# LEGISLATIVE COUNCIL

**Tuesday 8 July 2003**

**The PRESIDENT (Hon. R.R. Roberts)** took the chair at 2.19 p.m. and read prayers.

## PAPERS TABLED

The following papers were laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. P. Holloway)—

Regulations under the following Acts—
Emergency Services Funding Act 1998—
Remissions Variation—Land
Fisheries Act 1982—River Fishery—Prescribed Fish

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Controlled Substances Advisory Council—Report, 2001-2002
Regulations under the following Acts—
Fees Regulation Act 1927—Water and Sewerage Requirements
Motor Vehicles Act 1959—
Expiation Fees Variation
Refund on Licence Surrender
Road Traffic Act 1961—Alcotest Grounds
Sewerage Act 1929—Charges Variation
Water Resources Act 1997—Irrigation Levy
Waterworks Act 1932—Charges Variation
Memorandum of Understanding between the Minister for Health and the Local Government Association in relation to the Exercise of Functions under the Food Act 2001 by Councils.

## SELECT COMMITTEE ON RETAIL TRADING HOURS

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** I bring up the report of the committee.

Report received and ordered to be printed.

## BARLEY MARKETING ACT

**The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries):** I seek leave to make a ministerial statement.

Leave granted.

**The Hon. P. HOLLOWAY:** In September 2000, the government of South Australia announced that it would extend the single desk powers for the export of barley, granted to ABB Grain Export Ltd, indefinitely. However, it agreed, under national competition policy requirements, to review these single desk marketing arrangements at the end of two years of operation of these arrangements. Pressure has been mounting on this government by the National Competition Council to remove anti-competitive restrictions in state legislation, under the terms of clause 5 of the National Competition Principles Agreement agreed to between the commonwealth and all Australian states in 1995.

In November 2002, the South Australian government initiated an inquiry into single desk barley marketing. Under the terms of the Barley Marketing Act 1993, a review was required to be commissioned, after 30 November 2002, of the single desk marketing section of the act, to establish an agreed position with the National Competition Council. Accordingly, the government established a review panel to assess whether the single desk for barley produced a net public benefit that was not achievable through a more competitive set of arrangements, such that the continuation of the single desk could be justified under national competition policy principles.

The review panel's report has now been presented to me as minister. The review was conducted by an independent review panel established by the government, comprising Professor David Round, Chair, Mr Ian Kowalick and Mr Greg Schulz. The panel met on a large number of occasions from December to early June, both for discussion among panel members, in consultation with representatives from a number of stakeholder groups and other interested parties, and for an intensive debate between a company retained to model the single desk and an independent assessor of this work.

In accordance with the terms of reference agreed by cabinet, the review panel did not conduct a full national competition policy review. No public discussion paper was issued, nor were any public meetings held. The panel met with the various stakeholder groups early to inform them of its procedures and to outline to them the broad areas of interest for the panel. Formal written submissions were received from most of the groups and, in addition, submissions were received from a small number of other interested parties. Subsequently, the panel produced a long list of questions on which it sought further comments, and these were distributed to all stakeholder groups and other submitting bodies. Meetings were arranged for a final and detailed round of consultations with any group that wished to be heard.

While the review of the Barley Marketing Act commented on the positive achievements of ABB, it has made six recommendations that allow for a series of changes that will retain the benefits of ABB's single desk, but also allow for greater accountability and transparency. The challenge for government and industry now is to agree on an implementation framework, and one of the first tasks for the Department of Primary Industries and Resources will be to sit down with key industry players and work through this process. The report states:

> The Australian grains market is in transition and legislated monopoly powers are in decline while at the same time market concentration is increasing. The South Australian barley market cannot escape these pressures and will be better equipped to accommodate them if market reform proceeds in the manner of the panel's recommendation.

The report provides an opportunity for arrangements to change in a way that offers growers the benefits provided through the single export desk while increasing the diversity of options by opening the door to potential new players in the marketplace. State cabinet gave in-principle approval to the report last week and has now asked PIRSA to establish a framework for further consultation with industry and an implementation timetable.

The timetable proposed for any legislative changes is that a draft bill (following an extensive consultation process) may be ready to introduce into the autumn session of parliament in 2004. I have pleasure in tabling the report on the review of the Barley Marketing Act 1993. I also indicate that members of this parliament have been invited to hear from the chair of that panel, Professor David Round, next week, to explain the findings of his report.

**The Hon. Caroline Schaefer:** Is that the full report?

**The Hon. P. HOLLOWAY:** No, it is the report as required under section 5 of the Barley Marketing Act.

### CABINET RESHUFFLE

**The Hon. P. HOLLOWAY (Attorney-General):** Yesterday I tabled a response to a question asked on 14 May 2003. The response is entitled 'Cabinet reshuffle' and appears on page 2698 of *Hansard* of 7 July 2003. The answer provided was attributed to a question asked by the Hon. Rob Lucas when in fact the response related to a supplementary question asked by the Hon. Nick Xenophon. The question asked by the Hon. Rob Lucas on 14 May 2003 was in fact answered on that occasion. I seek leave to have the answer to the supplementary question asked on 14 May 2003 correctly attributed to the Hon. Nick Xenophon incorporated into *Hansard* without my reading it.

In reply to **Hon. NICK XENOPHON** (14 May).

**The Hon. P. HOLLOWAY:** The Premier has provided the following information:

The Independent Gambling Authority has responsibility for licensed gambling providers in South Australia, both with respect to the integrity of gambling products and with respect to their impact on the community. The authority has recently completed an inquiry into:

- Identifying and examining a broad range of issues which relate to the advertising and responsible gambling codes to apply under the State Lotteries Act
- Providing an opportunity for stakeholders to comment on whether, and the extent to which, the codes for lotteries should depart from the codes of practice approved in May 2002 under the Casino Act 1997
- Allowing the Lotteries Commission an opportunity to respond, in public, to the public submissions
- Testing the claims made in public explanations or public submissions.

It received, in public, submissions or explanations from members of the public, including groups with a special interest in the minimisation of harm associated with gaming or in responsible gambling.

The inquiry was conducted with a view to subsequently approving the codes of practice for the purposes of sections 13B and 13C of the State Lotteries Act.

While the Independent Gambling Authority is an independent body, it falls within the responsibility of the Minister for Gambling, the Hon. Jay Weatherill MP. If responsibility for the Lotteries Commission was given to the Minister for Gambling, then there could have been the potential for a significant conflict of interest however, it was not.

### STANDING ORDERS SUSPENSION

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** I move:

That standing orders be so far suspended as to enable me to move a motion without notice.

Motion carried.

### PUBLIC PARK BILL

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** I move:

That the Public Park Bill be considered a related bill to the Statutes Amendment (Nuclear Waste) Bill and that standing orders be and remain so far suspended as to extend the scope of the relevancy of the second reading debate on the Statutes Amendment (Nuclear Waste) Bill to include the related bill.

*Members interjecting:*

**The Hon. T.G. ROBERTS:** I am not sure what the minister—

*Members interjecting:*

**The PRESIDENT:** Order! There are some practical things that parties do between one another. They are not to be discussed here. The minister has moved his proposition. Is it seconded?

**The Hon. Carmel Zollo:** Seconded.

**The Hon. R.I. LUCAS (Leader of the Opposition):** Is it within standing orders to speak to the motion?

**The PRESIDENT:** Proceed.

**The Hon. R.I. LUCAS:** I seek your guidance, Mr President, without wishing to make too big a deal of this. In my experience in the chamber, the normal procedure has been that the government or representative of the government, the minister handling the bill or one of his officers, or somebody, would consult with the opposition and perhaps also consult other parties and Independents in the chamber to see whether or not there is agreement with the proposed course of action. I have not had an opportunity at this stage to discuss the issue. It may well be an eminently sensible proposition that is being put, but it is certainly the first occasion on which I have had knowledge of the issue. I seek your guidance, sir, as to whether there is any process or form that would allow further discussions between the parties in the chamber before we have to vote on this or whether, given the fact that it has been moved, we are bound to proceed immediately to a vote.

**The PRESIDENT:** My guidance has been sought and I have taken some advice. The procedures between the parties are obviously conventions. We have to stick with standing orders. Because this is a matter that is the subject of a suspension of standing orders, I am advised that a 15-minute debate can take place, with five minutes being allocated to each speaker.

**The Hon. T.G. ROBERTS:** I could withdraw my motion and allow discussions to take place.

**The PRESIDENT:** Is the minister seeking leave to withdraw the motion?

**The Hon. T.G. ROBERTS:** Yes, Mr President.

Leave granted; motion withdrawn.

## QUESTION TIME

### CORRUPTION ALLEGATIONS INQUIRY

**The Hon. R.I. LUCAS (Leader of the Opposition):** I seek leave to make an explanation prior to asking the Attorney-General a question on the subject of the Rann government corruption allegations inquiry.

Leave granted.

**The Hon. R.I. LUCAS:** Yesterday the Attorney-General was asked the following question by the shadow attorney-general:

Does the Attorney-General agree that the offering of an appointment to a government board in exchange for the discontinuance of a private legal action is a serious criminal offence, both by the person who makes the offer and also by anyone who aids, abets or counsels it?

*Hansard* records that the Attorney-General said 'Yes, Mr President.' Some members will be aware that the opposition has been assisted in recent weeks in lifting the lid on the issues relating to the Rann government corruption allegations inquiry by members of the Labor Party. The opposition is especially indebted to members of the Conlon left.

*Members interjecting:*

**The Hon. R.I. LUCAS:** I see smiles on the face of Messrs Sneath and Gazzola on the back bench. You have been smiling for two weeks. Yesterday the—

*Members interjecting:*

**The Hon. R.I. LUCAS:** I don't think you would want that, Mr Gazzola. You have too much respect for the confidentiality of the discussions that the opposition has. Yesterday, the State Director of the Liberal Party, Mr Graham Jaeschke, received an anonymous fax, which included the following information:

> Today's story on page 5—spot on except the issue of costs arose. MA would not pay out a penny. It is then. . . in place of costs. . . that the board story gets legs, real legs. Made by MA—passed on by RA—one appointment for costs—the other for compensation.

I have been advised that Mr Jaeschke, in the interests of assisting the police in their inquiries, as all members of the opposition in the Liberal Party are keen to do on this occasion, will be handing this fax to the Anti-Corruption Branch today for it to consider. I put on the record that it will be up to the police, to the Anti-Corruption Branch, to try to ascertain the source of the fax for the information that has been provided, and also to determine its authenticity. Given that information, my question is as follows: has the Attorney-General received any legal advice that a package deal in which a private legal action is discontinued against a public officer and an offer of appointment to a government board or boards was offered to reimburse legal and other costs already incurred and also pay financial compensation is also a serious criminal offence?

**The Hon. P. HOLLOWAY (Attorney-General):** It is quite obvious that the Leader of the Opposition is abusing parliamentary privilege. In this case he is using supposed anonymous letters to make accusations under the veil of parliamentary privilege. The honourable member knows full well that a police investigation is under way at the moment. He also knows that it would be completely inappropriate for me or anybody else to comment on matters which are the subject of that investigation.

*The Hon. R.I. Lucas interjecting:*

**The Hon. P. HOLLOWAY:** Keep it secret for seven months! All these matters were answered yesterday. If we have to go through the same answers again—if we have to go around the merry-go-round today—then I guess we will. I have answered all the questions. The honourable member knows that the matters to which he is specifically referring in his question relate to an investigation. He himself said that they had been referred to the police ACB. He knows it would be completely inappropriate for me to comment on them, and I have no intention of acting inappropriately.

**The Hon. R.I. LUCAS:** My question is directed to the Attorney-General in relation to the Rann government corruption allegations inquiry. As a key member of the Rann government's leadership team, will the Attorney-General indicate when he first became aware of the Rann government corruption allegations which have now been referred to the police Anti-Corruption Branch?

**The Hon. P. HOLLOWAY:** It is interesting. One talks about allegations. I wonder exactly what allegations the honourable member is talking about and who has made them. It has been an interesting exercise in this whole debate. What allegations, and who made them? That is an interesting question. I was not aware of the events surrounding the meeting with the Premier, the Deputy Premier and the former attorney-general until this matter was raised several weeks ago.

**The Hon. R.I. LUCAS:** As a supplementary question: is the Attorney-General refusing to answer the question as to when he, as a member of the Rann government's leadership team, first became aware of the allegations that have now been referred to the police Anti-Corruption Branch?

**The Hon. P. HOLLOWAY:** As I just indicated, I was not aware of those events that happened at the end of last year until they were made public recently.

*An honourable member interjecting:*

**The Hon. P. HOLLOWAY:** That includes events including allegations.

**The Hon. R.D. LAWSON:** I seek leave to make a brief explanation before directing—

*Members interjecting:*

**The PRESIDENT:** Order! The Hon. Mr Lawson has the call.

**The Hon. R.D. LAWSON:** I seek leave to make a brief explanation before asking the Attorney-General a question about the corruption allegations inquiry.

Leave granted.

**The Hon. R.D. LAWSON:** On 26 June in the House of Assembly, the Acting Premier made a ministerial statement under the heading 'Attorney-General'. That statement said, in part:

> There were certain issues raised late last year and, I wish to stress, resolved, including to the satisfaction of people independent of the government.

The ministerial statement continued:

> . . . the action taken with respect to this matter was appropriate to address all the issues that arose.

My question to the Attorney is: does he agree that the Acting Premier's statement accurately reflects the true position?

**The Hon. P. HOLLOWAY:** From the information available to me, which I made perfectly clear to the council yesterday, when this matter was looked at by the Chief Executive Officer of the Premier's department last year, advice was provided (and I provided details about that advice yesterday) and the Premier subsequently acted on that advice. I explained all this in considerable detail in question time yesterday.

**The Hon. R.D. LAWSON:** As a supplementary question: how does the Attorney-General reconcile his agreement with the accuracy of the ministerial statement with the following remarks of the former attorney-general, made on radio 5AA the day following his resignation:

> . . . now that it has been thought about more, we need to cover more bases. We need to have an investigation of a higher standard, and that's just what we're going to do and let the cards fall where they may. The government is going to be entirely open about this. Your questions are fair ones. The opposition's questions are fair ones. Your listeners can be assured we are now doing absolutely everything to cover every base to be honest and accountable.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. P. HOLLOWAY:** The former attorney has put the position quite accurately. Throughout this whole matter the government has been completely open in relation to these matters. At all times—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. P. HOLLOWAY:** —the government has acted on the advice with which it was provided, and I made that clear yesterday. Again, I remind members of what I said yesterday about the very shoddy exercises during the term of the previous government, when we had even cabinet ministers trading in shares that were relevant to their portfolios. Those were the sorts of disgusting standards that applied under the previous government. When there was a series of inquiries against ministers, concerning which allegations were made—

*Members interjecting:*

**The Hon. P. HOLLOWAY:** I take a point of order. The Hon. Angus Redford has made a claim which I think should be withdrawn.

