. M. PARNELL: There are a number of amendments that relate to clause 10, which effectively adds some nine brand-new sections to the indenture act, and these are matters that were not there before. They are new issues. It inserts new sections 13 through to new section 23. I do have some questions in relation to a number of these new sections and some amendments as well. I will start with new section 13—Unlawful abstraction, removal or diversion of water. It provides:

A person must not, without the authority of the Company—

(a) abstract or divert water from any Desal Infrastructure; or

(b) take or use any water belonging to the Company or supplied by the Company for the use of any consumer.

Maximum penalty: $10,000 or imprisonment for 2 years.

My first question of the minister is: what is wrong with the existing laws of South Australia that relate to theft or interference with property in relation to BHP's ownership of this water? Why are new provisions required, rather than simply use the existing criminal law, especially in relation to theft?

The Hon. G.E. GAGO: I have been advised that we believe that this is more effective protection for what is a major piece of infrastructure. It mirrors what SA Water does with its infrastructure, for instance, and is consistent with what the government does with its desal plant and the way that is regulated. As I said, it is a critical piece of infrastructure, and we believe that this provides more effective protection.

The Hon. M. PARNELL: Just so I understand the minister's answer in relation to more effective protection: is the minister saying that if someone was to do these things (abstract or divert

water, take or use water, etc.) that they would not be able to be pushed under South Australian law? Is there some loophole, for example, that says that the company does not own the water and therefore the laws of theft do not apply? Is it necessary to make criminal something that would not otherwise be?

The Hon. G.E. GAGO: It is a provision that is consistent with the way that we regulate other major pieces of infrastructure.

The Hon. M. PARNELL: Just in that theme, are the penalties here (the $10,000 fine, the imprisonment for two years) equivalent to theft of water from other types of water infrastructure? For example, if someone was to steal water from an SA Water pipe without paying for it, are the penalties the same?

The Hon. G.E. GAGO: What was the question?

The Hon. M. PARNELL: You are saying that this is a more effective way of dealing with it. What I am trying to work out is whether these penalties are higher or lower than if, for example, you stole water from an SA Water pipeline going past.

The Hon. G.E. GAGO: I have been advised that the penalties are consistent with the Water Industry Bill.

The Hon. M. PARNELL: What I am interpreting the minister as saying is that these penalties are much higher than normal, but they are consistent with legislation that we are soon to debate; I think that was her answer.

The Hon. D.W. Ridgway: Probably next year.

The Hon. M. PARNELL: The Hon. David Ridgeway interjects, 'Next year.' I am expecting to debate the Water Industry Bill a bit later on tonight, in the early hours of the morning perhaps, if we push on with our work. Because I am going to do these as a job lot, I will just flag now that I am not satisfied with the minister's answer, and that I do not believe that this special provision is necessary and will be moving to delete it.

The next new section (section 14) on page 10 is a most curious provision, and it provides for very substantial penalties for people interfering in a criminal sense with desalination infrastructure. As with the theft of water in the previous section, my question of the minister is the same here: are any of the criminal penalties created by this section not covered by existing laws in relation to criminal damage (for example, vandalism) or are any of those offences new?

The Hon. G.E. GAGO: I have been advised that it is consistent with the Water Industry Bill.

The Hon. M. PARNELL: I do not have the advantage of having the Water Industry Bill with me, but the bill before us today has a maximum penalty of $20,000, for example, and imprisonment for five years for hanging a banner off the desalination plant. You might think that that seems a bit extreme. New section 14 provides:

> (1) A person must not, without the authority of the Company—
>
> (a) attach any equipment or thing...to any Desal Infrastructure...

The maximum penalty is $20,000 or imprisonment for five years. Is the minister telling me that a similar provision is in the Water Industry Bill that we are about to debate?

The Hon. G.E. GAGO: I am advised that it is modelled on the Water Industry Bill.

The Hon. M. PARNELL: I thank the minister for her answer, which clearly readers of *Hansard* will interpret as saying, 'There's no way that there is a $20,000 and five-year gaol penalty in the Water Industry Bill for hanging banners off desalination infrastructure.' The minister says it is modelled on it. The point—and I think all members have probably got it by now—is that all the offences created by section 14 are already criminal offences under the law of South Australia, especially in relation to criminal damage. I think that it is unnecessary, and I foreshadow that one of the amendments I will be moving en bloc will be to delete new section 14.

I now move on to new section 15—Access to desalination plant land. It is only a couple of sentences, so I will put it on the record. It provides:

> A person who enters onto, or remains on, land—

(a) owned or occupied by the Company, or that is under the care, control and management of the Company; and

(b) which constitutes the site (or part of any site) of any Desal Infrastructure...without being authorised to do so by the Company, is guilty of an offence.

Maximum penalty: $2 500.

This, effectively, is a trespass clause. To understand the meaning of 'desal infrastructure' so you understand the scope of the land which this trespass provision will affect; you have to go to clause 13 of the indenture, subclause (17A)(a) of the indenture. What that tells you is that you have the plant itself at Point Lowly. You also have the pipelines all the way from upper Spencer Gulf to the mine site, you have the various pumping stations that will exist along the way, you have the coastal inlet and outlet pipes, and everything else to deal with the desalination infrastructure. A person who enters onto any of this land without authority is guilty of an offence and there is a $2,500 fine.

My first question of the minister is: how much land are we actually talking about here? If she has the figure in hectares, that would be good, but I presume we are talking about the area of the desal plant. I imagine it will have a fence around it on land, but we are also talking about considerable land that is covered by sea water in upper Spencer Gulf, and we are talking about considerable land where there will be a pipeline easement at least for starters. How much land are we talking about is subject to these trespass laws?

The Hon. G.E. GAGO: We will have to take that question on notice.

The Hon. M. PARNELL: I will look forward to the minister's response. The minister has taken a number of questions on notice and what I have neglected to ask her each time is when we might get the answers. I am presuming perhaps by Tuesday morning; that would suit me.

The Hon. G.E. GAGO: We will get you those answers as soon as we possibly can.

The Hon. M. PARNELL: Well, I am here all night. I have nothing else that is occupying my mind other than this project—the single biggest industrial project in the state's history, the biggest hole in the ground ever dug on the face of the planet.

Getting back to this new section 15, my question is: will all of the areas that are subject to these new trespass laws be fenced? If they are not capable of being fenced, will they be signposted? How will people know whether they are infringing section 15?

The Hon. G.E. GAGO: I have been advised that the area covered by the desal plant will be 42 hectares. So, there is an answer to one of your questions. It will be fenced. Obviously, this is a major piece of infrastructure and public access is not wanted. It is a major piece of infrastructure and if it was damaged or sabotaged in anyway it would be critical to the operations of Olympic Dam. In terms of the access corridor, the pipeline will be buried, it will not be fenced and public access is not an issue. There will be a number of pumping stations along the way which will be fenced but they only cover small areas.

The Hon. M. PARNELL: I thank the minister for her answers. In relation to the pipeline corridor, which presumably will be tens of metres wide (maybe 100 metres wide, the minister can tell us if she knows) and will go on for many kilometres, is the minister giving the people of South Australia, through *Hansard*, an assurance that they will not be prosecuted for trespass under this provision if, for example, they walked or even drove along the roadway that I presume would be either above or alongside the buried pipeline?

The Hon. G.E. GAGO: I have already answered that question. I have already put it on the public record that it will be buried, that public access is not an issue and, therefore, they are not going to be prosecuted.

The Hon. M. PARNELL: Let us look at the other part of the desalination infrastructure that involves a very long pipe going out into the sea. There will be a pipe for bringing water in to the desalination plant, there will be a pipe taking the concentrated brine out and there will be various diffusers associated with that. Given the minister's answer in relation to the buried land pipeline, is the minister's answer the same in relation to the marine infrastructure? To put it clearly, is anyone going to be prevented from boating, swimming, snorkelling, fishing or any marine activities over or within the corridor that relates to the desalination infrastructure in the marine environment? Will the minister guarantee that access to all of that marine area will be unimpeded and not subject to these trespass laws?

The Hon. G.E. GAGO: I have been advised that in relation to large ships there are no restrictions, except in relation to anchorage. The charts will show where large ships would be advised not to anchor so that there is no damage to the infrastructure. In terms of small boats and fishing, I am advised there are no restrictions, and in terms of diving I have been informed that there are no restrictions.

The Hon. M. PARNELL: I thank the minister for her answer, and I guess that it would be overly enthusiastic of me to assume that that was support for my amendment No.16, which was to include a new section 15A—Access to coastal waters, and states:

> Nothing in this Act or the Indenture allows the Company to unreasonably restrict public access to waters that are located over or in the vicinity of any Desal Infrastructure that is buried in the sea floor.

So, effectively, what the minister has said is precisely what my proposed new section 15A says. I will not say any more about that, other than that I am glad the minister agrees and that very soon she will be able to show, by voting in favour of my amendment No.16, that I was always on the money.

My next two amendments, Nos 17 and 18, I do not propose to speak on at any length. They are consequential, one to a matter I have already dealt with in relation to the Development Act and the other to a matter I will be having a bit more to say about when we get into the clause by clause examination of the indenture.

New section 19 allows for the minister to appoint authorised officers. The job of authorised officers will in fact be very similar to authorised officers under the Environment Protection Act. Given that the minister in another place, and I think the Premier as well, have made a point in the media about how independent the EPA is going to be and that the EPA will have a great level of control, if we put those two things together, it makes sense, I believe, for the authorised officers to be appointed by the EPA rather than by what is effectively the mining minister.

I have been taking it for granted that the minister responsible for this bill currently is the mining minister and I am presuming will be after the act is proclaimed. Can the minister, first of all, clarify that it is the mining minister who is being referred to in new section 19?

The Hon. G.E. Gago: Yes.

The Hon. M. PARNELL: Yes, thank you. Secondly, can the minister confirm whether existing authorised officers under the Environment Protection Act will be made authorised officers for the purposes of this act?

The Hon. G.E. GAGO: I am advised that they do not need to be because they already have powers under their own act.

The Hon. M. PARNELL: The minister's answer is that authorised officers under the Environment Protection Act already have power. If that is the case, why is an additional category of authorised officer under this bill needed? Are they going to be different people with different powers? What is the purpose of having a second tranche of authorised officers if the existing ones already have all the powers?

The Hon. G.E. GAGO: I am advised that this provision provides for the inclusion of mining inspectors rather than the EPA.

The Hon. M. PARNELL: I thank the minister for her answer. Can the minister assure us that the authorised officers who relate to environmental performance will be EPA officers and that authorised officers for the purposes of mining will, in fact, be confined to matters that relate to mining and not environmental matters? Can the minister confirm that there will be that demarcation between the two types of authorised officers? Can the minister also confirm who the authorised officers under this section are accountable to? I presume that it is the mining minister but, if I am incorrect, the minister can let me know.

The Hon. G.E. GAGO: I am advised that that is correct.

The Hon. M. PARNELL: That is the second part of my question. Can I get the minister to confirm the first part; that is, that the mining authorised officers will be doing only mining work and that there will not be anyone appointed under section 19 whose task is to enforce environmental standards who is either not already or also appointed under the Environment Protection Act?

The Hon. G.E. GAGO: I am advised that any environmental authorisation made by the EPA will be inspected by the EPA.

The Hon. M. PARNELL: I understand the minister's answer, but it is not just environmental authorisations issued by the EPA; it is also the environmental management program under the indenture. It needs to be clear to me that it will be Environment Protection Authority officers answerable to the EPA who will be responsible for environmental performance and assessment.

The Hon. G.E. GAGO: I have been advised that if it is outside a strict environmental authority it could, in fact, be looked at by a mining compliance officer or an EPA officer.

The Hon. M. PARNELL: I will leave that line of questioning there, and I thank the minister for her answer. I have three amendments which, in spite of those answers, I am still minded to move—that is, amendments Nos 19, 20 and 21—which effectively make the Environment Protection Authority responsible for authorising officers under this act. However, I note the fact that authorised officers might not be appointed under the mining legislation, but those officers would still have authority under other parts of the legislation without the need for them to be identified in new section 19.

I now move to my amendment No. 22. This amendment proposes a new clause 21A, which clause is designed to give the Environment, Resources and Development Court the power to resolve disputes in relation to the indenture, rather than the arbitration provisions of the indenture. When we get to the indenture, and to my amendment that seeks to amend the provisions of the indenture, I propose testing the will of the committee to remove clause 49. Clause 49 provides that all dispute resolution is to be conducted by private arbitrators, rather than by courts and, in particular, the Environment, Resources and Development Court. However, I will leave the discussion of that item, the appropriate body for arbitrating disputes, until we get to that clause of the indenture.