**The PRESIDENT:** Order! Members of Her Majesty's loyal opposition will curb their enthusiasm when the minister is attempting to answer questions.

**The Hon. R.D. LAWSON:** As a further supplementary question, how does the Attorney-General reconcile his agreement with the statement of the Acting Premier with this following further comment made by the former attorney-general on Radio 5AA on the day following his resignation:

I think some bases weren't covered, and they now need to be covered. . .

**The Hon. P. HOLLOWAY:** As I explained yesterday, when the government received the report of the Chief Executive Officer of the Premier's department last year, it made certain recommendations, all of which I outlined yesterday. The government acted on that advice. As I indicated yesterday, the Premier went further and, of course, sent the information to the Auditor-General. The government acted on the advice on all occasions. As I was about to say before the rather crude interjection of the Hon. Angus Redford, when the previous government was in office and its ministers were being investigated for real allegations, made by real people with real evidence (as was subsequently found), none of them—not one single member—had the decency to stand down, perhaps with the exception of Mr Ingerson, who stood down as minister for racing but remained in cabinet. Those were the sorts of standards set by the previous government. This government has much higher standards. The Attorney-General—

*The Hon. A.J. Redford interjecting:*

**The Hon. P. HOLLOWAY:** Is that what the honourable member is alleging? Would the member like to make that allegation outside?

**The Hon. A.J. Redford:** I am happy to say it outside.

**The Hon. P. HOLLOWAY:** Please do! But I bet you, Mr President, that he will not! Does anyone want to take me on that he will not have the guts to do that? We will see. I challenge the member to say it outside.

**The Hon. R.I. LUCAS:** How does the Attorney-General reconcile his claim in his answer that at all times the government acted in an open and accountable fashion with the fact that Premier Rann kept this secret for seven months, and would still have kept it secret had he not been caught out?

**The Hon. P. HOLLOWAY:** The Leader of the Opposition knows full well, because I explained yesterday, that the recommendation of the Chief Executive Officer was that matters should be kept confidential to protect natural justice involving individuals. Of course, other parties are involved. The Leader of the Opposition might not care for natural justice, but this government does.

**The Hon. A.J. REDFORD:** Who advised the government that it was appropriate to keep this matter secret for seven months?

**The Hon. P. HOLLOWAY:** I have just answered that question. The honourable member should listen.

**The Hon. A.J. REDFORD:** As a further supplementary question, at the risk of the minister repeating himself, who gave that particular piece of advice?

**The PRESIDENT:** That is not a supplementary question: it is the same question.

**The Hon. P. HOLLOWAY:** We can go around in circles if we must, but I am quite happy to repeat what I said yesterday: this government has nothing to hide, unlike the previous government. As part of his report—

*Members interjecting:*

**The Hon. P. HOLLOWAY:** That's all right; it's their question time. As part of his report, Mr McCann advised that, because of the potential for causing harm to people who had not had the opportunity to respond to things attributed to them by others, he did not believe it appropriate to release the report or its attachments. The report and its attachments were, however, sent to the Auditor-General, Mr Ken MacPherson, an independent officer who reports directly to parliament. Although not publicly released, the report was therefore subject to further independent scrutiny. Mr MacPherson responded (and the Hon. Mr Gilfillan asked me a question about that yesterday), and that correspondence was released at the Deputy Premier's press conference last week. I have just handed a copy of that report to the Hon. Mr Gilfillan and it is publicly available. In his opinion the action taken by the Premier with respect to this matter was appropriate to address all the issues that had arisen. It was not considered appropriate to table the report in parliament as this would not have overcome issues of natural justice and procedural fairness.

**The Hon. A.J. REDFORD:** As a further supplementary question: at any stage during this process did the Auditor-General advise that this ought to be kept secret?

**The Hon. P. HOLLOWAY:** The Auditor-General's letter has been released publicly. It has not been tabled yet; I will be happy to do so if I can get a copy.

**The Hon. J.F. STEFANI:** As a supplementary question: will the Attorney advise the chamber how many people were interviewed by Mr McCann in his inquiry?

**The Hon. P. HOLLOWAY:** Obviously, I do not have that information.

## AQUACULTURE

**The Hon. R.K. SNEATH:** I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about aquaculture.

Leave granted.

*Members interjecting:*

**The Hon. R.K. SNEATH:** It's still on fishing.

**The PRESIDENT:** There has been a fair bit of fishing going on today.

**The Hon. R.K. SNEATH:** Aquaculture is a significant primary industry in South Australia, providing employment for people in many regions across the state. The range of employment resulting from aquaculture in regional areas extends from unskilled labour through to tertiary level opportunities. The aquaculture industry has proven to be one

of the fastest growing primary industries in recent years, contributing significantly to regional growth and employment. Is it possible for growth in the aquaculture industry to be sustained, and what are the employment and economic implications for regional South Australia?

**The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries):** I thank the honourable member for his question. From a state perspective the aquaculture industry is greatly assisting economic and regional development through the provision of diversified training and employment opportunities in all aspects of the industry from research and development through to farming, value adding and marketing and the provision of new youth job opportunities, as the majority of people employed in aquaculture are less than 30 years old. The South Australian aquaculture industry has an objective to achieve $1 billion in gross revenue from aquaculture by the year 2010. This comprises $650 million of direct effect and a further $350 million of value added processing. It is important to note that realising this objective is contingent upon a collaborative approach between the private sector industry participants and the state government. Initiatives already under way in sectors such as tuna, yellow tailed king fish and abalone indicate that the $650 million target figure can be readily achieved.

Investigations have recently been undertaken by PIRSA Aquaculture which will lead to the development of new aquaculture zones. Potential new sites identified in this process will be paramount to providing appropriate levels of access to marine aquaculture resources to meet projected growth. A consideration when allocating sites will be an assessment of the optimum use and resulting benefits to the community from the use of the state's aquaculture resources whilst ensuring ecologically sustainable development. For the Eyre Peninsula region the industry produced aquaculture product valued at $276 million in 2001-02. This activity generated flow-on business revenue of $167 million in other regional industries. In terms of employment, over 1 211 jobs were generated directly in aquaculture, with flow-on business activity generating over 989 jobs in other sectors of the regional economy. If we now take the Limestone Coast region, the industry produced aquaculture product valued at $2.8 million in 2000-01. This activity generated flow-on business revenue of almost $2.8 million in other regional industries.

In terms of employment, approximately 59 jobs were generated directly in aquaculture, with flow-on business activity generating almost 21 jobs in other sectors of the regional economy. For the balance of South Australia, the industry produced aquaculture product valued at over $4 million in 2000-01, that is, in the areas outside the Limestone Coast and Eyre Peninsula. This activity generated flow-on business revenue of over $3.6 million in other regional industries. In terms of employment, approximately 80 jobs were generated directly in aquaculture, with flow-on business activity generating almost 30 jobs in other sectors of the regional economy.

For the state as a whole, the aquaculture industry is dominated by the tuna-farming sector. It accounted for over 90 per cent of total aquaculture industry value added and over 70 per cent of aquaculture related (direct and indirect) employment in the state economy in 2000-01. The tuna sector is continuing to investigate longer holding times, value-adding opportunities and technologies to secure its market positioning and to achieve further growth. Continuing growth in the state's oyster industry, together with a shortfall in supply from interstate, has resulted in a shortage of oyster spat for this season.

A strong opportunity exists for the establishment of shellfish hatcheries in South Australia. Future growth in the abalone sector will inevitably come from a more integrated approach between land-based and offshore farming opportunities. In total, the value of the aquaculture industry output was estimated at over $350 million. This activity generated business turnover (output) of $252 million in other South Australian industries (source: Econsearch 2001-02). Due to the aquaculture industry's strong export focus on Asia, the impact of severe acute respiratory syndrome (SARS) has been significant, particularly for those sectors whose markets were not already well developed.

This may be reflected in a weaker production value in the short term until consumers resume regular purchasing patterns. A further challenge for aquaculture producers (and I am sure that all members with an interest in the rural economy would be looking at this with some interest and, perhaps, concern) is the erosion of the competitive advantage that a low Australian dollar provided. The movement of the Australian dollar means that aquaculture operators need to examine and adopt operational efficiencies in order to remain competitive and viable. The figures that I have quoted are predominantly sourced from the Economic Impact of Aquaculture on the South Australian State and Regional Economies for 2001-02 report (Econsearch, July 2003).

## CORRUPTION ALLEGATIONS INQUIRY

**The Hon. IAN GILFILLAN:** I seek leave to make a brief explanation before asking the Attorney-General a question about an independent commission against crime and corruption.

Leave granted.

**The Hon. IAN GILFILLAN:** It is quite clear that the government is embroiled in a never-ending series of inquiries sparked from a single event that should have been handled openly and transparently when it first occurred. This place has seen the McCann inquiry last year, a police inquiry announced last week and now a new independent inquiry announced yesterday. The matter was referred to the Auditor-General, which is also cited as another level of investigation. The Attorney has been good enough to provide me with a copy of the Auditor-General's response, which states:

Dear Premier

Re: Mr R. Ashbourne and the Hon. Michael Atkinson, MP

I have reviewed the material made available to me with respect to the above-mentioned matter enclosed with your letter of 4 December 2002. In my opinion, the action you have taken with respect to this matter is appropriate to address all of the issues that have arisen. The arrangements for all ministerial advisers to attend a briefing session early in the New Year about the standards of conduct expected of them is an important initiative and should obviate the potential for any repetition of the difficulties that have arisen with respect to this matter

Yours Sincerely,

K. MacPherson

Auditor-General.

It is clear from this letter that no advice was given with respect to secrecy. I think that the Auditor-General's comment, 'I have reviewed the material made available to me' is relevant. That is very significant when one qualifies the value of the so-called Auditor-General's report. The police are hamstrung when tasked with an inquiry of this nature because their funding and direction, essentially, does

come from a hierarchy which, to a certain extent at least, is responsive to government.

The police are constrained in that they can only investigate criminal behaviour and, if it cannot be proven that a crime has been committed, the police can go virtually no further. I am sure that many members of this place would agree that members of parliament should be held to a higher measure—one which goes well beyond the letter of the law. I am referring to a measure of ethics and morality, and the police investigation cannot determine the ethics of a member of parliament's behaviour.

I remind the council that the Independent Commission Against Corruption (ICAC) is effective in New South Wales and that similar bodies are effective in Queensland and Western Australia, all of which have dealt with numerous examples of alleged corruption very similar to this. My questions are:

1. Will the Attorney confirm that the police can investigate criminal behaviour only, and that they can neither investigate alleged unethical behaviour nor determine whether behaviour is of the higher standard that is expected and required of members of parliament; and will he assure the council that any government sponsored investigation will be empowered to look at those particular issues?

2. Does the Attorney agree that these circumstances clearly demonstrate the need for an independent commission and against crime and corruption in South Australia and that, if one had been in existence, his life would have been a lot easier?

**The Hon. P. HOLLOWAY (Attorney-General):** No, I do not agree with the latter contention. There has been significant debate throughout this country over many years relating to crime commissions and other bodies. The National Crime Authority has existed for some years, and I am not sure that if one looked objectively at the performance of that body over that period of its existence one would necessarily agree that it has been a terrific success for the amount of taxpayers' money that has gone into it—but that is another matter.

I do not accept the honourable member's contention that the police have been hamstrung in relation to any inquiries. I understand that the police Anti-Corruption Branch was established some years ago specifically (as its name suggests) to look at any suggestion that corruption might have taken place. I believe there has been no suggestion—nor, I suggest, is there any now—that that particular branch of the police force is unable properly to conduct its activities.

**The Hon. J.F. STEFANI:** Will the Attorney advise the parliament whether the Auditor-General has at any time briefed members of the cabinet on their responsibilities and the mode of conduct required of ministers of the Crown?

**The Hon. P. HOLLOWAY:** Early in the term of this government, I think the government was briefed by the then solicitor-general and the Auditor-General about matters relating to the responsibility of members of the cabinet. I am sure that all members of cabinet are fully aware of their responsibilities, and to the best of my knowledge I believe that all members of cabinet have been adhering to those responsibilities.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. T.G. CAMERON:** Will the Attorney advise the Legislative Council whether the Auditor-General has been requested by the government to undertake any other investigations or to sign off on or approve any other investigations conducted by this government that were kept secret?

**The Hon. P. HOLLOWAY:** I am not aware of any. There certainly has not been any in my very short time as—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. P. HOLLOWAY:** —Attorney-General, but I think the powers of the Auditor-General are well known—they are set out in an act of parliament. The Auditor-General can, of his own volition, raise matters, and has often done so, and of course the Auditor-General reports regularly to parliament each year. I guess we will get a report fairly soon, the financial year having just closed. I think the operations of the office of the Auditor-General are well known, but I am not aware of any specific inquiries.

**The Hon. IAN GILFILLAN:** Will the Attorney-General advise the result of the ministerial advisers' briefing session, as mentioned and praised by the Auditor-General, and will he say what the process was and what subject matter was involved in that briefing?

**The Hon. P. HOLLOWAY:** It is my understanding that the government has organised a series of ongoing seminars and workshops, etc., for staff of members of parliament.

*The Hon. R.I. Lucas interjecting:*

**The Hon. P. HOLLOWAY:** The honourable member can joke. This was the person who was in tears when his premier resigned and this was the person who had someone fiddling around sending emails to other people. They were the sorts of standards the previous government set. This government has very high standards, and it will ensure that they are adhered to.

*The Hon. R.I. Lucas interjecting:*

**The Hon. P. HOLLOWAY:** I am sure that the Leader of the Opposition would laugh at them because, of course, he was laughing for eight years when we had some of the most abominable, atrocious standards of public behaviour ever witnessed in the Australian community. We even had the unprecedented case of a premier having to resign for misleading parliament.

*Members interjecting:*

**The PRESIDENT:** Order!

## AUDITOR-GENERAL

**The Hon. J.F. STEFANI:** My question is to the Attorney-General, and I expect the Attorney to take this question on notice. Will the Attorney provide the council with the dates and times that the Auditor-General has attended briefings with cabinet members? Will the Attorney also indicate what future meetings and briefings have been organised with the Auditor-General?

**The Hon. P. HOLLOWAY (Attorney-General):** As I have said, I recall that, very early in our period in government, the Auditor-General and other prominent figures, such as the then solicitor-general and others, addressed cabinet about responsibilities following the changeover of government, but I am not aware that he has spoken collectively to cabinet since then. In any case, it is probably not appropriate that I talk about what happens at cabinet meetings, and I would hope that the honourable member would understand that. The Auditor-General has a very special role in our parliament. He is, after all, an officer of the parliament. The

Auditor-General is appointed by and reports to this parliament every year.

*Members interjecting:*

**The Hon. P. HOLLOWAY:** The appointment of the Auditor-General is through a special committee established under the parliament. Let me make it clear: the Auditor-General's duties are set out in an act of parliament. He can be requested, I think by the Treasurer, to conduct matters in relation to the affairs of this state. Of course, we have seen in the past that he has conducted inquiries when asked to by parliament. He reports to the parliament, and he has a measure of independence that, of course, recognises his importance in the system. I believe that if the Auditor-General wishes to draw any matter to the attention of the parliament he will do so, and it is important that we respect that.

## GENETICALLY MODIFIED FOOD

**The Hon. NICK XENOPHON:** I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Premier, a question in relation to genetically modified crops and food.

Leave granted.

**The Hon. NICK XENOPHON:** During the last state election campaign, a news release, under the name of the Hon. Mike Rann as Labor leader, and a policy document endorsed by the Hon. Mike Rann, the Hon. John Hill (as shadow environment minister), the Hon. Lea Stevens (as shadow health minister), and Annette Hurley (the then deputy leader) were released on genetically modified food.

The news release of the Hon. Mr Rann, entitled 'Labor's plan to ensure safe food', started by saying:

> Labor will ban the growing of genetically engineered food crops in three of the State's primary agricultural belts and launch a full-scale public inquiry into the safety of GE foods.
>
> Labor leader, Mike Rann, has announced his party will move immediately if it's elected next month to introduce legislation allowing a total ban on GE crops on the Eyre Peninsula, Kangaroo Island and the Adelaide Hills.

The news release quotes the Hon. Mr Rann as saying:

> We have to be absolutely sure that tonight's dinner doesn't turn into tomorrow's disease.

The release goes on to say:

> Mr Rann said genetic engineering is a science still in its developmental infancy and there are no compelling reasons to rush the release of genetically engineered organisms into the general environment.

It again quotes the Hon. Mr Rann as saying:

> The whole field of genetic research and DNA modification raises complex issues of morals and ethics, safety and health, economics and environmental impacts—and the simple truth is that no-one knows at this stage what the final outcomes will be.

The policy document, in part, states:

> In Europe, America and Asia an increasing number of consumers refuse to accept genetically modified food.

The policy document continues:

> Official government figures indicate South Australia's food industry is likely to be a $15 billion business by 2010. Yet, the claimed economic benefits from GM food production in 2010 are only $200 million. To put it in its simplest terms, a multibillion dollar food export industry, which has been carefully built on a 'clean and green' image, is potentially being placed at risk for an annual 'gain' which is a mere 1.5 per cent of the total value.

The policy document also promised to establish an expert office in South Australia to monitor GE food. In a letter to members of this chamber in March this year, the Premier, in arguing his government's case in relation to the nuclear dump legislation, stated:

> We proudly market ourselves as a clean, green state in the export of our wine and foodstuffs and in attracting tourists to our pristine outback.

My questions to the Premier are:

1. Will he concede that his government has broken its clear, unambiguous promises made on GM food and crops at the last election by not implementing a ban on GM crops in the three agricultural areas to which he referred, by not instituting a high level public inquiry, and by failing to establish an expert office to monitor GM issues?

2. When will the government honour its pre-election commitment on GM crops and food, in particular to ban GM crops and a high level public inquiry?

3. Does the government concede that, given the problems the ALP policy document refers to on export markets for GM crops, this state's clean and green image will be compromised by the commercial introduction of GM crops; and that this issue is at least as important to the state's clean and green image as not having a national low level radioactive waste dump?

**The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries):** I refer to the latter point made by the honourable member and the decision yesterday by Senator Minchin—who, I remind members, is a South Australian senator—

*The Hon. R.K. Sneath interjecting:*

**The Hon. P. HOLLOWAY:** —and someone who is supposed to represent the best interests of this state, although I think he came from Victoria to head the Liberal Party here and one wonders where his heart lies. What can one say about a federal Liberal senator who thinks so highly of industries in this state, such as aquaculture, food, and so on, that depend so much on the clean, green image, that he would take the action he has taken to ensure that we get a nuclear dump imposed on us here? I guess we will have more discussion on that when the bills are debated later today.

I will answer some of the questions. I know they were asked of the Premier, but I have responsibility as the Minister for Agriculture, Food and Fisheries in relation to the cropping sector. The honourable member asked about the promises that the government made before the election. This question has been asked on previous occasions and I think I have previously answered it. In effect, there have been no commercially grown GM crops in this state since the election and, if the government has anything to do with it, nor will there be—at least until the report is brought down by the select committee. That brings me to the second part of the question.

The government did promise a high level inquiry and, in fact, a select committee has been under way for some time. I believe its report is almost complete. I understand that the committee may be in a position to table its report next week, and I hope it does. What could be a higher level inquiry than a parliamentary select committee that has taken a significant amount of evidence? I believe the evidence presented to the select committee, particularly by some of the major players in the grain industry, such as ABB and AWB—

*The Hon. A.J. Redford interjecting:*

**The Hon. P. HOLLOWAY:** I think they have made it public. I believe that the evidence presented to the select committee has had a significant influence on the debate in relation to this matter within the country. It will be an important and significant inquiry. Obviously, I am not aware

of what the committee will recommend, but I look forward to receiving that report in the very near future, because it will be important for the future direction of this state. There is much that one could say in relation to GM crops. As I have indicated to this council on a number of occasions, the government's legal advice was that, for any bans to apply, it was necessary for them to conform with the requirements of the commonwealth Gene Technology Act; in particular, there is provision under the act for policy principles in relation to the declaration of GM free zones for marketing purposes. Those are matters that are obviously being addressed by the government.

I remind the honourable member that the action that I have taken as the minister responsible has been to meet with those companies and seek their assurance—which they have given—that they would not grow commercial GM crops in this state during the current season, which of course would enable the select committee inquiry which has been established to be completed. So, in effect, I would have thought that that has met the government's policy commitments. There are no GM crops growing here and we have that commitment, and there is an inquiry under way at the moment.

But, as I also indicated in answer to questions on previous occasions, I think from the Hon. Ian Gilfillan, I have been looking at the issues relating to how we might proceed in the future when dealing with this issue of GM crops. At the present time the commonwealth Office of Gene Technology Regulator has again stopped the clock in relation to consideration of the application by Bayer Corporation to grow InVigor canola in this country. It previously stopped the clock on that process, restarted it and stopped it again. But it is possible that at some stage in the future the clock will be restarted and permission for the commercial growth of GM crops in Australia, subject to the other conditions of the act, could be given.

I remind the council, of course, that the Office of Gene Technology Regulator can decide on GM crops only in so far as health and environmental aspects are concerned. I believe that marketing aspects, as I have told this council on numerous occasions, are the most complex and important issues in relation to the use of GM crops. Those matters are left for the state government to determine, and of course that is why the select committee report will be important.

But there could be a complication, of course, that, if the commonwealth Office of Gene Technology Regulator approved the commercial application of GM canola crops within this state, commonwealth control of trials may no longer exist so the state would therefore have to assume control of those trials. That is a matter that I am considering at the moment and, hopefully, will be in a position to announce some measures in relation to very soon. As I indicated to the council in answer to questions by the Hon. Ian Gilfillan some time back, there are some important issues in relation to this matter and I and officers of my department have spent a great deal of time looking at the implications of it. So, in summary—

**The Hon. R.I. Lucas:** 'Yes, we did break our promise.'

**The Hon. P. HOLLOWAY:** No, in summary—

*The Hon. R.I. Lucas interjecting:*

**The Hon. P. HOLLOWAY:** The Leader of the Opposition is the person who broke promises. Once you have said, 'We are not going to sell ETSA' and you have done it, when you stuff it up and lose $120 million twice—not once but twice, as the previous government did on the NRG deal (they lost it back when Mr Ingerson was minister, or around about that time)—

*The Hon. R.I. Lucas interjecting:*

**The Hon. P. HOLLOWAY:** We will remind you. The opposition talks about broken promises. I guess when you have gone to the level of broken promises that the previous government did, anything goes. But, in relation to this government's commitment on GM crops, we have a high level inquiry in progress (the select committee of the House of Assembly), which I hope will report soon. I think it will be an important report.

In relation to banning GM crops, as I said, I have negotiated written agreements with the various companies that there will be no such crops grown commercially in this state, at least during the current season, and, as I have just indicated, at present we are looking at some of the implications for the future, and I will be announcing those further. The government has taken its responsibilities in this matter seriously, and I will be happy to provide the council with further information at the appropriate time in relation to our continuing policy. I look forward to an informed public debate on the report of the select committee.

## CORRUPTION ALLEGATIONS INQUIRY

**The Hon. A.J. REDFORD:** I seek leave to make a brief explanation before asking the Attorney-General a question about government corruption allegations.

Leave granted.

**The Hon. A.J. REDFORD:** On 20 February this year, I asked a series of questions concerning the appointment of the former attorney-general's former barrister to the position of Solicitor-General (the state's second law officer) in January this year. These questions related to the process of Mr Kourakis's appointment and the value of free legal assistance given to the former attorney-general in his case involving Mr Ralph Clarke—sometime luncheon companion of the Hon. Nick Xenophon. To date, they remain unanswered. Indeed, on 26 June this year, the member for Bragg asked whether the then attorney-general—in his second last answer as attorney-general—had estimated the value of free legal services and whether he had made appropriate amendments to his parliamentary register of interests. I note as at today's date, despite finding time to doorknock, that has not happened—a bit like answers to questions. At the time that the government ran its secret inquiry, Mr Kourakis was the former attorney's barrister—

*The Hon. P. Holloway interjecting:*

**The Hon. A.J. REDFORD:** Secrecy creates fertile ground for this sort of thing. Also at that time, the former attorney was in receipt of free legal advice and representation in the order of $9 000. Also at the time, the former solicitor-general, Mr Selway, had been appointed to the Federal Court. That took place on 15 November last year. Thus, at the time that this serious issue arose, we were without a solicitor-general. However, the state did have the services of the highly regarded Mike Walter as Crown Solicitor. In the light of that, my questions are:

1. Will the Attorney-General assure the council that the Solicitor-General, Mr Chris Kourakis QC, has not provided any advice to the government in relation to the Atkinson affair?

2. Why did the government wait seven months before seeking advice as to the appropriate course of action from Crown Solicitor Mike Walter?

**The Hon. P. HOLLOWAY (Attorney-General):** I have already addressed most of the questions that were asked by the honourable member. As I pointed out yesterday, at the time that the government was dealing with this matter at the end of last year, as the honourable member mentioned, of course the then solicitor-general had moved—or was about to be or was in the process of moving—to the court, so obviously the Solicitor-General was not available, as I understand it, at that time. Obviously that was a factor at the time. In relation to this matter, I have already pointed out that Mr McCann recommended for the protection of the natural justice of individuals in relation to that matter—

*The Hon. A.J. Redford interjecting:*

**The Hon. P. HOLLOWAY:** The former CEO actually contacted the senior law official from Victoria who had apparently—

*The Hon. A.J. Redford interjecting:*

**The Hon. P. HOLLOWAY:** You are talking about the legal advice. That matter is on the record. The chief executive officer of the Premier's department had sought senior legal counsel from Victoria because not only was the Solicitor-General from this state not available but also they would be seen to be not involved in matters that might have come before them in this state. I know from where the honourable member is coming: he wants to make these sort of allegations under parliamentary privilege. This government now has a matter before the police ACB. That body will investigate the matter and subsequently report back. I suggest the best thing the honourable member could do is to wait until the South Australian police have conducted the inquiries (as they are required to do) and then this matter can be considered in the appropriate way.

**The Hon. A.J. REDFORD:** I ask a supplementary question. Is the Attorney now refusing to assure us that the government did not seek advice from Mr Kourakis?

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. P. HOLLOWAY:** I have been advised that no advice was sought. However, I have been the Attorney-General for only seven days, and obviously I was not the Attorney-General at the time that the events referred to by the Hon. Angus Redford took place. I do not believe it is an unreasonable position, but I am advised that no advice was sought or received from Chris Kourakis, the Solicitor-General.

**The Hon. J.F. STEFANI:** I ask a supplementary question. Can the Attorney-General advise the council who, in fact, decided or directed that legal advice was to be sought from interstate? Was that course of action suggested by someone from the government or the Crown Solicitor's office?

**The Hon. P. HOLLOWAY:** As I said yesterday, the Chief Executive Officer of the Premier's Department, who was asked to look at these matters (which, I remind the council, the previous government never did), was completely unfettered in his sources of advice. That inquiry was conducted by the Chief Executive Officer of the department and, I repeat, he was unfettered in relation to the sources of advice.

**The Hon. A.J. REDFORD:** I ask a further supplementary question. In reference to the second part of my question, do I understand that the Attorney-General is now refusing to explain why the advice of Mr Walter of the Crown Solicitor's Office was not sought in November and December of last year?

**The Hon. P. HOLLOWAY:** I will take that question on notice and bring back a reply. Obviously, I was not the Attorney-General at that time.

## FREDERICK, Mr M.

**The Hon. R.D. LAWSON:** I seek leave to make a brief explanation before asking the Attorney-General a question on the subject of a magistrate.

Leave granted.

**The Hon. R.D. LAWSON:** Yesterday afternoon, the Chief Magistrate, through the Courts Administration Authority, issued a statement concerning Mr Michael Frederick, stipendiary magistrate. The Chief Magistrate said that he had been informed by Mr Frederick SM that 'police have spoken to him concerning allegations about conduct which is said to have occurred prior to his appointment as a Magistrate. . . in 1987.' The Chief Magistrate continued, 'I believe that once their inquiries are complete, police will report to the Director of Public Prosecutions.'

I interpose that this seems to be a somewhat different reporting mechanism to that which has been adopted in relation to the current corruption inquiry, where the report will be not to the DPP but to the Minister for Police. The Chief Magistrate then went on to say that Mr Frederick 'will continue to sit. . . unless and until any charge is laid against him,' and that no further public comment on this matter would be made by either the magistrate or the Chief Magistrate. My questions are:

1. Does the Attorney agree that no magistrate or judicial officer who is judging citizens and imposing sentences should have any cloud or hint of suspicion hanging over them?

2. Does the Attorney agree that the confidence of persons appearing before judicial officers may be undermined if it is publicly known that the judicial officer is the subject of a police inquiry or investigation?

3. Will the Attorney-General convey to the Chief Magistrate the view that Mr Frederick should not sit during such time as police inquiries are being undertaken about which the public now has knowledge?