Amendment No. 22 says that it is the Environment, Resources and Development Court that will have the jurisdiction to hear and determine any appeal that arises under the provisions of this indenture. I think it is appropriate that, having some years ago set up a specialist court to deal not just with environmental matters but also mining matters, to give that public body the authority to deal with disputes. I note also that when it comes to a public court we do have access to information. You can obtain transcripts of evidence. There is a range of things you can do through the public courts that you cannot do through private arbitration. If we are serious about openness and transparency, we need to make sure that a public court is responsible for determining disputes.

I have reached the end of my amendments to clause 10, that is, amendments Nos 13 to 22. I will move them en bloc now that I have spoken to them all. I move:

Page 9, lines 36 to 41—Delete section 13

Page 10—

Lines 1 to 32—Delete section 14

Lines 33 to 38, page 11, lines 1 to 3—Delete section 15

After line 3—Insert:

15A—Access to coastal waters

Nothing in this Act or the Indenture allows the Company to unreasonably restrict public access to waters that are located over or in the vicinity of any Desal Infrastructure that is buried in the sea floor.

Page 11—

Line 16—Delete 'or 7A'

Lines 23 to 27—Delete subsection (3)

Line 30—Delete 'Minister' and substitute 'Environment Protection Authority'

Line 33—Delete 'Minister' and substitute 'Environment Protection Authority'

Line 34—Delete 'Minister' and substitute 'Environment Protection Authority'

Page 12, after line 25—Insert:

21A—Jurisdiction of ERD Court

(1) The Environment, Resources and Development Court will have jurisdiction—

(a) to hear and determine any appeal that arises under the provisions of the Indenture; and

(b) to act in any arbitration under clause 49 of the Indenture.

(2) Any arbitration proceedings commenced before the Court under section 49 of the Indenture must be referred in the first instance to a conference under section 16 of the *Environment, Resources and Development Court Act 1993*.

(3) A decision of the Court in any arbitration proceedings will take effect as a judgement of the Court (and may be subject to appeal under Part 7 of the *Environment, Resources and Development Court Act 1993*).

I am interested to hear if there is any further comment from the government or the opposition as to why they cannot see their way clear to supporting these.

The Hon. D.W. RIDGWAY: As I indicated before, the opposition has had extensive briefings. We were fortunate to have an advance opportunity to discuss all the components of the indenture with both the government and people from BHP, and we indicated that we would not be amending the indenture or this legislation at all. So, with those few words, I indicate our former position: we will not be supporting the amendments.

The Hon. G.E. GAGO: The government opposes these amendments. The Hon. Mark Parnell's amendments would result in the removal of amendments to protect BHPB's desal plant at Port Bonython from unauthorised obstruction, diversion and taking and using of water produced from the plant. While BHP's private infrastructure may not perform a public function, it is conceivable that at some point in the future the desal plant may be used to source water for a public purpose.

In addition, the desal plant is particularly important for BHPB to support and expand its processing capacity and operation at Olympic Dam and the related economic activity in the state. These amendments should be considered as if the desal plant were performing a public function, a public identity, and the penalty included in the government's amendment is consistent with similar penalties under the Water Works Act 1932 that apply to SA Water's desal plant.

Amendments negatived.

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

Page 12, after line 36—Insert:

24—Regional infrastructure and investment fund

(1) The *Regional Infrastructure and Investment Fund* is established.

(2) The Fund must be kept as directed by the Treasurer.

(3) The Fund consists of—

(a) 25% of all royalties received by the State from the Company under the Indenture; and

(b) any money provided by the Parliament for the purposes of the Fund; and

(c) any income arising from investment of the Fund under subsection (4); and

(d) any additional money that is to be paid into the Fund under a determination of the Treasurer; and

(e) any other money that is required or authorised by another law to be paid into the Fund.

(4) The Fund may be invested as approved by the Treasurer.

(5) The Minister for Regional Development may apply the Fund—

(a) for such purposes directly related to regional development or regional investment as may be determined by that Minister (including by payment to any person or organisation (whether or not an agency or instrumentality of the Crown) for those purposes); or

(b) in making any other payment required by another law to be made from the Fund; or

(c) in payment of the expenses of administering the Fund.

(6) The administrative unit of the Public Service that is, under the Minister for Regional Development, responsible for regional development within the State must, on or before 30 September in each year, present a report to that Minister on the operation of the Fund during the previous financial year.

(7) A report under subsection (6) may be incorporated into the annual report of the relevant administrative unit.

(8) The Minister for Regional Development must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days after the report is received by that Minister.

(9) The Minister for Regional Development must, in connection with the operation of this section, maintain on a website—

(a) a statement of income and expenditure for the Fund (listing each allocation of money from the Fund separately and in a manner that identifies the purpose or purposes for which each allocation is to be used); and

(b) information about how applications may be made for grants or other payments from the Fund.

(10) For the purposes of this section, regional development or regional investment must relate to development or activities undertaken outside Metropolitan Adelaide.

(11) In this section—

Metropolitan Adelaide means Metropolitan Adelaide as defined in the *Development Act 1993*;

Minister for Regional Development means the Minister who has portfolio responsibility for regional development within the State.

In the interests of moving along with this bill I will be brief as I have already spoken to the key points of this amendment. It is a simple amendment, but it is a very important one, and it is about equity. It is known as Royalties for Regions. I would prefer it to be called Equity for Regions. There is no doubt, whichever way you look at it, that rural and regional South Australia have missed out to a huge extent over the last nine years and several months.

Whilst we as a party strongly support good initiatives for the city of Adelaide and the metropolitan area, Family First does not apologise for also having a focus on South Australia as a whole, including rural and regional South Australia. The fact is that there are desperate needs in the country. These wealth opportunities, such as the one we are debating now with BHP Billiton, have come up not from a mine in Adelaide but from a mine at Roxby Downs in the Far North, in a regional part of South Australia.

This amendment is not a money amendment per se, that is, this amendment does not lock the government into 25 per cent of royalties for regions from all mining ventures. It simply says that, with respect to Roxby Downs, 25 per cent of the royalties will go into the regions from the Roxby Downs indenture ratification agreement and the subsequent royalties that will be delivered from that entire mining site. It does not ensure that this government or any future government has to give royalties to the regions from all other mining projects.

I think I have said enough. I would be keen to hear comment from the government, the opposition and the crossbenches, and then I would be happy to briefly sum up and put the view and consider the amendment from there.

The Hon. G.E. GAGO: The government opposes this amendment. There have been a number of comments in recent media about a royalties for regions scheme, with funds being quarantined for regional infrastructure needs, similar to the Western Australian model. The amendment from the Hon. Robert Brokenshire follows this theme. It must be pointed out that the resources and energy sectors in Western Australia, and also Queensland for that matter, are well established, generating billions of dollars in revenue and royalties relevant to that revenue.

In the 2009-10 financial year the state government received approximately $125 million in mining royalties in total. Although this figure is projected to increase significantly due to the proposed expansion over the coming years, the government's investment in rural regions vastly exceeds the entire mineral royalty received at present.

As has been discussed elsewhere, the effect of horizontal fiscal equalisation reduces the effective free cash from the royalties that the state has at its disposal. The state government is committed to regional communities, and this is highlighted in the 2011-12 state budget through significant investment in key service areas and infrastructure, with $276.3 million allocated to regional South Australia. The mineral wealth of South Australia, and specifically the royalties derived from that wealth, is to provide for all South Australians.

A royalty investment fund, while an appealing concept, is not suitable for South Australia at this stage. However, the commitment to regional South Australia should be in no doubt, as is evidenced by the creation of a new PIRSA where the 'R' stands for regions. I welcome the intent behind the amendment, but the government at this point cannot support this amendment.

The Hon. D.W. RIDGWAY: I indicate that the opposition will not be supporting the Hon. Robert Brokenshire's amendment, but I am sure he would recall that during the last election the Liberal Party went to the people with a policy of a regional development and infrastructure fund, with some $40 million in that pledge to that fund.

The Hon. J.S.L. Dawkins: Forty-three.

The Hon. D.W. RIDGWAY: The Hon. John Dawkins interjects—$43 million. Effectively, that was, if you like, a royalties for regions program, but that was a policy we took to the last election. We think that is a better way to do it, rather than having a set amount of money hypothecated off as the Hon. Robert Brokenshire is suggesting.

As the minister explained, the horizontal fiscal equalisation is not just as simple as saying, 'Well, we'll have a certain percentage of the royalties,' because of course there is the equalling effect it has between the states. I understand the Hon. Robert Brokenshire's intent—and I am sure he was delighted when he saw our election policy at the last election, and he knows—

The Hon. R.L. Brokenshire: I was happy then, but I'm sad now, I have to say.

The Hon. D.W. RIDGWAY: Well, I am sure he will be happy again when he sees our next suite of election promises and commitments for regional South Australia because he knows that the Liberal Party is the mainstream party that will support the regions and look after them.

The Hon. R.L. BROKENSHIRE: Just to conclude and respond, if I may, I am genuinely disappointed that neither of the major parties has seen fit to support this. Frankly, when it comes to horizontal fiscal equalisation and the rest of it, Western Australia has had to manage that, New South Wales has had to manage that, and Queensland has had to manage that.

We always know that, the way it is structured, when you get mining wealth from any state, it is part of the agreement between states and the commonwealth. We know that, but the bottom line is it is an issue for the government of the day to manage, just the same as they can find $540 million overnight when an AFL executive flies in and demands it, and just the same as they can find money (that I am pleased they found) for the Southern Expressway duplication when, on the eve of the election, their polling says that they need it.

To summarise, I am disappointed that the major parties have not seen fit to support this amendment. We are taking plenty out of the regions, yet we are giving little back. I will continue to push for equity for the regions, but I hear the call of numbers.

Amendment negatived; clause passed.

Progress reported; committee to sit again.

SPORTS STAR OF THE YEAR AWARDS

The Hon. T.J. STEPHENS (17:57): I seek leave to make a personal explanation.

Leave granted.

The Hon. T.J. STEPHENS: On Wednesday 23 November, in a matter of interest speech regarding the KPMG Celebration of Sport, I named the winner of the Junior Sports Star of the Year Award as Jay Dohnt. It was, of course, the magnificent Luke Saville from the Riverland, winner of the junior championships at Wimbledon this year.

I was quoting from the article on Adelaidenow, which lists Jay Dohnt as the winner, but of course I should have trusted my memory. Jay Dohnt, the decorated Paralympic swimmer, was actually an extremely worthy winner of the prestigious Tanya Denver Award. Out of respect to both these fine athletes, I wanted to correct the record.

[Sitting suspended from 17:58 to 19:48]

ROXBY DOWNS (INDENTURE RATIFICATION) (AMENDMENT OF INDENTURE) AMENDMENT BILL

In committee (resumed on motion).

Clause 11.

The Hon. G.E. GAGO: I have a number of answers to questions that have been asked during the committee stage that I would like to put on record. The Hon. Mark Parnell asked: is the minister's answer that this indenture effectively obliges a company to produce on site the amount of copper, smelted as metal, that they have said they are going to do; and, if they do not, will they have to come back for a variation? I have been advised that no, the indenture does not oblige BHP to produce the on-site amount of refined copper.

A further question asked by the Hon. Mark Parnell was: to tie this right down, when does a variation need to occur? Is it the first year that they do not produce the amount promised, or do they get 10 or 20 years? I have been advised that any future changes proposed by BHPB to the project would require further scrutiny by the government. Should the change be significantly different to what was applied for and assessed under the EIS, BHPB would be required under the Development Act 1993 to review and potentially amend its EIS. This would trigger further assessment by the government and possible amended assessment report and decision. However, the EIS does not define a specific time frame.

In relation to a question about what time frame and what is the formal trigger for a variation of the indenture, I have been advised that there is no time frame and there is no trigger in the indenture, as the indenture does not impose the obligation. A question was asked: which clause of the indenture allows the government to walk away from the contract if a company's commitments to local processing are not achieved; further, what if the government of the day decides that it is happy for 100 per cent of ore to be sent to China? If the government of the day is happy with zero processing, what are the implications? In relation to those questions, I have been advised there is no clause in the amended indenture that requires local processing which means this is not a basis on which the state could terminate the indenture.