**The Hon. P. HOLLOWAY: (Attorney-General):** I was advised yesterday that police have spoken to Stipendiary Magistrate Michael Frederick concerning allegations about conduct that is alleged to have occurred several years prior to his appointment as magistrate back in 1987. I remind the council that the Courts Administration Authority is an independent authority. Disciplinary measures relating to the judiciary are matters for the Chief Justice and Chief Magistrate. Chief Magistrate Kelvyn Prescott has decided that the allegations do not warrant the magistrate's standing aside. The Director of Public Prosecutions advises me that he is currently considering the matter and will make a decision shortly. It would be inappropriate for me to provide any more information while those investigations are continuing.

**The Hon. R.D. LAWSON:** By way of a supplementary question, does the Attorney-General agree that part of his role as first law officer is to maintain public confidence in the integrity of our judiciary?

**The Hon. P. HOLLOWAY:** In spite of the honourable member's invitation, I do not intend to make further comments while this matter is under investigation. It would be quite inappropriate for me to do so. It may be the standard set

by previous governments, but it certainly will not be the standard for this one. I remind members that it is even against the standing orders of this parliament to comment on matters currently under investigation.

## ANONYMOUS FAXES

**The Hon. J. GAZZOLA:** I seek leave to make a brief explanation before asking a question of the Attorney-General about anonymous faxes.

Leave granted.

*Members interjecting:*

**The Hon. J. GAZZOLA:** We don't leak like you lot. It has been suggested to me that an anonymous fax has been sent to the ALP state headquarters containing sensational allegations that certain Liberal members of this chamber, who shall remain nameless, are responsible for the assassination of Archduke Franz Ferdinand and the decline and fall of the Roman Empire. My question to the Attorney-General is: will he also investigate these baseless scaremongering allegations?

**The Hon. P. HOLLOWAY (Attorney-General):** The information contained in the anonymous letter to which the honourable member refers sounds every bit as credible as those received by members opposite. It is rather incredible that this parliament should have got to this stage, but those who have seen the Hon. Rob Lucas in practice for many years are well aware of his tactic and the use of the anonymous document. There is obviously a lot of anonymity around at present, but I guess that these anonymous faxes will arise every time the Leader of the Opposition wishes to defame somebody under parliamentary privilege.

As for the particular one to which the honourable member has referred, it certainly would not surprise me that there would be lots of information around in relation to allegations about the former government, but I guess that the difference—and we will see the outcome very shortly, one would hope—in relation to them is that the problem they had was that they kept getting found out. If one wanted information on what the former government was doing, one did not have to rely on anonymous faxes, as prominent members were quite happy to give you all sorts of information about what their colleagues were doing. There was no need for anonymity in relation to finding out what the previous government was doing.

## BAXTER DETENTION CENTRE

**The Hon. KATE REYNOLDS:** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about the provision of health services by state authorities for detainees of the Baxter immigration detention facility.

Leave granted.

**The Hon. KATE REYNOLDS:** Health care in detention centres is in the first instance the responsibility of the private company contracted to manage the centres, Australasian Correctional Management. ACM employs nurses who then make recommendations about who can see the visiting general practitioner. By way of background, I will quote extracts from a letter sent to the Ombudsman on 24 June, as follows:

> I am an Irani asylum seeker and currently detained in Baxter immigration detention facility. While I was suffering with intolerable appendix pain I had frequently sought medical assistance but either shift supervisor or other ACM staff ignored me. I was denied access to medical. Apart from this I was given only pain-killer tablets . . . these tablets are known as panacea (a supposed cure of all diseases) in detention centre and also two nurses failed to provide me appropriate treatment. It does not matter even you bleed or involved in any critical condition. I asked an officer to call the manager of ACM to come and see me but the manager said he did not have time and would not.
>
> At the last moment I was paid medical attention and was taken to the local hospital at Port Augusta on 29 May and then my deteriorating appendix pain was diagnosed by a doctor. I remained there for three days but due to lack of equipment or staff at local hospital, my physical ill condition referred to Queen Elizabeth Hospital at Adelaide.

You will understand, Mr President, that I am reading directly from the letter from the detainee, so the English language is sometimes a little interesting. It continues:

> I was immediately taken to Adelaide hospital and immediately taken to emergency ward. Doctor as well as nurses told me that if you were delayed some time you might have died. I remained at hospital until 16 June. During this period of time at hospital I was not given proper food due to Islamic faith and I raised this matter to security guards who were appointed there to guard me but both security guards were behaviourally so nasty and I was continue given food which is forbidden in Muslim faith. It is clearly highly embarrassable position that a detainee involved in critical situation and seeking for medical access but every part of ill management keep blocking the way.

My questions to the minister are:

1. Does she agree with the Australian Medical Association position that all detainees from Baxter Detention Centre should have the same right to access equity and quality of health care as the general population?

2. What is the state government's responsibility in relation to the provision of physical, mental and oral health services to detainees from Baxter?

3. What is the state government's responsibility in terms of the provision of emergency health care for people who are detained at Baxter?

4. What is the state government's responsibility in relation to establishing and monitoring publicly accountable standards of health care for detainees from Baxter?

5. Would the fact that the patient was a detainee ever be a determining factor in the provision of treatment, or lack thereof?

6. Does the minister believe that the state government should make every effort to accommodate the language, cultural and religious needs of detainees when they access health services outside the Baxter immigration detention facility?

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** I will make sure that those important questions are relayed to the Minister for Health in another place and bring back a reply.

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## STANDING ORDERS SUSPENSION

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** I move:

That standing orders be so far suspended as to enable me to move a motion without notice.

Motion carried.

## PUBLIC PARK BILL

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** I move:

That the Public Park Bill be considered a related bill to the Statutes Amendment (Nuclear Waste) Bill, and that the standing orders be and remain so far suspended as to extend the scope of the relevancy of the second reading debate on the Statutes Amendment (Nuclear Waste) Bill to include the related bill.

Motion carried.

## MEMBERS, BEHAVIOUR

**The PRESIDENT:** During question time in the past couple of days some matters of serious public concern have been discussed. I am not concerned that members are asking questions in that process, but there is a lot of interjection and gratuitous advice to ministers on how to answer the questions, and there is also running commentary. It does not do the dignity of the council any good whatsoever. I would ask members to pay attention to that in the future, and there will be less opinion in some of the questions. I know there are serious matters that you are about to discuss; but I will be watching much more closely in future.

## APPROPRIATION BILL 2003

Adjourned debate on second reading.

(Continued from 7 July. Page 2693.)

**The PRESIDENT:** As this will be the Hon. Ms Lensink's maiden speech, I ask all members to extend the obvious courtesies, that is, that they will remain silent during her contribution. I am sure that she is aware of the standards of the council, and we look forward to her contribution.

**The Hon. J.M.A. LENSINK:** In making this, my first speech as the newest member of the Legislative Council, I wish first and foremost to acknowledge the continuous support of my family. Every time I have given a major speech my parents have sat in the audience with their hearts in their mouths, proud as punch but fearful that their youngest daughter might get walloped in this latest political exercise. It is probably in part my parents' Dutch heritage that drew me towards the Liberal Party. They are a stoic pair who have drummed into their kids the need to work at things and stick them through. As children, they lived in occupied territories during the Second World War and learned to make do with less: a valuable lesson that taught them and then their own children to live within our means and to avoid debt.

They have instilled in us a mentality of not seeking handouts as a solution. As a Liberal, I believe that every individual has the means to achieve great things and that the daily struggle to achieve your best has a cumulative positive effect on society. This struggle is where lessons are learned, and the outcome you can then truly call your own. I am personally humbled, however, by the support and mentoring of so many people who have assisted me to stand in this place today. For having spent so many years at university, I have my mother to blame. In her mind, all three daughters needed to be of independent means and, therefore, had to have a degree. This policy has stood my sisters Angela, Ingrid and I in good stead, although if we had been really clever we might have ditched the text books in favour of something like plumbing, which has flexible working hours as well as a solid income!

However, as they say, such is life. Instead, I became a physiotherapist. I am not certain exactly to what the Speaker from another place was referring when he suggested that I apply these skills to the parliament. I do have a standard joke that I can manipulate the truth and massage egos. In reality, physiotherapy has given me inside experience of our hospital system and of assisting people who are often at their most frail and vulnerable. I was also made aware of the complex politics of health, which I believe in no small way contributes to the challenges we face in moving our health system forward to meet future demand.

I joined the Liberal Party while finishing that degree in 1990. I owe a great deal to the Liberal Party and to its youth wing, the Young Liberals. On joining, I was enthusiastically embraced and found myself thrust into leadership roles that I had not considered I was capable of. The practical experience gained through debating, public speaking and campaigning, as well as the many friendships formed, have been an invaluable foundation for a fresh young person interested in political life. I also thank both my former political employers, the federal member for Sturt, Christopher Pyne, and our esteemed colleague the Hon. Robert Lawson, for providing valuable opportunities in their respective offices to gain from their knowledge and experience.

I also thank the Australian Nursing Homes and Extended Care Association (ANHECA), for which I most recently worked. The ANHECA board and its Care Management Executive are aged care providers with a vision for the industry. They have a can-do attitude and seek to provide the highest possible standards. I learned a great deal from their members in the time I was there, including great insights into the realities of running a business, particularly one that is as defined by government legislation as is aged care.

I would like to acknowledge the person whom I have replaced, so to speak, the Hon. Diana Laidlaw. Diana is passionate and still speaks about each of her portfolios as lifelong projects, cherished, guarded and defended at every opportunity. At her recent farewell, many people from the diverse range of portfolios that she represented celebrated her time in this place to further attest to her commitment and enthusiasm. I particularly admire Diana's courage. In public life we must cherish those people who fearlessly speak their mind and defend those things that they truly hold dear.

Someone else whom I admire very much for similar qualities is our Prime Minister, John Howard, who said recently in Adelaide (and I paraphrase) that leaders are able to win community support for unpopular decisions if they believe that something is right and if in promoting that policy they are honest with the public.

The path of least resistance and thus success may appear to be a solution for those who would wish to be granted the most political favour by causing the least offence. This concept I believe to be a fallacy as it defies the purpose of public office, which is to provide leadership and judgment. To fail to defend your core beliefs is to deny that you are built within a value system. You stand for nothing but political prerogative, a proverbial licked finger in the wind of political opinion.

We know with our personal finances that it is prudent not to abuse the credit card. However, some tend to ignore this reality when it comes to government spending and taxation, perhaps because it does not directly impact upon them. However, everything must eventually be paid for and, if this occurs through borrowings, we all pay twice. The former Brown and Olsen state governments, as well as John Howard's government, have made some very difficult decisions from which all South Australians now reap the benefits through a reduced overall debt burden and lower taxation.

As the youngest person in this chamber and the youngest to represent the Liberal Party in this parliament, I believe that the greatest gift that can be bestowed upon younger generations is a low taxation, low inflation environment to enable us to build a secure future. After all, younger generations have already paid more for their own education, have greater job insecurity and will provide for their own retirement through superannuation.

South Australia's lower cost of living makes it an affordable place to raise a family. We need business investment in order to provide challenging opportunities for our young people. We currently lose too many educated and qualified individuals, whose skills would be better used to help the state prosper. As a smaller state with a narrower economic base, South Australia is more vulnerable than states to our east and west. Sound economic management is therefore more critical here. Since the 1970s, growth in gross state product has slowed, making less funds available for new projects. This brings into sharp focus our fiscal policy and spending priorities, which must be set against demographic, social and technological changes.

I was interested to read the comments of Mr Bob Day, a board member of the Samuel Griffith Society, published recently in the *Advertiser*, in relation to the states' inability to raise their own revenue and the commonwealth's inability to account for funds transferred to the states. From my own experience applying for grants at both levels, I heartily agree with Mr Day's concerns. The commonwealth as a funder is far more rigorous, iterative and focused on its priorities. As a taxpayer, I was pleased that our consortium was asked to provide so much detail. However, the commonwealth's priorities were so far off the local needs that we considered abandoning the search for outside funding for a fabulous program because, quite frankly, it was made all too hard.

I have been pleased to note some of the comments contained within the recent report of the Economic Development Board regarding the role of government. If I can paraphrase, because it is up to the private sector to lead economic activity, the role of government is to provide a supportive environment that promotes sustainable investment. It goes on to name a series of ways in which government can improve services to business, including cost competitive regulations that minimise the cost of doing business in industrial relations, planning approvals and environmental sustainability; sound fiscal management and a simple tax system that minimises compliance costs; and support for infrastructure, especially energy, transport, telecommunications, water and waste management.

Given that two of the esteemed members of the board are former ACTU presidents, it is especially pleasing that this Labor government has been reminded that the capitalists won not only the Cold War but also the arguments in favour of small government. We need to cut the costs of doing business in order to prosper, while also recognising the need to provide services and infrastructure that will support individuals and businesses to fulfil their aspirations with minimal interference. This I believe to be the cornerstone role of state governments.

The states have a critical role in delivering the daily bread and butter services on which people depend in their everyday lives such as education, health, transport and law and order. In this sense, the states comprise possibly the most relevant level of all. A state has the distinct advantage of being of small enough size for its elected representatives to keep in touch with people who are affected by various parts of the system.

While it was touched on in the report, industrial relations and state taxes were not given sufficient airplay. In the aged care industry, wages and payroll on-costs comprise up to 80 per cent of operational expenses. The report suggests that wages, particularly in service industries (which it notes are on the increase) should be managed, Pollyanna style, in a consensual fashion. But beyond that there is not much advice to government. Surely if we want more people to be employed, we need to provide the conditions under which the risks of hiring additional staff are minimised. When recruiting, you need someone who will become an effective part of your team and enjoy their job. If things do not work out, it can be a very costly exercise to resolve, and the smaller the business, the greater the burden on all the other people working there to cover for lost productivity.

The 20 per cent increase in the WorkCover levy in 2003-04 is a body blow to all South Australian businesses and will do nothing to attract organisations to this state. It is already a system which does not work in the best interests of employees or employers and should never have been designed to duplicate the commonwealth's welfare benefits program for injured workers. The fact that the liability falls on the employer to compensate for an injury in which the workplace contributed a trivial proportion to the injury claim is a grossly unfair burden, as is forcing employers to take full responsibility for a worker's pre-existing injury that they have not been told about in an interview. I know a number of employers who have settled on such things at great cost even though they knew they were on the right side because the WorkCover systems are so invidious.

Lack of wage restraint in public sector wages has placed pressure not only on the state budget but also on those industries outside the public sector which employ people in comparable positions, for example, nurses and teachers. However, if inflation in this state increases, that is just the cost of keeping the unions happy. I also condemn Labor's failure to use opportunities to facilitate greater competition in the electricity market, for increasing state taxes and introducing new ones. Not only will the cost of doing business increase, but struggling pensioners and families will be hit hard. In order for this state to prosper, these issues must be addressed immediately. I would consider that not much of the content of the report is rocket science so I am not quite sure why the government felt it needed a board to tell it.

We need to look to those industries in which we are already competing well as sources for our future economic growth. Our top overseas export earners by dollar value are grains, motor vehicles, wine, resources and electronics, in that order. While their infrastructure needs vary, some do receive more attention than others. Logic would not tell you that you would cut the infrastructure—except water—from any of these industries, as this would risk reducing South Australia's export earnings. But this is exactly what the state Labor government has done to our regions. I have travelled on roads that are intended for grain haulage which were so narrow that I was afraid to pass other vehicles in a four cylinder car. There are numerous examples of Labor's cuts to regions. Presumably, the country does not count because the voters are fewer in number and less inclined to vote for the ALP. However, these decisions are short-sighted and will constrain growth in this state.

I believe that all policy decisions must be sustainable and balanced, and include consideration of social and environ-

mental impacts, as well as financial. Poker machines and inflexible workplaces have a negative impact on South Australian families. We are all familiar with the strain the River Murray is under after much use as one of our nation's most productive resources. Everything has a price; therefore, the consideration of long-term costs must be against short-term gains. As a new member, it is hard to know what Labor's priorities in government are. To minimise the risk of being accused of tediousness, I will but mention the impact of Labor's last term in office and the devastation of the former State Bank. However, the Rann government is so sensitive about this issue that it has sacrificed key promises from the last election in an effort to paint themselves as effective economic managers.

One of the programs closest to my heart in this rearrangement of priorities is the Home and Community Care (HACC) program which is funded 62¢ in the dollar by the commonwealth government. The states match the rest and then determine where this funding should be allocated—a very good deal one might think! HACC funds a diverse range of organisations and services across this state such as Meals on Wheels, Domiciliary Care and district nursing. Its charter is to prevent people from entering institutions by providing them with services that will help them and/or their carers to keep managing at home. Bearing in mind our ageing population and that South Australia has a high proportion of people with disabilities as well as a large number of carers, and bearing in mind that this is one program where significant additional funds are offered to the states well above the rate of inflation, the Labor government's decision not to match the commonwealth's offer is astounding. In 2002-03 the HACC program in this state was worth $95.01 million. Instead of an increase in 2003-04 of $7.38 million (or 7.76 per cent), HACC will increase by only $2.38 million which will not fund any new services. Now that those funds have not been matched, they will be offered to other states and will be lost to South Australia forever.

Furthermore, not only will growth in additional HACC services be arrested but there will be a flow-through to increased hospital waiting lists, as those who are unable to return home but for a district nurse to dress their wound or domiciliary care to install grab rails will remain occupying a more costly hospital bed or a place in residential care. Innovative programs which were previously funded through HACC, such as the Acute Transition Alliance, and which were a key plank of hoped-for reforms contained in the Menadue review of the health system, will need to seek funding from other sources.

I despair that the Labor custodians of this state have forgone all the compassion they pretended to have prior to the last election in favour of being a cynical and cowardly government. Indeed, I think that many of them still believe in social justice but, clearly, they have no influence in cabinet or in their party room, or they would not have agreed to some appalling decisions. Those others who now adhere to some new Labor philosophy of fiscal responsibility are still burdened by Labor's obligations to their mates of old in the union movement.

A man or woman cannot serve two masters. I am thankful that the diversity of the Liberal Party means that it preselects not only teachers and lawyers but also business people, primary producers and the occasional vet or physiotherapist. I am thankful that the party to which I belong holds freedom, family and enterprise as its fundamental tenets. It is also the party that lays claim to all the firsts for women's electoral success. I hope to follow Diana Laidlaw's example by demonstrating some of her passion, enthusiasm and courage during my time in this place. I recognise the struggle of those women who came before me—from attaining the vote in 1894 to being elected to parliament and being appointed to cabinet. As the youngest woman in this place, I hope to provide a beneficial perspective for the betterment of all South Australians.

**The Hon. CARMEL ZOLLO:** The Hon. Paul Holloway has already welcomed the Hon. Michelle Lensink, but I add my welcome on her elevation to this chamber. I hope that her time here is happy and rewarding and that she has a long future here. I know that it will be an interesting time for her.

The other person whom I congratulate is the Treasurer in the other place on presenting his second budget. As stated by the Treasurer, it is a budget of an economy that is very much at the crossroads. It is a budget that introduces some unpopular measures for long-term sustainability—for example, the River Murray levy. It is a budget that unashamedly clearly spells out the priorities of this government, particularly in health and education—priorities which are an investment in our future and which will ensure long-term prosperity for our children and their children.

I think it is important to remind honourable members of some of those priorities. They include action to adopt the recommendation of the Economic Development Board and to create a $10 million capital venture fund, administered by a new Venture Capital Board, with the goal of attracting private venture capital to our state. Given the importance of the defence industry to this state, $3.5 million is being set aside to fund the work of the Defence Industry Advisory Board and its attempts to secure defence work for South Australia.

As with the Economic Development Board, the Defence Industry Advisory Board has membership across political divides and is inclusive of the best abilities this state has to offer to secure our economic future. As honourable members know, the Premier has recently returned from a visit to the United States, where he met with senior executives in the defence industry in an effort to secure South Australia in becoming the headquarters for maintenance shipbuilding and refits for the Navy. The Premier recently stated that if South Australia succeeds in becoming the headquarters for maintenance shipbuilding and refits for the Navy, it will mean a massive long-term boost to our economy and a huge increase in jobs at Osborne, but it is more than that. It will also mean a substantial expansion of graduate level jobs in South Australia's strong cluster of defence technology companies, many of which are located in Adelaide's northern suburbs.

Our state's population is the lowest of the mainland states and, like the previous government, this government is committed to increasing our population base for skilled migrants. Migrants bring enormous benefit to any community. They generate demand and services at many levels. I welcome the more than $1.25 million which will help regional employers to attract skilled migrants to boost their work force. The importance of population growth has been recognised through the investment of $4 million on strategies to attract business and skilled migrants. The commitment to education is significant indeed. New education and training initiatives that have received funding in the 2003-04 budget include $2 million in the 2003-04 budget for system-wide facilities and maintenance in schools.

In the TAFE system, $4 million has been allocated over four years in response to recommendations from the Kirby report for enhanced financial management capacity and infrastructure in TAFE institutes, as well as $18.6 million over four years for various new initiatives and cost pressures in the TAFE system. As treasurer Foley indicated in the other place, we inherited a TAFE system in tatters. The budget includes nearly $17 million over the next three years for essential maintenance and capital improvements. Given the difficulty sometimes in attracting teachers to country South Australia, I am glad to see $4.5 million for additional employee housing for regional teachers.

There is an increase in the human services portfolio budget of $125.6 million over 2002-03. In 2003-04, $3 330.8 million will be directed to support the delivery of human services, including housing services provided by the South Australia Housing Trust. Some of these initiatives that have received funding in this area over four years include: additional nursing costs, $6.7 million per annum; increase in intensive care unit activity, $7.5 million per annum; protection of vital blood supplies, $2.4 million per annum; $20.9 million over four years for medical services to disabled South Australians; and $12 million over four years for child protection initiatives and early intervention and prevention. I understand that, in all, $58.6 million will be spent in response to the Layton inquiry, of which $42.6 million is new money.

As Parliamentary Secretary to the Minister for Agriculture, Food and Fisheries and Ministerial Resources Development, I am pleased to see several important initiatives. In particular, I am pleased to see the rapid uptake of a national livestock identification scheme. Some $3.2 million has been allocated in the budget for the ear tags and special equipment to read the tags for cattle and sheep to ensure whole of life tracking and reinforce the state's clean green production status. As Convener of the Premier's Food Council I appreciate the need to maintain this status. It is an advantage that South Australia and Australia have on the world stage and can only be to our benefit.

In relation to our commitment to biosecurity, we see additional funding of $950 000 for the second year, with a total of $1.9 million of a major project that aims to develop key strategies and response mechanisms for the early detection and management of livestock diseases. In continuing to support the State Food Plan we are supporting the development of regional food groups—

**The ACTING PRESIDENT (Hon. J.S.L. Dawkins):** Order! The level of conversation is getting too high and I am having difficulty hearing the Hon. Ms Zollo.

**The Hon. CARMEL ZOLLO:** Thank you, Mr Acting President. There are now 10 such food groups that are developing in regions throughout the state. As we can all appreciate, regional branding is a smart marketing tool. On a recent interstate trip to Melbourne I visited several outlets in Malvern and the Prahran food market, where we sell some processed food products. We have had good results in relation to the export of processed foods. When we talk about exports we are talking about not only overseas but also interstate. Our regions are very much aware of the possibilities in the promotion of their products.

The retail outlets I visited would be described as the top end of the market. 'Gourmet delicatessen' appears to be the manner in which such outlets are described. Essentially, one can purchase most courses for a meal and good quality food already prepared and strongly backed up by quality processed foods as accompaniments. As well, one is enticed to linger over a coffee with a tempting pastry! Food Barossa was well represented in the outlets. The follow-up and promotion that is needed by our small and medium enterprise food producers was obvious when visiting these gourmet shops. The commitment by our food industry is no different whether they sell overseas or interstate, and they are to be commended for their passion to their industry.

I took the opportunity to wander around the Prahran market. I thought that the quality of the seafood was exceptional and well priced. I personally think that sometimes we probably pay too much for our seafood in the state partly, I suppose, as a result of our exports which then lead to a lower local demand due to high prices. The fact that the eastern states have a larger local population no doubt leads to greater competition. It was a pleasure to meet with Leanne Johnson from Louie's Deli and Cafe in Malvern and Jackie Van Batenburgh of The Cheese Shop Deli at the Prahran market. I appreciated their spending time with me out of their busy day.

Again, I commend our small and medium enterprises for their demonstrated passion. It is hoped that our regional food groups will also share the same success of the already established groups, such as Food Barossa. In keeping with its role as a research driver, the department commits money over a period of time to see that new and emerging areas of the industry are identified and assisted. Whilst not specifically part of this budget, a good example would be the study that has been undertaken of the aquaculture industry, to which the minister referred today. That research has identified 17 potentially suitable aquaculture sites or areas which may be used for future farming purposes. As minister Holloway recently stated in a press release, 'such research provides confidence for investment in future South Australian aquaculture projects.'

Aquaculture has grown from an industry worth $2.5 million in 1991-92 to more than $300 million in 2000-01. The River Murray levy which, I believe, has been well received by most people, has had its detractors on the opposition benches. I am certain that none of us would dispute the state of the River Murray and the need to fund specific measures in terms of improving the long-term security and quality of South Australia's water supply. The flat levy of $30 per annum for residential customers and $135 for non-residential customers will deliver $20 million net revenue in a full year, with all funds being spent on the River Murray pursuant to a legislative obligation.

As to be expected, those people on pensions and allowances are exempt. The levy is not a poll levy and it is not about collecting multiple levies from our farmers: it is a citizen's levy to save the Murray. The drought has focused us all on the very poor health of the river. It is affecting storage and flows throughout the Murray-Darling Basin. The amount of water flowing down the River Murray into South Australia last month and this month will be reduced to the lowest levels we have seen in some 35 years. One consequence of the reduction in flow is an increase in salinity.

A recent joint press statement by ministers Warren Truss and John Hill announced that the two salt interception schemes recently proposed in South Australia's Riverland (an area in which you, Mr Acting President, take an interest) will take approximately 200 tonnes of salt out of the River Murray every day. Minister Hill rightly reminds us that salinity adversely impacts on the whole community and not only agricultural production and the riverine ecology. It does have

implications for private assets and public infrastructure of urban and rural communities, along with drinking water drawn from the river system.

The two schemes would form part of a major effort to improve water quality in the River Murray. We are again reminded that, without significant projects such as these, the prediction is that the threshold standard of 800 EC units for drinking water quality is likely to be exceeded 50 per cent of the time by 2050.

The water restrictions for our River Murray irrigators certainly present some challenges. As minister Holloway pointed out in a recent statement, the value of agriculture irrigated with water from the River Murray is $700 million each year from vineyards, dairy, citrus, stone fruits, vegetables and pasture crops. I am pleased to see that minister Holloway has announced workshops that are designed to address technical and management issues for horticulturists and dairy farmers.

The restrictions that commenced this month in response to the drought and our reduction of water from the River Murray by 20 per cent are sensible. I am certain we would all acknowledge that we as a state cannot expect other states to agree to put more water back into the river without our doing as much as we can as well. The Murray-Darling Association has welcomed the decision to introduce water restrictions. The association points out that all states in the basin need to demonstrate a commitment to water savings and sharing the pain of reduced water flows in the River Murray.

Several people have asked me about the situation in relation to ground water consumption on their own property. Obviously, this is not SA Water sourced and not subject to restrictions. Perhaps situations where neighbours might get the wrong impression can be avoided by putting them in the picture and having a chat with them.

Another priority clearly identified by the Premier and the Attorney-General involves the area of law and order. A body of legislation has been, and continues to be, introduced as part of our election promise to deliver on law and order initiatives. Specific funding initiatives over the next four years in such key areas as police, antiterrorism, prisons, prosecutions, courts and emergency services announced in this budget are expensive and include: an extra $14.4 million for general police operating costs; $5.747 million for DNA testing; and $2.03 million for Livescan, which is new fingerprint scanning technology that enhances the identification of offenders at crime scenes. The initiatives are many and I could list them, but suffice to say, as the Treasurer said in the other place, this budget is prudent and responsible and an investment in the state's future. I would like to add my support for the Appropriation Bill 2003.

**The Hon. J. GAZZOLA** secured the adjournment of the debate.

## GAMBLING, SUICIDE

**The Hon. NICK XENOPHON:** I seek leave to make a personal explanation.

Leave granted.

**The Hon. NICK XENOPHON:** Yesterday during the debate on the Coroners Bill, I stated in relation to gambling related suicides:

> It is an issue that concerns me greatly. The Productivity Commission report released at the end of 1999 referred to this and, from memory, indicated that there were something like 50 to 400 gambling related suicides nationally each year.

When I said that, I did not have the benefit of one of my files which contains material relating to gambling related suicide. Chapter 7 of the Productivity Commission report concludes:

> In summary, there is little doubt that there are suicides linked to gambling—it probably lies somewhere between 35 and 60 a year.

That is a national figure. When I had the opportunity to refresh my memory following my contribution, I noted an article in the *Advertiser* of 19 June 1996 headed 'Gambling costs "50 lives a year"', which refers to statements by the then Chief Executive of the Adelaide Central Mission, Mr Stephen Richards. The article states:

> Gambling problems result in at least 50 South Australians committing suicide each year, a leading welfare agency claims.