In relation to a question asked by the Hon. Rob Lucas in relation to the government's preliminary estimate of $200 million over a period of 10 years for state government infrastructure and between $35 million and $50 million for certain civic infrastructure, we were asked what the current provisions are in aggregate within the forward estimate period. I had been advised that the 2011-12 budget includes $7 million for government housing in Roxby Downs to ensure sufficient accommodation in the short term. Other than that there are no provisions in the forward estimate period. These figures will not be available until the project has been approved. The board of BHP Billiton has not yet approved the project and the workforce projections for BHPB provided in the EIS require confirmation, thus state agencies do not have sufficient up-to-date information on which to prepare detailed business cases for the budget process.

A further question by the Hon. Rob Lucas: is the minister's advice that within the period of 2011-18 there is no requirement to build any new government school facilities in the area? I have been advised that requirements for new facilities are dependent on projected student numbers. The Roxby Downs Area School has spare capacity. When the projections indicate demand for services will exceed capacity, the department will review preliminary plans for a staged redevelopment which were prepared over the period 2006-09.

A further question by the Hon. Rob Lucas: what component of the $35 million to $50 million, which is over that period of 2011-20, will be included within the forward estimates period? It is the same question as to what component of the $200 million would be included in the period of 2014-18? I have been advised that the civic and community components, the $35 million to $50 million as well as state infrastructure, have not been factored into the current forward estimates or for the period 2014-18. In terms of the name of the legal firm, I have been advised that it is Glenn Davis with the DMAW Lawyers.

In answer to a question about the Stuart Shelf area, about how big that area is, I have been advised that we do not have an exact figure; however, it has been estimated to be about 15,000 square kilometres.

The CHAIR: Thank you, minister. When the committee last sat we were on clause 11 and the Hon. Mr Parnell had some amendments to move at that stage.

The Hon. M. PARNELL: Clause 11 is, in effect, the crux of the bill in some ways because it is the clause that provides that the indenture, or the variation deed contained in schedule 1, is ratified and approved; so it is, if you like, the operative clause in the bill. The amendments that I will be putting forward relate to, as I said at the outset, some changes that I am proposing be made to the indenture.

The nature of the bill, its structure and how it is drafted means that my amendments are included in a second schedule and, therefore, the amendments that I am moving now basically provide that whilst, when we pass this clause we are acknowledging schedule 1. I am effectively giving advance notice that I will have a schedule 2 that I will be moving, and that affects the changes that I believe need to be made to the indenture. That is the intent of the amendment. It is simply to revise schedule 1 with a series of amendments. I have not counted them, but I think there are well over 100 if you take the subcomponents in schedule 2 and incorporate those into the indenture.

As I said at the outset, it is my intention, when we get to my amendment No. 27, to effectively move those 100 or so matters en bloc. I am not going to seek to move each component individually, because there are 16 or so pages of them, and I do not need that to happen. What I do require, and I will ask the minister this question for her assurance, is that I will be able to move my schedule 2 and the minister will not seek a ruling that, our having passed clause 11, somehow my schedule 2 is redundant and I will not be able to move it.

If that were to occur, given that I want my proposed changes to the indenture on the record, I would find myself obliged to read 16 pages of amendments, and I do not think anyone wants that. I do not know whether the minister needs to take advice. I just want her assurance that, whilst the outcome might seem assured, I can move my amendment No. 27 when we get to it.

The Hon. G.E. GAGO: I do not have a problem with progressing that way so long as we are technically able to do that. In terms of anything that I have control of, I am happy to progress that way as long as there is no technical impediment for us to do so.

The CHAIR: My advice from the table staff is that that is fine.

The Hon. M. PARNELL: In which case I will at this point move en bloc the four amendments. I move:

Page 13—

Line 4—After 'this act' insert:

(but subject to the modifications contained in Schedule 2 of this act)

Line 5—After 'the Indenture' insert:

(as modified in the manner set out in Schedule 2 of this act)

Line 7—After 'the Variation Deed' insert:

(and as modified in the manner set out in Schedule 2)

After line 11—Insert:

(5) Despite any provision of the Variation Deed, the Indenture, as amended in the manner contemplated by this act, is modified by force of this provision in the manner set our in Schedule 2 of the act.

The Hon. G.E. GAGO: The government opposes this amendment. The Hon. Mark Parnell's amendments propose to enable further variations to the indenture in schedule 1 of this bill through modifications contained in his amendment No. 27, schedule 2. The amended indenture that is before this place is the agreement the state and BHPB have reached following the lengthy process of negotiation that has taken place over the past nine months, setting out the rights and obligations of both parties. Therefore, we do not support the amendment.

Amendments negatived; clause passed.

Clause 12 passed.

Clause 13.

The Hon. M. PARNELL: Clause 13 relates to the variation date. This is one of the issues on which the minister in another place said that he was most proud, having negotiated this deal; that is, that the variation date must be no later than 12 months after the date on which this act comes into operation. As I understand it, it is effectively giving BHP Billiton a year to get its act

together, as it were. My question of the minister is: what is the impact of that 12-month sunset clause, and why is it that any extensions to that period are not also limited to periods of 12 months? In other words, if the company does not meet its obligations to be ready for the variation date in 12 months, why is it that any extension is effectively open-ended?

The Hon. G.E. GAGO: Indeed, it is not open-ended at all. There is the period of up to 12 months that has been agreed to and then if there are circumstances where some degree of flexibility might be needed to extend that for a short period of time, depending on sound or reasonable circumstances, that needs to be agreed to by the minister and the company, and it is disallowable before parliament. So, there is a degree of parliamentary scrutiny attached to that.

The Hon. M. PARNELL: I need the minister to explore a bit further how that would work. The first thing I note is that there is no condition precedent for extension other than the company wants it and the minister agrees. Secondly, whilst it might be the intention of the government that it only apply to small extensions to the 12-month period, it would seem to me, on the face of it under this clause, that if the company said, 'We are not quite sure what we are doing, we need a 10-year extension,' that the only obligation on the minister is to then table that in parliament where it can be disallowed.

So, I would say, whilst it might be the intention to use it for short extensions, it could be used for long extensions, but my question to the minister is: regardless of the time of the extension, will the parliament have the ability to change the extension to the variation date, or will the parliament just have the power to disallow it? A subsequent question is: if the parliament does disallow the extension and the 12 months has expired, does that effectively kill or end the indenture?

The Hon. G.E. GAGO: The advice I have received in relation to the last question is: yes, it would kill the indenture. As I said, by ensuring that it is disallowable by parliament, it gives that degree of parliamentary scrutiny. I have put on record what the intention of this provision is: it is to allow for some degree of flexibility where there are reasonable grounds for that to occur, and it is disallowable. So it would have to come to parliament and parliament would have the power to prevent that progressing if it believed those were not reasonable grounds.

Clause passed.

Schedule 1.

The ACTING CHAIR (Hon. J.S.L. Dawkins): As we move into the schedule, my advice is that the Hon. Mr Parnell can speak to the manner in which his proposed schedule 2 would impact on the current schedule and, once we have got to that stage, we will deal with him moving his proposed new schedule 2.

The Hon. M. PARNELL: I would hate to cut across any other members who have questions or comments earlier than I have, but my first contribution is to clause 6 of the schedule.

The ACTING CHAIR (Hon. J.S.L. Dawkins): It seems there are no contributions before clause 6, so I call the Hon. Mr Parnell.

The Hon. M. PARNELL: Clause 6 of the schedule is headed Commitment to a Project. It says, in effect, that, if the company decides to proceed, they are required to notify the minister of that decision. The minister has told us earlier she is expecting that time to be perhaps the middle of next year. The minister then has to decide whether he or she is satisfied of a range of issues, including whether suitable arrangements can be made for the financing of the project and whether the minister is satisfied that the company is ready to embark upon and proceed to implement the project.

My question of the minister is: what is the consequence of the minister not being satisfied with either of those elements, for example, not satisfied that sufficient finance will be available and not satisfied that the company is, in fact, ready to proceed?

The Hon. G.E. GAGO: I have been advised that there is in fact no provision here for the minister to approve or not approve. The company is required to provide certain information to the minister. If the company fails to provide that information, then technically they are in breach of the indenture.

The Hon. M. PARNELL: I understand that this is primarily around provision of information. That information presumably then finds its way into an application, and we are now moving into clause 7, the approvals clause. I note that when giving approvals, based on the information

provided in clause 6, the minister does have the power to refuse the application and, if the minister does refuse, the minister has to provide reasons. The decision of the minister is effectively subject to the arbitration clause. Will the minister clarify that, notwithstanding the fact that a minister might think there is inadequate information on which to base an approval and therefore he or she exercises their judgment not to approve, that decision could be overridden by the arbitration clause?

The Hon. G.E. GAGO: I have been advised yes, that is so.

The Hon. M. PARNELL: On clause 7, the approvals process provides for the approving body to be the minister for any project approval other than an environmental authorisation, yet there are approvals that relate to the environment that are not technically environmental authorisations. Why do those approvals go to a minister who does not necessarily have any detailed knowledge of—and when I say 'knowledge' I am also talking about the department behind the minister—the environment, for example, the environmental management program. Why do the approvals go to the indenture minister rather than a more appropriate minister with a department behind him or her with expertise in the environment?

The Hon. G.E. GAGO: I am advised that the indenture sets up a one-stop shop for approvals and that was the intention of the way that we structured the indenture. However, the indenture minister has to consult with the responsible relevant minister and they are required to receive their agreement for appropriate decisions.

The Hon. M. PARNELL: Is there some part of clause 7 that I have missed that requires that consultation with other ministers, or is that elsewhere in the indenture?

The Hon. G.E. GAGO: Clause 7(3) of the act, I have been advised.

The Hon. M. PARNELL: Despite that requirement to consult, is there any ability for the minister to delegate his or her powers under the approvals clause, clause 7 of the indenture?

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

The Hon. M. PARNELL: That is it for clause 7. Clause 7A—Environmental authorisation. I refer the minister to the final words of clause 7A(1):

> ...the application for any Environmental Authorisation may, in the discretion of the Company, be made to the EPA pursuant to this Clause 7A.

My question is: what does that mean, that it may be made? Does that mean that there may not be any application needed at all, or an application is needed and the company has the choice of who to make the application to? What does it mean?

The Hon. G.E. GAGO: I have been advised that the company has the choice of applying to the EPA in the normal way, or taking advantage of clause 7A with the arbitration rights.

The Hon. M. PARNELL: That does not quite answer my question. Arbitration only arises if you have made an application and there is a dispute in relation to the application. My question is: if the company is not to apply to the EPA for an environmental authorisation, who else could it apply to in the first instance?

The Hon. G.E. GAGO: I have been advised that, if it is an approval under the Environment Protection Act, it can only be the EPA.

The Hon. M. PARNELL: I thank the minister for her answer. That is what I would have hoped. I just wanted to clarify that there is no opportunity under this or any other clause for the company to apply for environmental authorisations to anyone other than the EPA. For example, can the minister clarify that such applications cannot be made to the indenture minister? Further, are there any environmental authorisations that the company is not obliged to apply for? In relation to any environmental authorisations that are somehow granted as a right, either through this indenture or through the development approval or through any other process, are there any that are granted pursuant to some other provision or must they all be applied for?

The Hon. G.E. GAGO: Our understanding is that they would have to be applied for. That is the advice I have received.

The Hon. M. PARNELL: I thank the minister for her answer and move on to clause 7A(2), which basically provides that the EPA has a number of options open to it. They are the standard sorts of options: when an application is made they can approve it, they can approve it subject to

conditions, or they can refuse it. They are the three basic options. When it comes the second option, approving subject to conditions, there is a requirement that the EPA must give reasons for its decision to attach conditions to the approval.

My question is: why is that a requirement of the EPA in this case when it is not a requirement in any other case where a person or company applies for an environmental authorisation? My understanding is that if the EPA is to refuse an authorisation then, yes, they have to give reasons; but my understanding under the Environment Protection Act is that, when it is simply the attachment of conditions, they are not obliged to disclose effectively written reasons for their decision. Why is it the case here, and why is the EPA not simply obliged to follow its normal procedures?

The Hon. G.E. GAGO: I have been advised that the EPA currently is required to provide reasons for its decisions as a matter of course.

The Hon. M. PARNELL: Can I just clarify their decisions in relation to conditions, because that was my question? I understand they have to provide reasons for refusal but do they have to provide reasons if they attach conditions?