I apologise for any confusion, but I thought it was important to set the record straight.

## SUMMARY PROCEDURE (CLASSIFICATION OF OFFENCES) AMENDMENT BILL

**The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries)** obtained leave and introduced a bill for an act to amend the Summary Procedure Act 1921. Read a first time.

**The Hon. P. HOLLOWAY:** I move:

> That this bill be now read a second time.

The Criminal Law Consolidation (Offences of Dishonesty) Act 2002 (the Offences of Dishonesty Act) amends the Criminal Law Consolidation Act 1935 by reforming and consolidating offences of dishonesty. It has been proclaimed to come into operation on 5 July this year.

The Offences of Dishonesty Act re-enacts the offence of 'robbery'. Robbery will become an offence against new Division 3 of Part 5 of the Criminal Law Consolidation Act. Schedule 3 of the Offences of Dishonesty Act contains a number of consequential amendments to other acts, including amendments to the Summary Procedure Act 1921. The objective of those amendments is to preserve the categories of summary, minor indictable and major indictable offences, as they relate to the new offences of dishonesty, including robbery.

The offence of robbery carries a maximum penalty of 15 years imprisonment. The offence of aggravated robbery, where an offender uses force, or threatens to use force, in order to commit the theft or escape from the scene of the offence, or commits the robbery in company, carries a maximum penalty of life imprisonment.

These are serious offences and it was the government's intention that all robbery offences would be classified as major indictable offences.

Section 5 of the Summary Procedure Act classifies various offences as summary, or minor or major indictable offences. Some offences are so defined by being listed in various schedules to the Summary Procedure Act. Schedule 3 and Schedule 4 offences are defined in section 4 of that act to mean certain specified offences, including a number of the old larceny offences.

Subsection 5(2)(c) of the Summary Procedure Act classifies, as a summary offence, a schedule 3 offence involving $2 500 or less, not being an offence of violence, or an offence that is one of a series of offences of the same or a similar character involving more than $2 500.

Subsection 5(3)(a)(iii) of the Summary Procedure Act classifies, as a minor indictable offence, a number of offences including Schedule 3 and Schedule 4 offences involving $30 000 or less, not involving violence.

Schedules 3 and 4 of the Summary Procedure Act are repealed by Schedule 3 of the Offences of Dishonesty Act. The reference to Schedule 3 and 4 offences in subsections 5(2)(c) and 5(3)(a)(iii) of the Summary Procedure Act has been replaced with references to offences against Part 5 of the Criminal Law Consolidation Act.

No monetary threshold is specified for the offence of robbery, as defined in the Criminal Law Consolidation Act. This means that offences of robbery which involve amounts of less than $2 500, or between $2 500 and $30 000, and which are not offences of violence, as defined in section 4 of the Summary Procedure Act, may be classified, respectively, as summary or minor indictable offences.

Amendments to section 5 of the Summary Procedure Act are necessary to ensure that all robbery offences are classified as major indictable offences. As the Offences of Dishonesty Act has been proclaimed to come into operation on 5 July 2003, it is necessary that these amendments be passed by parliament and come into operation as soon as possible.

I indicate that the shadow attorney-general has indicated that the opposition will support the urgent passage of this bill through both this house and the other place. I thank the opposition for its support and seek the support of the Independent members for the second reading of this bill.

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

Leave granted.

Explanation of Clauses

*Part 1—Preliminary*

*Clause 1: Short title*

*Clause 2: Amendment provisions*

These clauses are formal.

*Part 2—Amendment of Summary Procedure Act 1921*

*Clause 3: Amendment of section 5—Classification of offences*

This clause amends section 5 of the *Summary Procedure Act 1921* (the principal Act) by excluding robbery from classification as a summary or minor indictable offence. Robbery is only to be classified as a major indictable offence.

**The Hon. R.D. LAWSON** secured the adjournment of the debate.

## STATUTES AMENDMENT (NUCLEAR WASTE) BILL

Adjourned debate on second reading.

(Continued from 7 July. Page 2691.)

**The Hon. SANDRA KANCK:** The government has co-joined the second readings of these two vital bills in an attempt to expedite their passage through the council, and we support that. Unfortunately, however, that move may prove to be too little too late. The commonwealth, as we know, has now taken advantage of the time delay between the introduction of this legislation in another place and the third reading in the Legislative Council—which we are still to reach. With the benefit of hindsight, it is now clear that the state government should have abandoned usual parliamentary procedure and sought to force the bills through both houses in the shortest time possible. That is not the sort of tactic the Democrats would normally support but, in this instance, we would, because we are dealing with highly unusual circumstances; that is, a federal government that has no regard for the will of the South Australian people or the parliament. It is determined to inflict a nuclear waste dump on South Australia permanently.

Members should have no illusions about the longevity of a nuclear waste dump—should it be established. Once up and running, the dump will be shut down only if something has gone drastically wrong. I am also convinced that the low level facility is the thin end of the wedge and, once established, the upgrade of the facility to take medium to high level radioactive waste would be a permanent temptation. Of course, we have an acknowledgment from Senator Minchin that South Australia will not get a medium to high level waste dump, but that is an undertaking by one minister in this government at this time and it has no standing at all legally.

As part of our campaign to prevent South Australia's becoming the nuclear waste state, the Democrats strongly support both these bills. The Statutes Amendment (Nuclear Waste) Bill is the result of a cooperative effort between the Hon. Nick Xenophon, the Hon. Andrew Evans, the Hon. Julian Stefani and me. A couple of months ago, when we dealt with a similar bill, we did so in the interests of what we thought would be the best outcome for South Australia by paying for independent legal advice. At that time, part of what we did was to put a sunset clause on that bill, which forces us back at this point to be discussing that. As a consequence, we now have bills before us that will amend the Dangerous Substances Act 1979 and its definition of 'conveyance'; new definitions will also be inserted into the Nuclear Waste Storage Facility (Prohibition) Act 2000; and section 9 of that act will be replaced by a prohibition on both the transport of nuclear waste into the state and the supply of nuclear waste to another person for the purpose of transportation into the state.

Each of these measures will strengthen our hand in this duel with the commonwealth and have the full support of the Democrats—as does the co-joined bill. Indeed, we have a good deal of admiration for the very clever soul who devised this concept. By attempting to create a public park at the sites known as 40a and 45a, the state government has raised the bar in the battle to prevent South Australia's becoming the nation's nuclear waste dump. It is worth reflecting that this is a bill to reserve land as a public park for the use, enjoyment and recreation of inhabitants of and visitors to the state. There will be no enjoyment of this land if the commonwealth succeeds with its cynical plan to truck a political problem from Lucas Heights to northern South Australia. It is interesting to note, of course, that by compulsorily acquiring the land yesterday, the federal government has opened up the possibility of allowing the new nuclear power station at Lucas Heights, which is of course what this was all about in any case.

A slice of South Australia has, it appears, been expropriated to create a high security zone for the disposal of a threat to federal Liberal Party seats in New South Wales, and the Democrats are implacably opposed to that plan. The facts are on the side of South Australians. South Australia contributes just 0.03 per cent of the total radioactive waste created in this country. The commonwealth often points to the waste already stored at Woomera as justification for shipping more waste into South Australia, and how a flagrant breach of South Australia's rights by one federal government justifies another assault on this state by another government is beyond my comprehension.

The federal ministers spruiking this flawed logic never address the fact that, whilst the current waste at Woomera constitutes 54 per cent of Australia's radioactive waste by volume, it accounts for just 0.0005 per cent by radioactivity. The oft-cited storage of Australia's medical waste is not a compelling argument for a national nuclear waste dump: it probably accounts for as little as 0.1 per cent of the nation's radioactive waste. Make no mistake about it: this is a political decision by the federal government and it is about shifting the political heat from Lucas Heights to South Australia. It follows in the disgraceful footsteps of the British government's nuclear contamination of Maralinga.

The only real disappointment in all this is the South Australian Liberal Party, which has chosen to act as the local apologists for their federal colleagues. It has kept a very low profile on this issue in the past few days, to its shame. They are not making their position very clear to the public of South Australia: it is a cowardly position in acting as patsies for their federal colleagues. In effect, the South Australian Liberals have decided to take the political heat that the federal Liberals are so desperate to avoid. And, I say, more fool them. I think the results will show up at the next election. I indicate strong Democrat support for both these bills.

**The Hon. R.K. SNEATH:** I voice my disgust at the federal Liberal government's scheming tactics to ensure that it can start forcing this radioactive waste dump on South Australians. South Australians have always been prepared to bury their own waste (which is fair enough), but not to bury that of all the other states. Will this stop at Australian states burying waste in South Australia? Will South Australia become a waste dump for other countries? Will South Australia become a waste dump for the Howard Liberal government's friends in America? It would not surprise me if the Howard government did a deal to bury America's waste in South Australia.

The South Australian Liberal senators must be hanging their heads in shame at what they have done to South Australians—to the people who elected them to parliament to protect the interests of South Australia. Let us hope that the people of South Australia do not forget the Liberal senators' lack of loyalty to this state and that they throw them out at the next election. And, as the Hon. Sandra Kanck said, let us hope that the South Australian people also link the South Australian Liberal opposition to this by their silence and that a number of them are also thrown out along with their senators.

At the same time, the Liberals in this state sit on their backsides and watch the federal government turn our beautiful state into a nuclear waste dump for the rest of the country and God knows who else. What will their children and grandchildren think in years to come when they see that they had the opportunity to keep South Australia green and clean and to bury only what was our responsibility? In fact, they have encouraged the federal government to ride roughshod over the people of South Australia.

Whatever happened to democracy? Do not the people have a say, too? The state government and the people of South Australia do not—and I repeat, do not—want a nuclear dump in our state which buries other people's waste. What would our people say if they were asked, 'Do you want a national park or a nuclear dump?' Everyone knows the answer: it is quite clear from what they have said. They have said it in the newspapers, on talk-back radio and everywhere. They do not want the shame of another Maralinga. People have not forgotten that. People are still suffering from diseases as a result of Maralinga. However, it is obvious that the Liberals have forgotten it. Can they not recall the damage which it did to our state and which it is still doing to people in South Australia who suffer from the effects of that exposure? It is a sad day when the public debate is thrown out of the window and bullying tactics are employed by the federal Liberal government to get what it wants.

The fact is that they are in Canberra and a dump in our state is out of sight and out of the mind. Can any of them guarantee that there will be no spills on the highways, our country towns, or our farming land? Can they guarantee that our ground water will not be contaminated by seepage from such a dump? The people of South Australia are jumping up and down and saying, 'No way; our environment, our health and our state's reputation is being dangled over the edge of a cliff,' while the federal Liberal government says, 'Too bad, it is our land and we will do what we want with it.' Is it any surprise that every state in the country has a Labor government? I think not—and I am sure that it will not be too long before there is a federal Labor government because people do not forget decisions such as this and their being ridden roughshod over.

This is another example of shoddy practices employed by the federal Liberal government in its quest to become a dictator. It won the federal election by misleading the public over the *Tampa* crisis and the children overboard scandal. It sent our troops to war on the basis of intelligence that has been shown to be questionable. It is now playing hard ball with our state government for standing up for the rights of people, as has the Rann government. From day one, the Rann government has argued solidly for no dump—we do not want other people's waste. It should not be forced on South Australia or South Australians. The Rann government has always shown its concern about the potential impact of a dump such as this. The federal government tells us that this is a low level waste dump.

Who could believe a government that lies about parents throwing their children overboard? What a dreadful thing to say. Who could believe a government that has told us that it went to war with a country because it had weapons of mass destruction which no-one has found yet? Who could believe a government that told us it would not introduce the GST? Who could believe a government that says, 'This will be a low level waste dump?' Who could believe a government—

**The Hon. J. Gazzola:** It is a low level government.

**The Hon. R.K. SNEATH:** As the Hon. Mr Gazzola says, it is a low level government. Does it not hear what the people are saying? Why is it ignoring the public outcry? What about the long-term detrimental effects of having a low level radioactive waste dump in our state? What about the future? They are all high and mighty, perched on their seats in Canberra—completely disconnected from the real world, it seems. Like the people in this state who sit on the opposition benches, they have forgotten where the bush is as well. They do not know where the bush is—they have absolutely forgotten. What they are going to do with the bush is dig it up and fill it up with waste. That is what they are going to do with the bush—they are going to fill it up with waste.

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

**The Hon. R.K. SNEATH:** They do not care as they travel through the bush and, yes, I have been up there quite a few times actually, sweating in the shearing sheds up there—

*Members interjecting:*

**The Hon. R.K. SNEATH:** —and looking after the bush while I have been there, of course—picking up the rubbish probably thrown out by the Liberals. But these people have forgotten about the bush, and the federal government has forgotten about the bush; it has forgotten where the bush is. Actually, the federal government has gone a little further than these people: they have forgotten about South Australia. They think it is a place in which to bury things. The Hon. Sandra Kanck touched on it: they are burying it because they need the votes in New South Wales in order to survive. They are saying, 'Oh well, we'll bang it into South Australia. If we lose a couple of senators, so what—as long as we survive and get a big vote in New South Wales.' It is time that this federal government got off its high horse and thought about the families living in South Australia, especially those directly affected by the potential hazards of the dump.

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

**The Hon. R.K. SNEATH:** We have already said that we will bury our own waste; we do not have a problem with that. We will bury our own waste, but we will not bury everyone else's waste.

**An honourable member:** Where?

**The Hon. R.K. SNEATH:** Perhaps the Hon. John Dawkins would like to tell us why we have to bury everyone else's waste; he will do that later, no doubt. He will tell us why we have to bury everyone else's rubbish in our backyard. I am sure that it will not be long before the Americans are bringing their waste across either, if this federal government stays in power. The Prime Minister will say to Mr Bush, 'Any waste over there? Bury it in South Australia. Bring it over here. We don't care about the bush. Bring it over here.' It is time that they showed some concern for our grapegrowers. We can imagine what the French will do when there is a big market up for grabs. They will say, 'You wouldn't want to get it from South Australia; they've got nuclear waste buried everywhere there.'

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

**The Hon. R.K. SNEATH:** Nobody over there knows how big South Australia is, worse luck. They will say, 'Don't get it from them.' We and this argument have hit the headlines overseas. Talking to farmers in the last couple of weeks, I have had a number of them raise their concerns with me. They were not grape growers. They were wheat growers and barley growers. They raised their concerns because they are exporters. They are in a competitive market. They are concerned about South Australia's barley, wheat and whatever else they export. Farmers are concerned.