The Hon. G.E. GAGO: My advice is yes.

The Hon. M. PARNELL: I thank the minister for her answer. In relation to subclause (4) of 7A, this is a subclause that requires consultation. It says that the EPA shall afford both the applicant and the minister full opportunity to consult the EPA if the EPA proposes to attach conditions or proposes to reject the application for an environmental authorisation. My question is: does that requirement to consult apply to any other applicant for an environmental authorisation in South Australia?

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

The Hon. M. PARNELL: The importance of the question and the answer, of course, as members would know, is that under the Environment Protection Act, which we are told will play a prominent role in this project, the minister is at arm's length from the EPA in relation to two matters: one of them is the issuing of licences and the other is an enforcement. So here we have a primary breach of the arm's length provisions of the Environment Protection Act because we have the minister holding hands with a company in with the EPA, convincing the EPA not to impose conditions or not to subject the company to a refusal.

I just make that observation; I do not require a response from the minister. I am making the point that the EPA is at arm's length from government when it comes to licensing matters. Here is a situation where the minister, in fact, will be consulted and will be in there at the EPA meeting with the company—presumably together, maybe separately.

My next question relates to subclause (5) which is the arbitration provision. Are there any other licence applicants or environmental authorisation applicants that have the opportunity to go to private arbitration rather than have their matter dealt with in the ERD Court?

The Hon. G.E. GAGO: I am advised no.

The Hon. M. PARNELL: In relation to subclause (6), which does mention the ERD Court, it says that if the company does not want to go to private arbitration then the company can decide to take the dispute to the environment court. My question is: why is the choice of forum entirely up to the company? Why can't the EPA decide that the environment court is a better forum for hearing the dispute?

The Hon. G.E. GAGO: I have been advised that having the right to arbitration was a condition of BHPB agreeing to take environment authorities out of clause 7; so, making sure that the EPA can make the decision and not the indenture minister.

The Hon. M. PARNELL: I understand that that was one of BHP Billiton's requirements, but it really does not answer the question. Why can't the EPA choose to take the dispute to the environment court? Why is it only the company that gets to choose the forum?

The Hon. G.E. GAGO: As I said, that was the agreement.

The Hon. M. PARNELL: In relation to subclause (7) of clause 7A, can the minister just confirm that, in addition to the list of documents that the EPA is required to have regard to, the EPA will also still have to have regard to the objects of the Environment Protection Act and any relevant

environment protection policies under that act; that that will still be an obligation on the part of the EPA to take those documents into account as well?

The Hon. G.E. GAGO: If those are the matters that are normally taken into account, then the advice is yes.

The Hon. M. PARNELL: They are my questions on clause 7A. When we get to my amendment that deals with this, members will find that there is a number of amendments that clarify some of the matters that the minister has raised in her answers, for example, making sure that all applications for environmental authorisations go to the Environment Protection Authority and to delete some of the special provisions that are granted to BHP Billiton to bring it back to the field, if you like.

Alternatively, the government might want to raise the standards that apply across the South Australian economy, but, in the absence, I think that the EPA should not have any more onerous obligations imposed on it when dealing with this company than it would have dealing with any other company. My amendments seek to reinstate the Environment, Resources and Development Court as the arbitrator of all disputes, and to make it crystal clear, as the minister has just said, that the matters that the court would take into account would include the objects of the Environment Protection Act and any environment protection policies if they were standing in the shoes of the EPA.

My amendments also remove provisions that effectively allow for automatic approval of environmental authorisations once the development authorisation is granted. I know that the minister will probably say, 'Well, that's already inherent in the Development Act.' Nevertheless, I want to see this indenture removed to remove that connection.

When we get to my schedule 2, they will be my amendments to clause 7A. I have nothing on clause 8. With respect to clause 9—Subsequent projects, I have taken the opportunity in this clause to set out what are for the Greens some of the key difficulties we have with this project and some of the prerequisites that would need to be met before we could approve either this project or a subsequent project, which is why I have put it in here. I will do two to start with, the two main conditions: first of all, the on-site copper processing rather than overseas processing. Effectively, my amendments, when we get to them, say in relation to subsequent projects that they are not going to go ahead unless these preconditions are met, and on-site copper processing rather than overseas processing is number one.

As I would remind members, that was the promise that the premier made to us back in 2007. In the answers that the minister has just given us when we started this later session, she made the concession that if the company decides to send 100 per cent of the ore overseas and that 100 per cent of the processing jobs will occur overseas, there is not one thing that the government can do about it, because the indenture locks in the ability of the company to go down that path if it so chooses.

In relation to subsequent projects, on-site processing should be a prerequisite. The other prerequisite which I have included in my amendment to this clause is that 100 per cent renewable energy be used, initially in relation to the electricity supply. We will get to the clause that deals with energy later on and I will have a little bit more to say about that. It seems to me that when you have this massive new demand in an era of climate change, and in a legislative environment where we have passed an act of this place requiring us to reduce our emissions, it makes no sense at all for this company to in fact single-handedly blow all our greenhouse targets out of the water. That is why that is a precondition as well.

The amendment, when people get to it, will realise that those two things are there. The third precondition for future or subsequent projects, which will come as no surprise to members, is that the company needs to agree that all uranium that is capable of being extracted from any product is to be directed to the tailings stockpile and that all tailings are to be eventually returned to the pit. So there are three things: it is a no uranium option, it is 100 per cent powered by renewable energy, and we keep the jobs here in South Australia. When we get to schedule 2 members will be able to put on the record their support for those three important concepts. That is it for clause 9.

Clause 10 concerns compliance with codes, and I draw the committee's attention to subclauses (3) and (4) of clause 10. I am not sure that they are consistent. Subclause (3) provides that if the parliament, either state or federal, sets standards in relation to radiation exposure, transport or whatever, then the company must comply with those standards, but clause 4 says that

the government cannot impose higher standards on the company than those that are listed in a certain list of documents that are included in subclause (1).

My question to the minister is: how does that work? How is it that you can say on the one hand you have to comply with the standard set by parliament and then on the other hand say that you are not allowed to insist on any higher standards than exist in a number of documents that are not legislative documents? They are not legislated, they are not acts of parliament, they are not regulations; most of them are codes of practice, recommendations or publications issued from time to time. My question is: how are those two things consistent—complying with the law of the land, but not having to comply with higher standards than in the documents on that list?

The Hon. G.E. GAGO: I am advised that these are not inconsistent. One says that they have to comply with the law and the other says what the law can be. I just remind honourable members that these provisions have been unchanged since 1982.

The Hon. M. PARNELL: I thank the minister for her answer and remind the chamber that, when it comes to the history of setting standards of exposure for various toxic materials, standards that are 19 years old are the exception rather than the rule. What we know is that when standards are revised they are nearly always revised upwards to show that smaller concentrations of dangerous substances than we had previously believed are, in fact, dangerous.

What the minister is really saying is that the reason she is saying it is not inconsistent is that they have to follow the law but, when it says 'the state shall not seek to impose on the company any higher standards', effectively the contract is for the state not to legislate for any tougher standards than some of these 18-year-old provisions in guidelines and codes of conduct set out in that list. So, I just make the observation that I think that is an appalling way to manage things. It is effectively trying to require the state never to increase its standards. My solution, which we will get to in my schedule 2, is actually to delete subclause (4) so that what we are left with is that the company complies with the law of the land. That is it in relation to clause 10.

In relation to clause 11—environmental management programs—clause 1 provides that the company has to provide an environmental management program to the government within 12 months or any longer period that is agreed. So, in relation to possible extensions of time, is there any limitation? How long could the government give BHP Billiton to provide that environmental management program if it is not to be done within the 12 months?

The Hon. G.E. GAGO: I have been advised that there is no upper limit. It is really just a matter of what is reasonable.

The Hon. M. PARNELL: Maybe the minister could point to a provision of the indenture that makes it clear that no relevant work to which an environmental management program applies—no work—can be undertaken until that environmental management program has been received and approved.

The Hon. G.E. GAGO: I have been advised that the Development Act approval requires a number of environmental plans before work can proceed, and there is an existing EMP which has to be revised and approved by the minister.

The Hon. M. PARNELL: I refer the minister to clause 11(3)—Environment management program. It has a curious provision in here which provides:

> (3) In addition to the requirements that are or can otherwise be included in an EMP, the Company may, at its absolute discretion, include in an EMP any condition or requirement, however called or described, of any Project Approval to the extent the condition or requirement relates to the protection, management or rehabilitation of the environment.

I ask the minister what is actually meant by that? Why is the company given the ability, 'at its absolute discretion', to incorporate material into this plan?

The Hon. G.E. GAGO: I am advised that these are requirements of the Development Act that the company requested so that it would be easier for them to be able to manage under a single management system.

The Hon. M. PARNELL: I thank the minister for her answer. Is there anything in those words, where it says the company may 'at its absolute discretion' to in any way make a decision made under this subclause, immune from the arbitration provisions, for example? Does the fact that the indenture says that is their absolute discretion mean that it cannot be challenged by the government?

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

The Hon. M. PARNELL: There are a number of concepts in this clause 11 that are somewhat at variance with the concepts that we are used to seeing in environmental legislation. For example, in subclause (9) there is a reference to something that has 'a material environmental impact'. If we look at subclause (11), there is a reference to 'unexpected material detriment to the environment'. Yet, in the Environment Protection Act, there are a number of established and well recognised concepts and those concepts are serious environmental harm, material environmental harm and environmental nuisance.

How does the minister expect these new concepts, these new forms of words—'material detriment to the environment' and 'material environmental impact'—to relate to the existing suite of language, if you like? How will the EPA interpret those words, given that there are not definitions included in the indenture, whereas there are definitions for those other terms in the Environment Protection Act?

The Hon. G.E. GAGO: I have been advised that the indenture minister would make a decision about material detriment on a case-by-case basis and that it would be expected that the indenture minister would take whatever expert advice might be necessary to assist them in that decision—whether it was from DENR, the EPA or whomever—wherever that expert advice might be needed.

The Hon. M. PARNELL: I understand the minister's answer. My point is that it is a matter of great convenience, I think, to the company when the various tests of performance are untested words. The difference, of course is that, under the Environment Protection Act, those concepts—serious environmental harm, material environmental harm and environmental nuisance—are well-known and well interpreted, with plenty of case law; but I will move on.

Subclause (13) provides that the minister may make available for public inspection an environment management program that has been approved by the minister, an approved mitigation plan and various other documents, including audits. Can the minister explain why the disclosure of those documents is optional rather than compulsory?

The Hon. G.E. GAGO: I have been advised that, indeed, it is not forcing the minister; it is, in fact, giving the minister the discretion that they need when they need it.

The Hon. M. PARNELL: My question is: why should the minister have a discretion? Why should not the minister be obliged to make these documents publicly available?

The Hon. G.E. GAGO: It is our view that it would be fettering the minister unnecessarily.

The Hon. M. PARNELL: I do actually understand what the minister's first answer was—that the default position is one of secrecy, and the clause says, 'Well, the minister may override the secrecy provision and may disclose it.' What I am saying is that I think we need to go one step further and, in fact, I will ask another direct question: is the public register provision of section 109 of the Environment Protection Act overridden by subclause (13) of this clause?

The Hon. G.E. GAGO: My advice is that we do not believe that this is relevant because we believe that these are not documents that would go on the EPA register anyway.

The Hon. M. PARNELL: Okay, that is interesting. There is a list of documents that must go on the public register. There is a list in section 109, there is a further list in the regulations, and then there is a catch-all provision—and I am working from memory here—that says the EPA can put other stuff up on that it wants. Is the minister saying that her expectation is that the EPA will not want any of these documents to go on the public register and, therefore, will not seek to put them on that register?

The Hon. G.E. GAGO: I think that my previous answer continues to be the answer to this question, and that is that it is not relevant because we do not believe that these are documents that would go on the EPA register. We are going in circles.

The Hon. M. PARNELL: I am not happy with that answer. I know, for example, in relation to land contamination, there are requirements to put land contamination information on the public register. There is a requirement under subclause (3) here for audits submitted. I will just disagree with the minister on that and I will move on.

Subclause (15) of this clause talks about effectively where the company has outsourced some component of work, and basically what the clause says in paraphrase is that if the company

it has been outsourced to undertakes the obligations in relation to the environmental management program, then the company does not have to. Now, my question is: will all of these companies conducting outsourced elements be required, for example, to have rehabilitation bonds or insurance bonds? If something goes wrong with an outsourced element, is the company completely relieved of obligation or can the buck still stop with them and can they be required, for example, to remediate any environmental harm that resulted?

The Hon. G.E. GAGO: I am advised that the party that takes over the outsourced element assumes all responsibility of the indenture in relation to that element.

The Hon. M. PARNELL: Does that include provision of rehabilitation bonds or insurance in the event of something going wrong?

The Hon. G.E. GAGO: I have been advised that they would have to take over the obligation in relation to clause 11, but in relation to rehabilitation bonds they only apply to BHPB and the mine site.

The Hon. M. PARNELL: I think the take home message from that is that if there is anything really risky get someone else to do it. You outsource it and, therefore, you potentially avoid doing your bond, as it were. I now move to probably the most abhorrent provision in this whole indenture. It is pretty hard to put your finger on one, but I am going to put my finger on clause 11(18). It is only a paragraph so I will read it into *Hansard* because it is an absolute doozy. It provides:

> Notwithstanding the provisions of this clause 11, the state acknowledges that the company, in assessing the economic feasibility of a project, shall have regard to the laws, regulations or standards (other than those referred to in clause 10) relative to the environment existing at the time at which the relevant project notice is given. Should there occur, during the currency of this indenture, any changes to any such laws, regulations or standards of or applied by the state, the result of which is to impose substantial additional costs upon the company, the state shall, upon request of the company, give due consideration to ameliorating the adverse effects of such costs.

The reason I say this is an abhorrent provision is because what it is doing is what we did back in the 1960s, where we locked in current standards for 50 years—the standard that applied to Lake Bonney; the standard that applied in the old Whyalla indenture—you can pollute as much as you want provided you really think you have to. Who knows where environmental standards would go in the next 50 years? So, my first question of the minister in relation to this clause is: why on earth did you lock in for 40, 50, 60 or 70 years the environmental standards of 2011 and not leave the door open to increase or change those standards over time without risking the finances of the state in massive compensation claims?

The Hon. G.E. GAGO: I have been advised that this clause has always been in the indenture and that we are not required to pay any compensation, only to consider payment of compensation. More importantly, it implies that BHPB is not immune from future environmental laws.

The Hon. M. PARNELL: That is a very interesting spin the minister has put on that clause. It seems pretty clear to me that if environmental standards change and it costs the company money to comply with the new standards, they can then put in a request to the state to pay compensation to them for having to meet those higher standards. If the state refuses and it goes to arbitration, the arbitrator is obliged to look at the objects of the indenture and the commercial considerations of the project, the arbitrator awards compensation and all of a sudden it is the state that pays.

Let me pose a specific question. There is nothing in this subclause (18) that limits these environmental changes to state law. Let us say, for example, the commonwealth changes its standards. Members might be aware that there are a number of bills before the federal parliament, for example, to attach a new trigger under the EPBC Act in relation to groundwater, a trigger that has been, if you like, triggered by the controversy over coal seam gas. We might find, in the future, that that small list of matters of national environmental significance under the Environment Protection and Biodiversity Conservation Act grows over time, the feds will enter into environmental management, where they have never been before, and they will impose standards.

If those standards change, if the commonwealth brings in new environmental laws that make it more expensive for the company to have to meet those standards and they are entitled, under this clause, to put in a claim for compensation, if that was to occur can the minister confirm whether or not the state might be forced, through the arbitration system in this bill, to pay that compensation?

The Hon. G.E. GAGO: As I have already stated in my previous answer, we are not required to pay any compensation, only to consider it. I have been advised that we cannot be forced to pay compensation through the arbitration process.

The Hon. M. PARNELL: I hope the minister is right: I am not convinced that she is. Before I go to the amendments that I have to clause 11—and I appreciate the forbearance of the committee because it is, in fact, one of the longest and most significant of clauses in the indenture—it is the appropriate time for me to raise some issues in relation to particular environmental concerns.

What I have done so far in this committee is talk about the process, the operation, of clause 11. I now wish to touch on a couple of issues. I want to talk about the management of the tailings facility. I want to ask questions about dust suppression and make some observations. I want to talk briefly about the risk to bird life and also ask questions about the waste rock heap.

The CHAIR: I remind the honourable member that in the committee stage you talk about the clause but that is for the second reading speech, mainly. Feel free to ask the questions and move your amendments and talk to your amendments, but we should really leave it at that rather than making contributions, that sound like second reading speeches, to clauses.

The Hon. D.W. Ridgway: Hear, hear!

The Hon. M. PARNELL: I thank you for your guidance. The Hon. David Ridgway says, 'Hear, hear!' I have enjoyed hearing his contributions when he has talked about the extensive briefings he has had from the company and the task force, and the advanced copy he got of the legislation and the different opportunities. His colleagues in the lower house, I am sure, appreciated that they, in fact, had their own select committee where they were able to directly ask the company a range of these questions. So, while I will take your guidance, as always, Mr Chairman, about the appropriate way to proceed—

The Hon. D.W. Ridgway: Did you ask for a briefing?

The Hon. M. PARNELL: Yes, we got a briefing from the EPA. We got a briefing from the Olympic Dam—

The Hon. G.E. Gago: You could have got a briefing on anything you wanted.

The Hon. M. PARNELL: We got briefings from the Olympic Dam task force.

The Hon. G.E. Gago: You could have got it from whoever you wanted.

The Hon. M. PARNELL: We asked questions. I had a briefing early on with BHP Billiton. The point I am making—

The CHAIR: Order!

The Hon. G.E. Gago: They got whatever briefings they wanted, and the same was available to you.

The CHAIR: Order! You just got a briefing from the chair. It might be best that you follow that one.

The Hon. M. PARNELL: Thank you, Mr Chair. In relation to the tailings facility, I will preface my question by reminding members of the editorial that appeared in the Adelaide *Advertiser* on 24 August 2009 under the heading 'Olympic Dam issues must be resolved' and two sentences from that editorial. It said:

> The government already gave ground on its demands for the maximisation of job creation in the expansion, agreeing it made economic sense for much of the ore processing to be conducted overseas. It must not give any ground over environmental issues: future generations would never forgive us.

In relation to the tailings, part of the debate around this issue has been that we posed a number of questions. *The Advertiser* asked us for our top 10 questions and the government then responded. One of the questions we posed was: how can the government claim that they have met their public commitment for the expansion to meet world's best practice when only 4 per cent of the tailings dams are to be lined and the dams are designed to leak?

The premier in his response in *The Advertiser* made a substantial admission, I believe, when he said that, rather than using plastic liners, they were going to use the natural sediments, in

other words, the natural earth. The premier claimed that this use of natural sediments was considered to be more reliable than a plastic liner.

My question of the minister is: how can the government claim that, given that leakage through the natural sediments is up to eight million litres per day over the first 10 years, given that we know a plastic liner would greatly reduce that leakage, how can the government claim that not lining the tailings facility provides a better environmental outcome?

The Hon. G.E. GAGO: I reiterate that the government has been extremely tolerant and shown a great deal of latitude during the committee stage. The matters the honourable member is referring to are matters pertaining to the EIS and are not matters within the indenture act, which is before us at the moment and which we are supposed to be discussing clause by clause. I will afford a brief answer, and that is that these matters have been extensively reviewed. We have utilised world's best expert advice in relation to these matters pertaining to the particular terrain and circumstances, and we are applying the best practice and science that is available to us.

The Hon. M. PARNELL: In relation to these tailings, I pointed out in previous contributions that world's best practice is disposal of tailings back into the pit. Can the minister explain why that option was not explored and why it was not required as a condition of approval?

The Hon. G.E. GAGO: Your assumption, I am advised, is actually incorrect.

The Hon. M. PARNELL: If my assumption is that it is not world's best practice to put the tailings back in the pit, why is that the requirement at the Ranger uranium mine?

The Hon. G.E. GAGO: It is a different environment, and that is the science and advice that applied to that particular terrain, and that particular circumstance came up with that solution. We have provided the best advice and science to the particular circumstances at Olympic Dam, and that is the best solution we have to manage those matters there. I can only reiterate that these are matters of the EIS. We are not here tonight passing the EIS. We are here to debate the indenture: these are not matters of the indenture, and I believe we need to move on.

The Hon. M. PARNELL: I know the minister would like to move on, and I will not argue with the minister as that would be unparliamentary. We are talking about clause 11; this is the clause that requires the company to document how it will manage the environmental impacts of the project. This is the environmental management program section. I nominated just a small number of environmental issues, and I will proceed with all haste, but I would appreciate the minister answering as best she can.

She said that Ranger is not world's best practice as it is a different environment. I remind the minister that we have actually cut short this committee stage a great deal by my putting an awful lot of questions on notice in advance. I am not proposing to go through all those questions and all those answers, other than when the answers were unsatisfactory. One that was unsatisfactory is in relation to this point. We asked the government if it could provide us with examples of other arid or semi-arid mine sites where there were successful examples of tailings rehabilitation in circumstances similar to what is being proposed here at Olympic Dam.

The government pointed out a whole lot of documents it was relying on as to why what it was doing was appropriate, but it still has not provided us with any examples of arid or semi-arid mine sites where disposal of tailings in the form proposed has been successfully undertaken. Is the minister able to provide any such examples?

The Hon. G.E. GAGO: I have answered the question, and that is that we have had extensive review of these matters. We have relied on world expert advice. and we are applying the best science that is available to us to the particular circumstances and terrain at the Olympic Dam site.

The CHAIR: The Hon. Mr Parnell might get around to moving his amendment.

The Hon. M. PARNELL: I will certainly do that shortly, as I am able. This is the only point in this debate where specific environmental issues relevant to clause 11, the environmental management program, can be raised. There are a lot of other issues about roads, airports and royalties which we will get to. I know that the Hon. Kelly Vincent is keen to ask some questions on clause 12.

The Hon. R.I. Lucas: If the Greens do not ask questions on the environment, who will?

The Hon. M. PARNELL: As the Hon. Rob Lucas said, no-one else would be asking questions. I will push on. Part of the criticism that has been made in relation to the tailings facility is that only 4 per cent of it is going to be lined. I ask the minister, in relation to the environmental management program, is it the case that if more of the tailings facility were lined that you would get a proportional decrease in the amount of toxic liquid that is escaping into the environment?

The Hon. G.E. GAGO: Again, I have already answered the question; that is, that we have sought the best advice possible. We have based this approach on that world's best scientific advice and we are managing the project accordingly.

The Hon. M. PARNELL: I thank the minister. One question that was not answered and I will give the minister another chance—it was not the minister who did not answer it, it was the Olympic Dam task force—was what it would cost to fully line the tailings storage facility in order to effectively control the leakage of liquid radioactive waste. Does the minister have any understanding of what the cost of 100 per cent lining would be?

The Hon. G.E. GAGO: I am advised that the cost is around $30 million per cell, but to suggest that we are not proceeding with the 100 per cent lining because of the cost would be an incorrect assumption. I can only reiterate that we have based this on the best advice possible and we have sought to adopt those solutions based on that best advice possible.

The Hon. M. PARNELL: My final question is on the issue of the tailings facility. First of all, can the minister confirm that a design feature of the tailings dam is that it is designed to leak? Can the minister describe what the materials, chemicals or contaminants are that might be expected to be transported with the leachate into the groundwater?

The Hon. G.E. GAGO: Based on the scientific advice that we have received and the considerable reviews that have been undertaken what I can assure the honourable member is that the solution that we have put in place absolutely minimises contamination of the underground water supply.

The Hon. M. PARNELL: I mentioned in my second reading speech that one of the issues that was raised by Birds Australia was the impact of the tailings facilities on birds, and in particular on the mortality of birds. What conditions would the minister expect to see in the environmental management program in relation to minimising bird deaths in the tailings facility? I note that, in the past, BHP has said that it would partially cover the area with netting which it hoped would reduce the risk. Birds Australia queried whether that would be successful, whether the netting would survive in the acid environment. Can the minister add any more information about how this particular environmental impact is likely to be managed?

The Hon. G.E. GAGO: I have been advised that they have put a number of things in place. One is to design the tailings in a way that will drastically reduce the amount of water—and, of course, it is the water that attracts the birds in the first instance. They are also spending $5 million for research to consider further ways to manage the bird issue.

The Hon. M. PARNELL: Finally in relation to the birds, will the company be required to undertake monitoring and, if the result of the monitoring shows that the methods undertaken are unsuccessful, will there be the ability, either under the environment management program or elsewhere, for the government to require alternative solutions to be put in place?