So, of course, once again the people over that side are taking the farmers of this state for granted because they think farmers will always vote for them. But they do not care about the farmers, they do not listen to them and they do not listen to the bush. They do not listen to the farmers because they take their vote for granted. Well, these farmers are saying now, 'They have done it for too long: they have taken our vote for granted for too long and it is time that we showed them that we in the bush are not going to vote for them any more. We are going to throw some of them out.'

So, I will finish by saying that the South Australian Liberal senators have forgotten that they are there to represent this state. But they are not representing this state or its people. They have pulled a shonky deal. Senator Minchin, of course, has played a major role in this and to a certain extent would be highly responsible. So, if he and some others are not thrown out in the next election, I would have to go he for chasey. He will put himself up to the top of the ticket and get the three or four beneath him thrown out, I suppose. I hear he is a bit of a numbers man. He has had a few thrown out of the state parliament, I understand, as well, over a period of time. He has practiced a bit of interference at preselections. He is not happy being a federal person; he wants to interfere with the state, not only burying waste, but wanting to interfere in the matter of who goes on the benches over the other side. They should hang their heads in shame. They should be ashamed that they have covered up for their federal buddies and ashamed that they are not on their feet forcing the Liberal senators for South Australia to do the right thing by the state and South Australians. I am sure South Australians will not only throw out a few senators at the next election but will also throw out a few of these people at this state's next election.

**The Hon. J. GAZZOLA:** I rise to speak on this bill with some trepidation, following the opposition's questions of mass destruction during question time. I note the excellent contribution by my colleague, the Hon. Bob Sneath, who is often out in the bush ascertaining the views of people who live and work there and who do not want this dump. It is time for clear thinking on this matter. We have always known that the federal government has the power compulsorily to acquire land under the Land Acquisition Act, so there should be no sense of panic. Before opposition nervous nellies start pulling the pin, it is not a foregone conclusion that the waste dump automatically will go ahead under federal jurisdiction.

We can pursue various avenues and we will pursue them with the support of the majority of South Australians. As Dr Williams, the constitutional lawyer of the Adelaide University Law School pointed out, the legal battle is far from over. Even the final decision by the Australian Radiation Protection and Nuclear Safety Agency (ARPNSA) can be appealed. It is also clear, as today's editorial in the *Advertiser* points out, that public opinion is firmly against the federal proposal. As a government we are not alone in our opposition to this move. The Western Australian government has signalled that it will introduce legislation to block the establishment of a nuclear waste dump in that state.

The Goliath approach adopted by the federal government should come as no surprise. Mr McGauran's initial approach was an attempt to blackmail the state into acceptance by suggesting a cut in South Australia's science budget if the state government mounted a legal challenge. Yesterday, according to a report in the *Advertiser*, we had the defence minister drumming up a sense of anxiety over the need for a quick sale of the Australian Submarine Corporation, with the sweetener that some of the proceeds might be spent on the Murray to win over the Senate. How transparent is their modus operandi? How deficient is this as informed and rational policy?

Look at their approach with the Telstra 3 deal; look at the way they wield national competition policy as the fist in the velvet glove. These responses need to be seen for what they are. We had the further audacity of our own South Australian senator, the Hon. Nick Minchin, accusing us of reprehensible behaviour and cynical opportunism. The senator is out of touch with his own state and needs to understand the irony of his accusations.

The federal government is acting with its usual arrogance in its timing and attitudes towards this state. It has ignored public opinion in its heavy handed approach. It has, in the words of the Democrat leader (Hon. Sandra Kanck), been surreptitious and stealthy. It has, in the words of the Australian Conservation Foundation nuclear campaigner (David

Noonan), failed any obligation of procedural fairness but chosen to act in the most draconian way possible. The federal government is showing contempt for the will of the South Australian people and the parliament. The only surprise I can express here is that I am surprised by his surprise.

This government has always acknowledged the responsibility to take care of its own nuclear waste and it acknowledges the national problem, but the unilateral action proposed by the federal government must be denied. Claims by the federal government that the state government is playing politics will not wash. We need to be reminded of important issues. As I discussed in the Nuclear Waste Storage Facility (Prohibition) (Referendum) Amendment Bill, and as I still understand the case to be, the federal government has felt the heat of opposing concerns with building a new nuclear reactor at Lucas Heights as well as what to do with its waste.

We know how secretly and sneakily the federal government moved on the approval process for Lucas Heights, according to Mayor Ken McDonnell of the Sutherland Shire Council, in his background briefing sheet to council constituents. The Mayor's article included the comments of a senior federal government bureaucrat during the Background Briefing program on the ABC's Radio National in March 1998 on the approach of the federal government, which was (and I quote it again, as I have used this quote before):

> The [federal] government decided to starve the opponents of oxygen, so that it could dictate the manner of the debate. Because the government couldn't win it on rational grounds, it decided, 'Right, we'll play the game and in the lead-up to the announcement catch them totally unawares, catch them completely off guard and starve them of oxygen until then. No leaks, don't write letters arguing the point, just keep them in the dark completely.'

Nothing has changed in the federal government's approach.

There is still the other big issue, as I discussed in the debate on the Nuclear Waste Storage Facility (Prohibition) (Referendum) Amendment Bill. If the federal proposal goes through, where does that leave us in regard to companies such as Panagea Resource Company, a company that has identified Australia and sites like those at Woomera and Roxby Downs, for example, as profitable dumping grounds? Also, if the federal government is arguing that low level waste is not dangerous and that (according to science minister Mr Peter McGauran) nuclear fuel roads and similar nuclear waste would not be accommodated at the proposed national dump, why not leave interstate nuclear waste in that state, to be addressed by that state? There are too many important questions that have not been answered, and we cannot leave the gate open in regard to these unwanted and undesirable possibilities.

**The Hon. D.W. RIDGWAY** secured the adjournment of the debate.

## RIVER MURRAY BILL

In committee.

(Continued from 26 June. Page 2670.)

Schedule.

**The CHAIRMAN:** When last the committee met, an amendment was moved by the Hon. Caroline Schaefer to clause 5 of the schedule, page 49, lines 28 to 33. I am now in receipt of a newly lodged amendment in the name of the Minister for Aboriginal Affairs, which refers to line 27. We need the Hon. Mrs Schaefer to withdraw her amendment to allow the minister's to be proceeded with, and then she can move her amendment afterwards.

**The Hon. CAROLINE SCHAEFER:** I seek leave to temporarily withdraw my amendment on your advice, Mr Chairman.

Leave granted; amendment withdrawn.

**The Hon. T.G. ROBERTS:** I move:

Clause 5, page 49, after line 27—Insert:

(ca) by inserting after paragraph (f) of section 24(1) the following paragraph:

(fa) where the purpose of the amendment is to promote the objects of the River Murray Act 2002 or the *Objectives for a Healthy River Murray* under that act within the Murray-Darling Basin—by the minister; or

I thank the Hon. Caroline Schaefer for her cooperation in this matter. The amendment will add to existing section 24 of the Development Act a new head of power for the Minister for Planning to initiate a planned amendment report. This amendment is moved to complement other amendments to this clause that have been filed by the Hon. Mrs Schaefer. The Hon. Mrs Schaefer's amendments will not be opposed by the government, provided that the amendment I now move is passed.

This amendment will ensure that the planning minister has the power to initiate a plan amendment report where the purpose is to promote the objects of the River Murray Act. The amendment is similar to the existing heads of power in the Development Act, also in section 24, that enable the planning minister to undertake a ministerial PAR in order to promote certain aspects of the Heritage Act. The amendments are consistent with the approach taken in respect of the Heritage Act. It is important to include this head of power for a ministerial PAR to be undertaken as, without it, there remains a real gap in the power of the planning minister to undertake a plan amendment report when necessary to further the objects of the River Murray Act.

**The Hon. SANDRA KANCK:** Since we last debated this bill, I have received a detailed letter from minister Hill expressing his concerns about the potential impact of the Liberal amendment that has just been withdrawn, at least temporarily. I indicate that the new amendment that the government has just introduced is acceptable to the Democrats.

**The Hon. CAROLINE SCHAEFER:** After some consultation with the departmental officers provided by the minister and the minister's staff, I was able to contact the relevant shadow ministers in another place, and the opposition will accommodate the request of the government. I understand that will mean that my amendments will pass and so will the government's amendment, which will have the effect of allowing the planning minister to initiate a PAR that is specific to the River Murray, rather than the Minister for the River Murray doing so. It facilitates the ability to initiate a plan amendment report that is specific to the River Murray and to the objects of this legislation.

Amendment carried.

**The Hon. CAROLINE SCHAEFER:** I move:

Page 49—

Lines 28 to 33—Leave out paragraph (d) and insert:

(d) by inserting after subsection (2) of section 24 the following subsection:

(3) The minister must, in relation to the preparation of an amendment by a council or the minister under subsection (1) that relates to a development plan or development plans that relate (wholly or in part) to any part of the Murray-Darling Basin, consult with the Minister for the River Murray.

Page 49, lines 34 to 38 and page 50, lines 1 to 21—Leave out paragraphs (e) to (l).

I believe that these amendments are really part of the amendment that has just been carried.

Amendments carried; clause as amended passed.

Clause 7.

**The Hon. CAROLINE SCHAEFER:** I move:

Page 53, lines 7 to 9—Leave out paragraph (b) (and the word 'and' immediately preceding that paragraph).

This seeks to allow the minister for fisheries to maintain power over fishing licences in the area that is outlined as the River Murray catchment area. Of course, that includes the lakes and the Coorong. It seems quite inappropriate for the River Murray bill to have power over the Minister for Fisheries as it pertains to fishing licences in that region. I fail to see that the power of the Minister for Fisheries should be overridden in this case. I also do not see that the Minister for Fisheries should have to take into account the objects of the River Murray bill and the long-term health of the lakes and the Coorong. Again, it is consistent with my view that this bill gives unprecedented powers to one minister, some of which are unnecessary.

**The Hon. T.G. ROBERTS:** The government opposes the amendments. They are along the same lines as the amendments moved by the honourable member in relation to the Crown Lands Act. Changes to the Fisheries Act as they stand in this schedule are consistent with all other amendments made to other acts and the schedule. It is a consistent part of a scheme. As I have said, in relation to the member's proposal and the Crown Lands Act, the scheme works like this: the government's clear and stated intention for the River Murray is to ensure adequate controls over activities that may harm the river. To this end, the government has created a Minister for the River Murray whose role under the bill is to see all applications for the range of activities that may affect the river, and to make directions about granting conditions for those activities so far as is necessary to protect the river according to the objects of the bill.

In establishing the regime that will apply, the government has modelled this process on the referral system that already exists under the Development Act. Under that system, the development applications are referred by councils to prescribed external bodies, for example, the Commissioner for Highways, amongst many others. Those prescribed bodies may, where the development regulations provide, make directions about whether and on what conditions development consent should be granted. All the referrals that are set up by the amendments in this schedule implement the same system, modelled as it is on the existing scheme in the Development Act. The member's amendments would see disagreements between the Minister for Fisheries and the Minister for the River Murray in respect of particular licence applications referred to the Governor in cabinet. This is just not necessary. It is presently proposed under the draft regulations that all new licences to fish in the river would be referred to the Minister for the River Murray.

**The Hon. CAROLINE SCHAEFER:** We are all painfully aware that the right to fish commercially in the River Murray has been removed and that a number of the people whose livelihoods have been affected as a result of that act are taking the matter to the High Court. Does this mean that, should they be successful in the High Court, this would give the government a whole new line of authority to override any future decisions of the High Court by putting the decision making in the hands of yet another minister and yet another department? Is there any possibility that this could see the same sort of torture that has already been inflicted further inflicted?

**The Hon. T.G. ROBERTS:** My advice is that it will not impact; that the new licences will be issued under the Fisheries Act; and that regulations in relation to the fishery will be made under the Fisheries Act.

**The Hon. CAROLINE SCHAEFER:** I require further explanation, minister: either the Minister for the River Murray is in charge of who gets a fishing licence along the River Murray, in the lakes, or in the Coorong, or it is the Minister for Agriculture, Food and Fisheries. According to the advice I have received, in this case it is the Minister for the River Murray. As I see it, that separates one section of an industry from all other parts of the same industry. For example, under this act, if I required a licence to shear sheep, were the Minister for the River Murray to decide that he was in charge of issuing licences to shear sheep along the Murray, he would have authority over any other licensing authority that might be involved. I find this quite bizarre.

**The Hon. T.G. ROBERTS:** I am advised that any new applications for a fisheries licence come under the Fisheries Act.

**The Hon. CAROLINE SCHAEFER:** Will the minister detail what the Minister for the River Murray will be doing? Is it his right then to renew current licences? If that is the case, what is the difference between the renewal of a licence and a new licence?

**The Hon. T.G. ROBERTS** The issue of new licences will be referred to the River Murray minister if of a prescribed class. However, the changes to fisheries rights now under challenge were made through changes to regulations under the Fisheries Act, and that situation is not changed by the amendments.

**The Hon. CAROLINE SCHAEFER** So, first of all, is a renewed licence considered to be a new licence, or will you have the even more bizarre system where licences that currently exist are renewed by the minister for fisheries and, should there be a new and burgeoning environmentally sound industry for tadpoles or something that we have not thought of yet, such as bony bream, where new licences are to be issued, will that be under one minister and the current system of licensing under another minister?

**The Hon. T.G. ROBERTS:** I am advised that annual renewals will go back to the River Murray minister and he will apply the objects in the schedule about the protection of the river, etc, to those renewals. New licences will go to the minister for fisheries, and he will apply the criteria that he or she sets in relation to the granting of new licences. I am sure they will talk to each other about the objects of the act in relation to renewals and in relation to new licences.

**The Hon. CAROLINE SCHAEFER:** I must say that, the more questions I ask, this becomes curiouser and curiouser. What we now have is the Minister for the River Murray deciding who will or will not have their fishing licences renewed as they apply to the River Murray and the lakes and the Coorong, but any other inland fishery—and I understand there is a limited and seasonal one, for instance on the Cooper—which happens to be somewhere else in this state is under the auspices of the minister for fishing. I am sorry, sir, but if I were the minister for fishing I would be terribly nervous; if the Minister for the River Murray can extend his perceived River Murray boundary only a bit further, he will

have control over every licence in the state—and not just fishing.

**The Hon. T.G. ROBERTS:** I guess the conspiracy theory could apply if the bill did not refer only to the River Murray. I would expect that the environmental health of the Cooper system would be taken into account when applications for licences were being made to fish in the Cooper, given that that is a significant section of water within this state that has unique features about it.

It is understandable that the objects of the act would apply to the River Murray in relation to the powers of the Minister for the River Murray and his wanting to have some control over licence renewals and new licences. Certainly, the minister for fisheries would want to have some regard to future applications but, overall, environmental and other circumstances would have to be taken into account, particularly with respect to the Cooper. The Cooper has unique features about it that the minister for fisheries would have to take into account for environmental sustainability purposes.