The Hon. G.E. GAGO: My advice is that the answer is yes to both of those questions.

The Hon. M. PARNELL: In relation to dust pollution, members will recall that this was a key feature of the submission from Doctors for the Environment, and I think also the Medical Association for the Prevention of War raised the issue of toxic dust, some of which may include radioactive particles, but we know that all dust is bad for all human health. Can I ask the minister: what monitoring will be in place for air quality? Will that monitoring be undertaken by the EPA or by BHP Billiton or both?

The Hon. G.E. GAGO: I am advised that the answer is yes to both of those questions.

The Hon. M. PARNELL: In relation to the dust monitoring, are there any assurances the minister can give that the dust suppression techniques and the design of the facility will be sufficient to prevent radioactive-contaminated dust reaching either the township of Roxby Downs or the Hiltaba Village?

The Hon. G.E. GAGO: I have been advised that the company will be required to develop a management plan in respect of the management of dust and that that is required to result in minimal risk to the township you mentioned—

The Hon. M. PARNELL: Hiltaba, and Roxby.

The Hon. G.E. GAGO: And Roxby.

The Hon. M. PARNELL: My understanding is that an amount of the water that is going to be used for dust suppression will, in fact, be saline groundwater. Is the minister able to provide any advice on how much water is going to be used for dust suppression?

The Hon. G.E. GAGO: I have been advised that it is 15 to 25 megalitres per day.

The Hon. M. PARNELL: The final of the environmental issues that I will be covering under clause 11 relates to the waste rock heap. The waste rock heap needs to be distinguished from the overburden waste storage. The waste rock heap will consist of what has been called class A material, which is effectively low-grade ore. That is going to be stockpiled at the side of the overburden waste mountain. As I understand it, the intention is that that waste rock heap will not be covered in any way or rehabilitated in any way, because it has effectively been put to one side with the hope that one day it will become economic to mine it. The EIS refers to the fact that the class A material would not be covered by benign material because it might be economic to mine it in the future.

The reason I think that is an issue for this environmental management program is that the assumption seems to be that the environmental impacts of run-off from these piles are going to be the same; in other words, the same environmental impacts from the overburden as will result from run-off from the class A material. Now, I am no miner, but it is my understanding that it is not as if the overburden is somehow benign and has no minerals in it, and you then get down to this sort of magic seam where all of a sudden it does. My understanding is that the concentrations of different minerals will vary in different strata. Effectively, the assumption appears to have been that benign material and future mining material is being treated the same way.

So I ask the minister, given that what is effectively a low-grade ore stockpile is not going to be covered, how is it that the problem of sulphide minerals and acid leachate will not be significant? I remind members that we just have to look at Brukunga, a mine that has cost us much more to rehabilitate because of its acid leachate problem than we ever got from it in minerals. Can the minister assure us that that will not be a problem in relation to the waste rock heap?

The Hon. G.E. GAGO: I have been advised that I can assure the honourable member that the waste rock heap and the matter it will contain has been fully assessed through the assessment report. It has been deemed to be benign, and particularly because of the very dry environment it is not deemed to pose a risk.

The Hon. M. PARNELL: To clarify the minister's answer, is she saying that effectively the acid levels, for example, the pH, of the pile of rocks to be mined in the future will be exactly the same as the overburden that has little or no prospect of having extractable minerals contained in it?

The Hon. G.E. GAGO: I have been advised that it has very little acid-generating capacity.

The Hon. M. PARNELL: I have some amendments on this clause—

The CHAIR: It might pay to move them at this stage, before I lose my place.

The Hon. M. PARNELL: Thank you, Mr Chairman. Basically there is a range of amendments to clause 11 which members can see in my proposed schedule 2. They include, for example, changing references from the minister to become references to the Environment Protection Authority. There is a range of deletions of special treatment, where the company is treated preferentially to other companies. There is an obligation on the EPA to make documents available rather than simply an ability to make them available. I further amended the clause to make it clear that the company will remain responsible for the conduct of their contractors, if you like, in relation to outsourced elements.

Most importantly, I have removed subclause (18) from clause 11, which I believe places an onus, or at least an expectation, on the state to pay compensation if there are substantial additional costs upon the company in meeting changes in laws, regulations or standards relative to the environment during the currency of the indenture, in other words, removing that clause that

effectively prevents the government, either state or federal, from raising environmental standards unless they are prepared to pay the price of having to meet those standards.

I am just telling you what those amendments will be; I am not moving them now because we can do it later. That is it on clause 11, and we are now onto clause 11A. We are racing along, and we are still far short of the time the other place took to go through this process, so I think we are actually doing remarkably well. Whilst clause 11A might be the shortest clause in this entire indenture (being only 3½ lines long) it is, in fact, one of the most important because it is the clause that relates to the greenhouse gas and energy management plan. Basically, the clause provides that the environmental management program will incorporate a greenhouse gas and energy management plan.

I mentioned earlier that there were some WikiLeaks cables that related to this project, and one of them referred to the Olympic Dam expansion as being a carbon neutral facility, in that the company was likely to purchase international CO_2 reduction credits to offset the much larger emission footprint of the open-pit expansion. That was according to WikiLeaks, but mining minister Tom Koutsantonis was quoted on commercial radio on 10 October this year as saying, 'Whatever impacts it will have, it will be carbon neutral.' My question to the minister is: what does that mean? What does it mean, that this project will be carbon neutral?

The Hon. G.E. GAGO: Sorry, could you repeat the question? We are just not too sure exactly what you are asking of us.

The Hon. M. PARNELL: Presumably what minister Tom Koutsantonis meant was that whatever environmental impacts the Olympic Dam expansion will have, 'it will be carbon neutral'; 'it' meaning the project, 'will be carbon neutral'. What does that mean?

The Hon. G.E. GAGO: I am not able to comment because I do not know what was in the mind of the minister at that particular time or the context in which he made those comments, so it would depend on that.

The Hon. M. PARNELL: I will not push the minister for an answer on that question; they were not her comments; they were another minister's comments. Clearly, they mean nothing. In fact, the commitment that has been made in relation to greenhouse emissions is that the company would reduce emissions by 60 per cent by the year 2050, so 100,000 tonnes of emissions based on scope 1 and 2 emissions.

I note that the Conservation Council, which did manage (after some pressure) to be able to give evidence to the select committee on the bill, made the point in the media and before the committee that it believes that it is misleading for the Premier or anyone else to say that those emissions are likely. In fact, Tim Kelly, the CEO of the Conservation Council, makes the point that there is a vast difference between aspirational goals and commitments, and, whilst it might be an aspirational goal for the company to reach that target, it is well short of a commitment. If it was a commitment it would be binding as part of the conditions of approval.

Mr Kelly of the Conservation Council points out his frustration and his organisation's frustration with the entire process—right through the EIS through to this indenture we are debating now. The frustration is that there are so many aspirational targets which pass off as commitments. One of the points that he makes is that the supplementary EIS referred to applying a goal of reducing greenhouse gas emissions, whereas, in fact, it appears to be nothing more than an aspirational target. My question to the minister is: is Mr Kelly correct? Has BHP Billiton committed to reducing its emissions by 60 per cent of 1990 emissions by the year 2050, or is it merely an aspirational goal?

The Hon. R.P. WORTLEY: BHP has made a commitment in the EIS to apply a goal of reducing greenhouse gases as specified.

The Hon. M. PARNELL: To pursue that answer, the only assured greenhouse-related outcome in the project, as I understand it, that is committed, is the 57 megawatts of renewable energy, so 400 gigawatt hours per year of renewable energy, for the desalination plant and the pumping. On my figures that equates to a maximum of 7.6 per cent renewable energy. Can the minister explain—and this is in the context of the greenhouse gas and energy management plan—how the company intends to meet its obligation, given that it has only committed to that 7.6 per cent so far and it has a great deal further to go?

The Hon. G.E. GAGO: Sorry, could you repeat that?

The Hon. M. PARNELL: I am saying that the other minister told me that yes, the company is committed to reducing its greenhouse gas emissions by 60 per cent under the EIS. We have identified about 7 per cent. Where is the rest going to come from? I do not want the minister to say that they have not written their greenhouse gas and energy management plan under clause 11A yet, because the government must have some inkling of how it is they are proposing to meet their target, otherwise the government must know that the target will not be met.

The Hon. G.E. GAGO: I have been advised that there is a proposed road map in the EIS and that has to be provided to the minister. We believe that that is annually. We just need to check, but we think it is annually.

The Hon. M. PARNELL: Has the government undertaken any analysis of what this project means for the state's overall greenhouse emission targets, in particular the targets set out in the 2007 state legislation?

The Hon. G.E. GAGO: Not to our knowledge. Again, I think the government has shown a lot of latitude and we are straying very far from the indenture bill before us.

The CHAIR: I tend to agree. The Hon. Mr Parnell should really speak to his amendments, move his amendments. You had the opportunity to put your questions on notice, and you had a second reading speech. I think you should move your amendments, speak to your amendments and chance your luck.

The Hon. M. PARNELL: Thank you, as always, for your advice. I just have one or two more questions. I do maintain that the title of this clause is 'Greenhouse and energy management plan'. It is only 3½ lines. It is short on detail and the only way we can work out what in fact that plan might mean for our state and for our overall state emissions is for me to ask these questions. I ask the minister: what is the procedure if the government believes that the greenhouse gas and energy management plan is insufficient to meet the target? In other words, if the company puts forward a plan and the government reviews it and says, 'There's no way this plan is going to reach the company's obligation,' what can and will the government do about that?'

The Hon. G.E. GAGO: The greenhouse plan is part of the EMP which has to be approved by the minister.

The Hon. M. PARNELL: With respect, that does not answer my question. My question is: if the plan is clearly inadequate, if the plan shows that there is no way that the company is going to meet its obligation, what can and will the government do about that?

The Hon. G.E. GAGO: I have been advised that, if they are not meeting their targets, we will not approve the plan.

The Hon. M. PARNELL: If the government has approved the plan and the company does not fulfil its targets, what will the government do? I might just preface that by saying that I understand the target we are talking about is a target by 2050, but the minister referred to a roadmap, and the roadmap is to contain interim targets. It is one thing for the company to say, 'Here's our plan; this is what we're going to do' and then either not do it or do it in such a way that it does not meet the targets. What consequences flow from that? The consequences we are talking about are the state's greenhouse emissions, the greatest moral challenge of our time, we were told by a former prime minister. I want to know what the consequences are for an inadequate plan or a failure to meet a plan and a failure to meet the interim targets set out in the plan.

The Hon. G.E. GAGO: My understanding is that the plan is reviewed every 12 months. So, if the plan is approved—I think is what the honourable member is saying—and the plan meets the requirements and the minister approves it, but then during that 12 months they do not fulfil elements within the plan, what happens? It is reviewed every 12 months by the minister and the minister can then impose additional conditions on the next review round.

The Hon. M. PARNELL: Just to clarify that, is the minister saying that we will know exactly how the company is tracking in terms of its greenhouse gas emissions every year?

The Hon. G.E. GAGO: My advice is, yes.

The CHAIR: You said every 12 months. I think there are 12 months in the year.

The Hon. M. PARNELL: That might be, but emissions ain't emissions as they—well, no-one ever said it; I just said it. When we are talking about emissions—

The Hon. R.I. Lucas: You just made that up.

The Hon. M. PARNELL: I did make that up. Oils ain't oils. There are three types of emissions: scope 1, scope 2 and scope 3. Scope 1 emissions are direct emissions generated by the company, and that would include things like using petrol and diesel. Scope 2 emissions are from purchased energy, such as buying in electricity. Scope 3 emissions are from other indirect sources, and typically that is materials or products or services that are purchased.

For example, the emissions that relate to the biggest fleet of dump trucks in the world has greenhouse gas emissions associated with it. Can the minister confirm that all emissions are going to be included in the greenhouse gas and energy management plan under clause 11A, including scope 3 emissions?

The Hon. G.E. GAGO: I am advised that the short answer is no and that no national state law requires that scope 3.

The Hon. M. PARNELL: If the government is not going to require scope 3 emissions to be taken into account, will it nevertheless be seeking to analyse what those scope 3 emissions are so that we have a complete picture of the greenhouse implications of this project?

The Hon. G.E. GAGO: If the national standard is scope 3, then we will; that is the advice I have received.

The Hon. M. PARNELL: Is the minister saying that, unless someone imposes on the government a requirement to consider all greenhouse emissions, the government will only consider part of the emissions and that it needs to be forced either to consider itself, or even suggest that the company makes some assessment of, its scope 3 emissions? In the absence of externally-imposed conditions, such as from the commonwealth, the government will not pay any attention to scope 3 emissions; is that the minister's answer?

The Hon. G.E. GAGO: At this stage, the government is satisfied with fulfilling current standards.

The CHAIR: Have we moved those amendments yet?

The Hon. M. PARNELL: No, but very soon. From the minister's answers, she is saying they are satisfied. Is the minister of the belief that scope 3 emissions are not important in overall greenhouse accounting?

The Hon. G.E. GAGO: I have answered the question. We have talked about what the national standard is, and we are in keeping with that. I have answered the question.

The Hon. M. PARNELL: Clearly, one of the key methods the company could have used to reduce its emissions would be to take responsibility for its own generation of energy. Can the minister explain why, either as part of a greenhouse and energy management plan or just generally as conditions of approval for this project, the government did not require the company to take responsibility for generating its own renewable energy?

The Hon. G.E. GAGO: You are asking why—

The Hon. M. PARNELL: I will expand on my question.

The Hon. G.E. GAGO: No, I do not want you to expand on your question—please do not expand on your question. My question to you is: are you asking why we are not requiring them to buy renewable energy?

The Hon. M. PARNELL: No, why are not you requiring them to produce renewable energy? They are a new source of demand; why not require them to produce a new source of renewable energy supply?

The Hon. G.E. GAGO: The answer is that they are a mining operation, not an energy production plant, and they will conduct their business accordingly.

The Hon. M. PARNELL: I thank the minister for her answer, and I just point out to members that I think the very year that the original draft EIS was released the government announced that the state target was that we would be producing 33 per cent of our energy from renewable sources. It seems that it would have been a logical requirement to impose on the company that they produce at least 33 per cent of their energy from renewable energy.

The Hon. G.E. GAGO: And I think we are pretty close to meeting our target already.

The Hon. M. PARNELL: But the minister did not answer the question I gave before which is: what is the government's assessment on overall state emissions in the short to medium term of this project? Am I correct in my statement that our statutory greenhouse reduction targets will be blown out of the water by this single project?

The Hon. G.E. GAGO: I have already answered this question, so the honourable member is just asking the same question in a number of different ways. We have already said that, if they meet their targets, they will be working within the state achievable target. So, we have already been down this path.

The CHAIR: The honourable member should move his amendments.

The Hon. M. PARNELL: Thank you, Mr Chairman, you have beaten me to the mark. I will not be moving it, but I will just explain what my amendment is because we will move it in en bloc when we get to schedule 2.

I do have an amendment to clause 11A, which basically adds an additional requirement for an interim greenhouse gas reduction target of 20 per cent below 1990 levels by the year 2020, and that 20 per cent of all stationary energy needs should be met from renewable energy sources by that date. I think that is a sensible amendment. It fills, at least in part, the gap that has been created by the government letting this company off the hook by having only an aspirational, long-term target that the minister knows and I know, and I think everyone in this room knows, the company has not a snowflake's chance in hell of meeting. When we get to it, I would urge all honourable members to support that amendment.

That is it in relation to clause 11A. If we can move on to clause 12, I will sit down. You have heard enough from me, I think. If the Hon. Kelly Vincent happens to get the call, I know she has got some questions on this clause.

The CHAIR: Clause 12. The Hon. Kelly Vincent.

The Hon. K.L. VINCENT: I am sure the Hon. Mr Parnell will be glad to have a Bex and a lie down, as they say. My first question pertains to clause 12(1)(a), which says that, where reasonable and economically practicable, the workforce for this project must come from within the state of South Australia. My question is: if there are professionals in South Australia who are qualified and available and use a wheelchair, for example, but can nonetheless perform the necessary duties for such a job, will BHP be encouraged to alter the physical which, I understand, is done during the job interview process for hiring staff at BHP?

The Hon. G.E. GAGO: I have been advised that the company has a diversity policy which does not discriminate.

The Hon. K.L. VINCENT: My second question pertains to clause 12(4), which says:

> Nothing in this Clause 12 shall require the Company or an associated company to act other than upon commercial considerations.

My question is: what exactly does commercial consideration mean in this context? For example, if it were cheaper to import a large workforce from some of the developing countries that I mentioned in my contribution yesterday, is it likely that this will be done?

The Hon. G.E. GAGO: Could you just repeat that, sorry?

The Hon. K.L. VINCENT: Certainly. Sorry, I am a bit jumbled; I am working with a myriad of notes. In my contribution yesterday, I talked about the possibility that, if there was not an adequate workforce here in South Australia in terms of numbers, then we could perhaps import, for example, indeed people with disabilities, but perhaps young men from war-torn countries like Sudan to undertake this work and therefore get educational opportunities that they may not have had in their home countries. I am wondering that, if it were economically viable to do so under the BHP diversity policy—I think it was called—would they be encouraged to take such measures?

The Hon. G.E. GAGO: I obviously cannot speak on behalf of BHP and their HR management, but they are a company that is very sophisticated in terms of their HR management. They have a strong commitment to diversity and, where there are not skills available in South Australia first of all, then secondly in Australia, if it is economically viable, I would imagine they really would not mind where they imported their skills from and would be happy to import them from those countries which would be advantaged the most by those practices.

The Hon. K.L. VINCENT: My next question pertains to clause 12(5)(a) which talks about the importance of BHP giving particular consideration to offering employment opportunities for young people and Aboriginal people. Of course, I am not denying that people in those groups have historically had lower than average employment and education opportunities, but I am wondering, given that workforce participation rates are lower and unemployment rates are higher for people with disabilities, why was special consideration not given to this group, also?

The Hon. G.E. GAGO: I have been advised that the list provided in subclause (5) from (a) to (f) is an indicative list only. It is simply to provide some guidelines as to the degree of diversity. However, (g) is a catch-all clause that really is to include all elements. For instance, ethnicity is not actually dealt with in (a) to (f), nor is age, except for youth. It does not deal with older Australians or older employees, so there are a whole range of diversity parameters that are not specifically dealt with but that are expected to be captured by (g).

The Hon. K.L. VINCENT: Following on from discussing paragraph (g)—and I am aware that you are perhaps not able to elaborate enough to really answer this question—has the government task force discussed with BHP innovative diversification measures, for example, something like I discussed in my contribution yesterday, such as employing people with intellectual disabilities similar to the partnership between Orana and the sawmill in Mount Gambier?

The Hon. G.E. GAGO: I have been advised that no, to this point, we have not, except in relation to those elements that are addressed in that section that I have just outlined. However, I certainly invite the Hon. Kelly Vincent to meet with the task force to discuss these matters further and look at opportunities to address those sorts of issues.

The Hon. K.L. VINCENT: I look forward to that invitation, thank you. My final question pertains to subclause (8) which provides:

> It is the intention of the Company that it will use all reasonable endeavours to implement the Industry and Workforce Participation Plan. However, a failure to implement the Industry and Workforce Participation Plan shall not be in breach of this Indenture.

As I understand it , the Hon. Mr Parnell has an amendment which seeks to delete this clause, and I can certainly see why, given the points I have just raised. There are a number of minority groups in South Australia that may well miss out on employment in what could be wonderful employment opportunities under this project. Why would there be a specific clause in the bill which could allow for this workforce participation plan to not really be used at all?

The Hon. G.E. GAGO: Our aim was to try to get the company to set aspirational targets, if you like, to look at as high standards as possible. If we were to lock them into specific targets, it is likely that they would have opted for much lower standards, so we wanted to stimulate innovation and best practice and really get them to lift their chin a bit higher and look at greater possibilities rather than respond to a punitive approach where, if they breached a particular target, then some penalty would be put in place. That means they would have set their targets much lower, and we wanted them to lift their chin as high as possible.

The Hon. K.L. VINCENT: If I can clarify a little bit—and given the hour I feel I am not on top of my game—I was not really talking about specific representation targets, if you like. I was more talking about the fact that this subclause (8) could render much of clause 12 useless if implemented, given that clause 12 focuses mainly on the importance of workplace diversity. I am not really talking about specific measures, but why would you set it up so that the workforce participation plan does not necessarily have to be implemented at all and, therefore, could have negative effects for diversity in the workplace?

The Hon. G.E. GAGO: I am advised that the company is in fact obliged to have a plan, so that is a requirement. They are also required to use all reasonable endeavours; however, the targets that I referred to in my previous answer tend to be aspirational targets.

The Hon. K.L. VINCENT: The part says 'a failure to implement the workforce participation plan'. I do not know what is in the plan but if you say there are no specific targets then I cannot see how that is really relevant given that this subclause really just means that the workforce participation plan simply would not be implemented at all and a failure to do so would not be held against BHP.

The Hon. G.E. GAGO: I believe I have answered the question to the best of our ability, and that is that they are obliged to have a plan—so, they are required to. They are obliged to use

all reasonable endeavours, and we have set aspirational-type targets within that plan. I cannot really do any better than that.

The Hon. K.L. VINCENT: What is the purpose of obliging the company to have a plan if they are not obliged to implement that plan?

The Hon. G.E. GAGO: They are obliged to use all reasonable endeavours.

The Hon. M. PARNELL: I thank the Hon. Kelly Vincent for cutting to the chase. Really, a plan that you do not have to do anything with is not that useful. I want to ask about jobs. Clearly, there is an expectation in the South Australian community that a great many jobs will be generated and available to South Australians. Whilst these new jobs have not been filled yet and we do not know who they are, does the government have any indication or any idea of the proportion of new jobs that are likely to be home-grown jobs from South Australian residents? What proportion might come from interstate and what proportion might be brought in from overseas?

The Hon. G.E. GAGO: I have been advised that over the last 20 years 65 per cent of the workforce has come from South Australia.

The Hon. M. PARNELL: I thank the minister for her answer. One of the reasons that I wanted to ask that question and get it on the record is that I was sent an article today about the contract that has been let for recruitment. The article is headed 'HRX secures BHP Olympic Dam Deal'. I will ask the minister whether she can confirm the accuracy of the statement, but it seems that a Sydney-based company has been given the job (they have been the successful tenderer) for recruitment for specialist jobs at the Olympic Dam mine. Can the minister confirm that an interstate firm has already been contracted to be the main recruitment agency, and does the minister believe that will have any impact on the proportion of jobs that go to South Australians and the proportion that go to people from other states?

The Hon. G.E. GAGO: I have been advised that of the current workforce at Olympic Dam about 65 per cent reside at Roxby Downs and nearby towns, the remaining 35 per cent are long-distance commuters, with 32 per cent from SA and 3 per cent from interstate, and with 12 per cent of long distance commuters from the wider northern region. I think the view is that future arrangements are likely to reflect similar proportions and that it is irrelevant where the recruitment agency comes from. They have a long-term track record at recruiting locally and are committed to continue that emphasis.

The Hon. M. PARNELL: I thank the minister for providing those more detailed figures. In relation to the 65 per cent that she says are living at Roxby Downs, clearly they are now locals but does the—

The Hon. G.E. Gago: No; that's from South Australia.

The Hon. M. PARNELL: They were recruited from South Australia to live at Roxby Downs? Are there any figures that demonstrate where residents of Roxby Downs who work at the mine came from? Did they come from the suburbs of Adelaide or did they come from the suburbs of Melbourne and Sydney?

The Hon. G.E. GAGO: We do not have that information. That would be a question for BHPB.

The Hon. M. PARNELL: In relation to jobs, there have been various figures thrown around, and I do not need to go through all of those. The premier at one stage referred to 25,000 jobs. In terms of the actual obligations on the company in this indenture, is there anything that obliges the company to employ more people than it currently does? Is there any obligation on it to create more jobs? I know there is an expectation, if the mine goes ahead as planned, that more jobs are likely to be created, but is there any obligation on the company to create extra jobs?

The Hon. G.E. GAGO: It does beggar belief that you could increase a mine to the size that is being planned and not significantly increase the workforce, given the rate of technological advancement. Predictions have been made about the workforce needs and we believe that they are reasonable estimates.

The Hon. M. PARNELL: 'Beggars belief' I think might have been the words the minister used, but as she well knows the history of mining is one of job shedding rather than job creation. My question is in the context of emerging new technologies. Is the minister aware that BHP is looking (as I am sure most mining companies are) at increasingly mechanised operations, which include driverless trucks and other equipment, driverless trucks that can be operated remotely from

a central location? Is the minister aware that those considerations are being looked at, and, if so, does that have any bearing on the number of jobs likely to be available at the mine?

The Hon. G.E. GAGO: Obviously, this will be a commercial venture and it needs to remain globally economically competitive. Technology is a part of that and we would assume that technology will continue to play an increased part in those so-called productivity and efficiency gains. However, the EIS has identified that there will be an increased need in labour force requirements based on a reasonable scenario and we believe that is a reasonable way to proceed. The member is posing a whole range of hypotheticals that may or may not be so. All we can do is base our assumptions on the modelling that has been done based on current trends, based on current technological changes and based on assumptions that we might be able to predict into the future.

The Hon. M. PARNELL: I would like to move on to the issue of manufacturing. In his contribution on this bill in another place, the premier said:

> The state government is developing a strategy—

The Hon. D.W. Ridgway: The former premier.

The Hon. M. PARNELL: No, the current Premier, I think. Anyway, the premier in another place said:

> The state government is developing a strategy to build local value chains from the proposed Olympic Dam expansion project.

My question to the minister is: what is the status and time frame for that strategy?

The Hon. G.E. GAGO: I have been advised that the new department, DMITRE, that actually has manufacturing and resources in its name, has been established to assist with that strategy. The advice that I have received is that they have had preliminary meetings and will continue those developments over time.

The Hon. K.L. VINCENT: I am sorry to go back to a part which has already been discussed, but the question has just occurred to me as I have been listening. If I can return again to clause 12(1)(a), which deals with the commercial considerations, I think I am going to need parliamentary counsel to help me with a clearer definition as to exactly what 'commercial consideration' means in the context of this indenture. The question just occurred to me that, if a person with any kind of disability were qualified for this job but would require some form of assistance to perform it—either physical assistance or text in the form of Braille, etc.—would the commercial considerations clause be used as potentially a form of discrimination against employing people with disabilities due to the cost that this support may bear, or is that likely to be covered by current wage subsidies?

The Hon. G.E. GAGO: I have been advised that the company has a policy of not discriminating; therefore, in light of that policy, commercial considerations would not be used as a trigger for discrimination, because that is the effect that it would have.

The Hon. M. PARNELL: I asked the minister earlier about manufacturing. Another visitor to our state who was very interested in that was Thinker in Residence Goran Roos. My question is: did the Thinker in Residence Professor Roos give the government any particular advice about what the Olympic Dam expansion meant for manufacturing in Australia? Did he make any recommendations, and were any conditions of this indenture changed as a result of his recommendations?

The Hon. G.E. GAGO: I have been advised that Professor Roos was, in fact, involved in the development of the workforce plan and is currently working with DMITRE in relation to that value chain strategy.

The Hon. M. PARNELL: It is good that the thinker is working on it. As part of the Thinker in Residence program, or some other program, is that work likely to be publicly available and, if so, when?

The Hon. G.E. GAGO: I understand that it is the intention for the strategy to be publicly available, but that work has only just commenced.

The Hon. M. PARNELL: In relation to the industry and workforce participation plan, which the Hon. Kelly Vincent has asked about—she has covered some of my questions—my question of the minister is: whilst this plan appears to be fairly woolly in its development and its force, is there

any intention for the government to seek public or industry input into any part of that plan? Will there be any scope for the community or other businesses, for example, to have input into that plan or is it purely something between the government and the company?

The Hon. G.E. GAGO: I understand that the company is obliged through this plan to meet with government agencies at least twice a year, so through those forums there is the capacity for broader stakeholder involvement.

The Hon. M. PARNELL: That does not quite answer my question. Under subclause (9) it says that the company, yes, will meet twice a year, but it will only meet with the state's Economic Development Board and the relevant chief executives of state government departments. There is no mention of trade unions, other business groups or even any opportunity for members of the general public, members like the Hon. Kelly Vincent, for example, who may well have things she wants to input into this industry and workforce participation plan in relation to opportunities for people with disabilities to be employed. Will the minister confirm that public consultation will be wider than that narrow list of stakeholders listed in subclause (9)?

The Hon. G.E. GAGO: The processes for engagement have not been finalised, but I believe there is ample opportunity there for broad stakeholder involvement. I believe that is the government intention, so although there are no formal processes put in place as yet, the intention is to ensure broader stakeholder involvement.

The Hon. M. PARNELL: I am pleased that that is the intention, and I will take it one step further. I know one group of people who would be keen to engage in this process would be the trade union movement. Whilst this plan is entitled 'An industry and workforce participation plan', I am sure there are other overlapping issues the unions would be interested in, such as the right of their officials to access the workplace to check on the health and welfare of employees who are there. So, can the minister expand that it would be her expectation that unions would be involved and that they would be able to provide feedback that related to, in particular, the welfare rather than necessarily occupational health and safety components to support their members who might be working at the Olympic Dam mine?

The Hon. G.E. GAGO: I have already answered the question. I have already outlined quite clearly what is the intention of the government. We have a very good track record of being great friends of our comrade unionists, so our intention is for relevant and broader stakeholder involvement.

The ACTING CHAIR (Hon. J.S.L. Dawkins): Mr Parnell would be assisted if the members on my left took their conversation outside or dropped the level of it.

The Hon. M. PARNELL: Thank you. I do not believe this question has been asked, but if it has I will be put in my place. The requirement under subclause (7) says the minister may make the plan publicly available. Can the minister explain why it cannot be made obligatory for the plan to be made available, given that there is the proviso for the excision of material that is confidential? Why is it optional for the company or the minister to disclose the plan? Why not make it compulsory for it to be publicly disclosed?

The Hon. G.E. GAGO: I have been advised that the minister in another place during debate indicated quite clearly and put on the record that it would be made available.

The Hon. M. PARNELL: I have no further questions on clause 12. Unless other members have questions, I will foreshadow my amendments; I am not moving them. No-one else seems to be jumping up. The amendments that I propose when we get to schedule 2 are to amend some of the provisions that various members in the debate on this clause have found offensive. I note that the Hon. Kelly Vincent pointed out the requirement that there is nothing in this clause that requires the company to act other than upon commercial considerations. I think that is the potential death knell for genuine equal opportunity in this workplace, so my proposal is that those words be deleted.

I also propose that, notwithstanding the minister's commitment in another place that the plan will be published, we can put that in the indenture and oblige that to be published. I have also deleted subclause (8), which is the subclause that basically says that failure to implement the plan shall not be a breach of this indenture. I think it is insulting to all concerned to have a plan that has absolutely no ramifications if it is not followed. That is my contribution to clause 12, and I am happy to move on to clause 12A.

Clause 12A relates to diesel fuel. Mining minister Tom Koutsantonis declared on ABC radio, 'They're going to convert to biodiesel.' They were the minister's words, 'They're going to convert to biodiesel.' My question of the minister is: is that true?

The Hon. G.E. GAGO: I understand that part of their greenhouse plan is to convert to biodiesel.

The Hon. M. PARNELL: Can the minister elaborate further? Has the company given any indication of what volume of their diesel usage will be biodiesel and by what time? It is one thing to say that they are going to think about it in their plan, but does the minister having anything more concrete than that?

The Hon. G.E. GAGO: No.

The Hon. M. PARNELL: The diesel usage for this mine is clearly going to be considerable. It is estimated that 400 million litres of diesel fuel will be used per year over the five-year period of the open pit construction. I note that what started off as four to five years I have heard referred to as five to six years now, so apparently the hole is going to take a bit longer to build, but it is 400 million litres of diesel a year, and the diesel subsidy (this is a direct taxpayer subsidy in relation to that diesel) is expected to surpass $70 million a year and total over $350 million during that period.

In fact, as I indicated in my second reading speech, it looks as if diesel subsidies will actually exceed royalties. So, we will be paying the company more than it pays us. My question of the minister is: does she have any idea how much BHP Billiton will be receiving in diesel fuel rebate over the first five to six years of the expansion project whilst the overburden is removed and the hole is dug?

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

The Hon. M. PARNELL: Given that the minister does not know what the extent of the subsidy will be (and she has not confirmed or denied the 400 million litres a year, but that is in the EIS so I guess we can take that), are there any conditions, other than the yet to be produced greenhouse management plan, anywhere in this indenture that require the company to minimise its use of diesel fuel, other than the obvious commercial consideration that it is cheaper if you use less?

The Hon. G.E. GAGO: Not that I am aware of.

The Hon. M. PARNELL: Can the minister explain the intent of this clause, which has only two parts to it? Basically it is a reporting provision, where the company is obliged to report to the minister how much diesel fuel it is using and, in particular, it has to report on whether diesel fuel usage in any month is likely to exceed their forward estimates. What is the government's intended use of that information? Is there likely to be, for example, some form of diesel rationing, where available fuel is shared between the company and other users of diesel? Why does the company need to know that and what will it do with this information?

The Hon. G.E. GAGO: I have been advised that it is really for the purposes of state planning.

The Hon. M. PARNELL: The minister says that it is for the purposes of state planning. Can the minister explain: does the government have any ability, if not under this legislation, under any other legislation, to quarantine supplies of diesel for the use of the community and other industries if it appears that diesel supplies in South Australia will be inadequate to meet the needs of industry, the community and BHP Billiton?

The Hon. G.E. GAGO: I have been advised that, in the event that BHP Billiton's supply chain is disrupted and the company's purchases on the open market threatens supply to other users, the Essential Services Act provides the responsible minister with powers to ensure services under the declared emergency. In that situation, the police commissioner has powers to access and use any fuel resource in the state, thus he could requisition the company's fuel stocks or supply arrangements for the emergency.

The Hon. M. PARNELL: Just so that I understand the answer the minister has given me, the Essential Services Commissioner can take diesel fuel belonging to BHP Billiton to enable it to be used for the community? Is that only for essential services, such as driving ambulances, or would other mining companies be able to access that fuel and would the general public be able to access that fuel?

The Hon. G.E. GAGO: I am advised that it would be just for the purposes of emergency services.

The Hon. M. PARNELL: In light of the minister's response, with respect to BHP Billiton, in the open market, in the case that its direct supplies of diesel were inadequate to meet its needs, is there anything to prevent BHP Billiton outbidding all other potential purchasers of diesel, other than that small amount required for essential services? Could BHP Billiton effectively take over most of the state's diesel supplies simply by virtue of being prepared to pay more for it?

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

The CHAIR: Some of those questions are bordering on ridiculous. They will have to line up with their jeeps the same as the rest of us; you know that as well as I do.

The Hon. M. PARNELL: No, I think they are valid questions, and I thank the minister for—

The Hon. R.I. Lucas: Hear, hear!

The CHAIR: The Hon. Mr Lucas obviously agrees with you, so they are not valid.

The Hon. M. PARNELL: I have one final question on clause 12A, and then I am happy to stay and hear other members' questions on this important clause. When the government is considering the company's greenhouse management plan, aside from the potential use of biodiesel (the minister has already answered that question), is there any other aspect of the use of diesel fuel that will be taken into account? In particular, will the government take into account the quantity of the commonwealth subsidies when determining what actions are appropriate for the company to take to reduce its emissions?

To put it more simply, the company is getting a huge handout from the general public for the diesel fuel rebate. Will the government require the company to take that into account in determining what should be asked of the company in its greenhouse management plan? Should it ask the company to do more to reflect the size that public subsidy?

The Hon. G.E. GAGO: I am advised no.

The Hon. M. PARNELL: I have no further questions on clause 12A. When we get to my schedule 2, I do have an amendment, which is to insert an additional subclause into clause 12A. It deals with the issues that the minister touched on in her answers, which is that if the supply of diesel fuel within the state becomes inadequate for the demands of both the company and other diesel users, that the company needs to submit to the minister a diesel fuel sharing plan that will make sure that other uses of diesel fuel in the state are not unreasonably disadvantaged.

Given the minister's answer that the law currently only recognises essential services as people entitled to share scarce diesel fuel, I think we can require the company to do a bit more, and a diesel fuel sharing plan in a situation of shortage is, I think, an appropriate reaction.

I am also proposing the addition of another subclause, which basically requires the company to offset its greenhouse gas emissions attributable to its use of diesel by using recognised carbon offset practices. I urge members, when we get to my schedule 2, to support those amendments.

Progress reported; committee to sit again.

ARKAROOLA PROTECTION BILL

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

At 22:55 the council adjourned until Tuesday 29 November 2011 at 10:00.