**The Hon. CAROLINE SCHAEFER:** That is exactly my point. The minister for fisheries does have to take into account environmental sustainability, as well as all the issues we are raising as a matter of his duties as minister for fisheries. Therefore, I fail to see why the government would want to remove that power from one minister and give it to another minister. The minister says that it applies exclusively to the River Murray. Well, it does today but where are we going tomorrow? We know that, according to this government, under the draft plan the River Murray extends to places such as Cooke Plains and Macclesfield. Where do we go next?

**The Hon. T.G. ROBERTS:** If that was going to be the case, the ultimate protection for any extension to any system would be that matters would have to come back to parliament to amend this legislation.

**The Hon. CAROLINE SCHAEFER:** Why do we not just fix it now?

**The Hon. T.G. ROBERTS:** We are not expecting any demands for change to the current act in relation to the protection of the Murray. We are not expecting any demands to be made by the public. Other fisheries are well managed by the Fisheries Act but, certainly, the government has made its intentions clear that the objects of the act are to line up with what is regarded as protecting the public's interests.

**The Hon. CAROLINE SCHAEFER:** Why then, if the minister for fisheries does a perfectly good and sustainable job of reissuing licences throughout the state, would the government want to lessen his powers and remove just that section of his ability to issue a fisheries licence? His title is the minister for fisheries.

**The Hon. T.G. ROBERTS:** I suppose that it gets back to the points we keep making. With respect to the objects of the act, the single minister has the controlling say over the interests of the river, and that is what the bill sets out to do. That is consistent with the government's policy. That has been part of the philosophical difference between the two positions: one gives ultimate power, if you like, to one minister. It has been necessary to give those powers to get the controls that are required to get the outcomes that we need to protect the interests of the environment.

*The Hon. Caroline Schaefer interjecting:*

**The Hon. T.G. ROBERTS:** No. If need be, those nuances do come to cabinet for interpretation and recommendation for change.

**The Hon. A.J. REDFORD:** I draw the minister's attention to section 20 of the Fisheries Act which sets out the objectives in terms of the administration of that act. Section 20 provides that the administration of the act has as its principal objectives:

> (a) ensuring, through proper conservation, preservation and fisheries management measures, that the living resources of the waters to which this act applies are not endangered or over-exploited; and
> (b) achieving the optimum utilisation and equitable distribution of those resources.

I have a series of questions. First, if this clause remains in the bill, is it intended that the Minister for the River Murray will be bound by the same objects?

**The Hon. T.G. ROBERTS:** The objects of the act have to be protected by the Minister for the River Murray.

**The Hon. A.J. REDFORD:** I refer to clause 7(d) of the schedule, subclause (2a) of which provides that, if an application for a licence is within a class prescribed by the regulations, effectively, the Minister for the River Murray has a power of veto in relation to the grant of a licence. Under section 36 of the Fisheries Act, it is not just for the grant of a new licence but also the renewal of a licence. My first question is: what is the general intent of the government in respect of prescribing licences under the regulations?

**The Hon. T.G. ROBERTS:** At the moment, it includes all licences for the River Murray, but subclause (2a), which refers to 'a class prescribed', should give the flexibility required if in the future there has to be a prescribed variation.

**The Hon. A.J. REDFORD:** With the greatest respect, that is gobbledegook. I will take the minister through proposed subclause (2a), which provides:

> If an application for a licence is within a class prescribed by the regulations for the purposes of this provision. . . the director must, before making his or her decision on the application—
> (a) consult the minister to whom the administration of the River Murray Act 2002 is committed; and
> (b) comply with the minister's directions. . . in relation to the application (including a direction that the application not be granted, or that if it is to be granted, then the licence be subject to conditions specified by the minister).

It is saying that things will go along normally in relation to section 36 applications for grants of fishing licences or renewals but that, if the government decides to prescribe a particular class of licence, the minister accumulates this power of veto. I would be interested to know what the government's intention is in so far as the sorts of things it has in mind for when it seeks to exercise its regulation making power to prescribe a class of fishing licences.

**The Hon. T.G. ROBERTS:** In relation to facilitation rather than argument, the—

*The Hon. A.J. Redford interjecting:*

**The Hon. T.G. ROBERTS:** In relation to your question about the way the regulation would be used, there might be times when some varieties of fish might need special protection, and that regulation would have to apply. The amendments are directed at those that can be referred, that is, not the general licensing system.

**The Hon. A.J. REDFORD:** With the greatest respect—and I understand that this is not the minister's bill—there are those advising him who come to this parliament seeking quite extraordinary, broad executive power. It is an insult, if I can speak through the minister, that, when we ask a question as to what the policy consideration will be in relation to the making of regulations, we get answers of that nature.

There must be some basis upon which the bureaucracy can go to the minister and say, 'Minister, we need to prescribe a class of licence here; what is that consideration?' It is not that hard a question, and it is fundamental to the way in which this place operates.

**The Hon. T.G. ROBERTS:** The flexibility in relation to how the variations apply could apply to different sections of the river and different varieties of fish; and the seasonal conditions may be different.

**The Hon. Caroline Schaefer:** The only thing that does not differ is the power of the minister.

**The Hon. T.G. ROBERTS:** Well, the minister then has the ability to make the decision, based on best scientific evidence, about what the circumstances are in relation to specific species.

**The Hon. Caroline Schaefer:** As does the Minister for Fisheries, where the expertise lies.

**The Hon. T.G. ROBERTS:** I guess we are saying that we would prefer it to be consistent with the bill we are trying to enact to give the Minister for the River Murray the overriding role, if you like, in relation to the management of the health of not only the river but also the river environs.

If the philosophical position is opposed and honourable members do not want the Minister for the River Murray to have those powers, I guess the best thing we can do is put it to the vote. If honourable members think that a compromise position can be worked out, that is something we can look at. However, what we are doing now is trying to define circumstances that may or may not exist. If the health of the River Murray picks up and all the species thrive, circumstances will be different from what will apply if the health of the river, in sections, is not consistent. If honourable members want to test it on the floor, that is fine.

**The Hon. A.J. REDFORD:** This is typical of this government and how it thumbs its nose at the parliament. The honourable member and his advisers should have an understanding of how the Legislative Review Committee works and how it deals with regulations. Poor old Hon. John Gazzola will have to deal with this. The Legislative Review Committee will say, 'Let's look at the policy of the government. We won't interfere with the policy.' Our problem now is that, when we ask what the policy of the government is, it does not have one. The honourable member is inviting the Legislative Review Committee to make policy decisions—which is something we are quite happy to do from the opposition benches, if that is what the minister wants. We will disallow regulations of this sort on a regular basis—and I am sure the Hon. John Gazzola will agree with me, as a matter of principle.

If the government can lay out a set of principles upon which it will make regulations and justify why there ought to be a set of regulations, that is fine. Whatever the numbers, wherever they fall, if this gets up, the Hon. John Gazzola, as Presiding Member of the Legislative Review Committee, can say, 'This was envisaged when parliament passed this clause. This was the intent of parliament.' I will be the first to say that I might not agree with the intent of parliament, but I would support the government's power to make the regulation. But the minister is creating a vacuum and inviting the Legislative Review Committee to come in and make policy decisions. That is not fair on either the Legislative Review Committee or this parliament. Frankly, it is a disgraceful abrogation on the part of Executive Council in attempting to justify a significant regulation making power.

**The Hon. T.G. ROBERTS:** The government's position is that certain licences from time to time will require some flexibility. At present, the regulations are being drawn up. That might make the job of the Legislative Review Committee a little easier, but it is not unusual for legislation—

*The Hon. A.J. Redford interjecting:*

**The Hon. T.G. ROBERTS:** But the objects of the act are a guiding path to the intention of the government. We state the intention of the government, that is, to give the minister the role and function of determination and the flexibility required, because conditions vary from time to time. In this case it is not a pure science. The variation in species changes from season to season. The variability of the quality and flow of the river changes a range of conditions, which then need to be examined by the Minister for the River Murray in this case. That is the objects we are setting out. He or she would make decisions based on the objects of the act. Hopefully, that would then be taken up as a consideration by the Legislative Review Committee when making its determination.

**The Hon. A.J. REDFORD:** I will ask another set of questions in the forlorn hope that I might get a direct answer—because none of my previous questions has been answered in a direct fashion. Section 36 enables the fisheries minister to grant licences, and so on. To be fair, the fisheries minister has at his disposal a range of public servants and experts, and a body of historical knowledge, to determine those applications. Indeed, this minister has continued the practice of former ministers in having all sorts of community committees involved in the making of regulations, renewing of licences, and so on, in relation to fisheries. We bring on top of this a new minister who has a bureaucracy—in my experience, of some questionable validity—to second guess that enormous resource that the minister for fisheries has; and it seems to me, without any justification for why the Minister for Environment and Conservation can bring in an extra resource, that this is completely unjustified.

I turn to the impact upon people's rights, and I draw the minister's attention to section 58 of the Fisheries Act. According to that section, if a decision is made to grant or not grant a licence, a person has a legal right to go to court to challenge a minister's decision. That is as the law currently stands. My question to the minister is: can a decision of the Minister for the River Murray to refuse or put conditions on a licence be similarly challenged pursuant to the provisions of section 58 of the Fisheries Act?

**The Hon. T.G. ROBERTS:** I can give a 'yes' answer to that, because it is an exact science. It is a legal interpretation of section 17 at page 29 of the bill.

**The Hon. A.J. REDFORD:** I thank the minister for that direct answer. So, the rights of a fisherman in terms of taking the matter to court pursuant to section 58 can apply in relation to a decision made by the Minister for the River Murray if this clause should get up?

**The Hon. T.G. ROBERTS:** Yes.

**The Hon. CAROLINE SCHAEFER:** I think we have canvassed this in as much depth as we can. I do not believe that a compromise can be reached and I am happy to put it to the vote.

The committee divided on the amendment:

AYES (11)

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|---|---|
| Cameron, T. G. | Dawkins, J. S. L. |
| Evans, A. L. | Lawson, R. D. |
| Lensink, J. M. A. | Lucas, R. I. |
| Redford, A. J. | Ridgway, D. W. |

AYES (cont.)

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| Schaefer, C. V. (teller) | Stefani, J. F. |
| Xenophon, N. | |

NOES (8)

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|---|---|
| Gazzola, J. | Gilfillan, I. |
| Holloway, P. | Kanck, S. M. |
| Reynolds, K. | Roberts, T. G. (teller) |
| Sneath, R. K. | Zollo, C. |

PAIR

| | |
|---|---|
| Stephens, T. J. | Gago, G. E. |

Majority of 3 for the ayes.

Amendment thus carried.

**The Hon. CAROLINE SCHAEFER:** I move:

Page 53, lines 20 to 22—Leave out paragraph (b) (and the word 'and' immediately preceding that paragraph).

The amendment is consequential.

Amendment carried.

**The Hon. CAROLINE SCHAEFER:** I move:

Page 53, lines 31 to 33—Leave out paragraph (b) (and the word 'and' immediately preceding that paragraph).

Amendment carried.

**The Hon. CAROLINE SCHAEFER:** I move:

Page 53, lines 35 to 38—Leave out subsection (3b).

Amendment carried; clause as amended passed.

Clause 8.

**The Hon. A.J. REDFORD:** I draw the minister's attention to clause 8, which refers to the Harbors and Navigation Act 1993. It is my understanding that the bill seeks to amend section 26 of the Harbors and Navigation Act which gives the Chief Executive Officer, as defined in the Act and who is subject to the minister's control and direction (and I assume that to be the Minister for Transport), the power to grant licences entitling organisations or persons to use any waters within the jurisdiction for the purposes of aquatic sport or activity or for any other purpose; it also gives the CEO the power to set conditions, etc. I understand that that would enable the Minister for Transport to license houseboats. I stand to be corrected, but I understand that there is that possibility.

Having recently returned from a two day houseboat trip, and having been a little like a magnet to a number of what I might call 'houseboat politicians', a number of issues were raised with me. In particular, the question was raised whether or not the government intends to restrict the number of houseboats on the river. My understanding is that some 700 or 800 houseboats are currently under construction to go into the river. I understand also that, with the drying up of Lake Eildon in Victoria (which is now at about 12 per cent of its capacity), some enterprising houseboat operators are buying up houseboats in Lake Eildon at relatively cheap prices, bringing them over to South Australia and putting them in the river. I would be interested to know what the minister can tell us about the future of houseboats and what the government has in mind in relation to houseboats over the next few years. It may well be—and I understand this—that the minister will expand in more detail about the government's intentions after this bill has passed.

**The Hon. T.G. ROBERTS:** As far as the government's position in relation to capping and licensing, there is no indicated policy change in that area. The amendment applies to environmental conditions and the conduct of large-scale events rather than small scale, but I guess you could say that a lot of small-scale events aggregated would become a large-scale event. The amendment does not apply to small-scale events; it applies only to large-scale events, as I said, as they may harm the river. That can be properly taken into account.

The amendment does not enable the introduction of a new regime for the licensing of houseboats but, if what the honourable members says is correct, local government and other concerned bodies may have to take into consideration the impact of large numbers of introduced boats. But this bill does not deal with those sorts of issues, and nor has the government considered any policy change as yet.

**The Hon. A.J. REDFORD:** I thank the minister for that response, and I do understand and appreciate the fact that he had no prior notice of these questions. I would just like to make some comments and perhaps ask the minister to take the questions on notice and bring back an answer, whether by ministerial statement or some other form, at some stage in the future. I would be most interested to know what are the government's intentions in relation to not only the licensing or potential licensing for houseboats but also what the government has in mind in terms of regulatory arrangements for dirty water or grey water—sink water. I would be grateful if the government could let us know what it plans in the short, medium and longer term in relation to pump-out stations.

I would also be grateful if the minister could outline what policies may exist or may come into existence in relation to mooring, in particular with marinas. It would seem that, in relation to houseboats, the biggest potential to cause problems involves arrangements necessary to house them in terms of marinas. I would be interested to know whether or not there may be some consideration to ensure that, if it does not already exist, some regulatory arrangement will be put in place to ensure that houseboats cannot be built until they have some permanent mooring or access to a marina.

**The Hon. T.G. ROBERTS:** I will take those questions on notice and forward a reply to the honourable member. Many of those questions have been taken into consideration by successive governments and we are trying to deal with those questions and others.

**The CHAIRMAN:** I understand the interest of members in these matters and understand the propensity for members of parliament to try to get some of the issues in which they are interested on the record, but this is really not the place for that. Those questions could be asked in another context. There is no amendment, so we will move on.

*The Hon. A.J. Redford interjecting:*

**The CHAIRMAN:** The Hon. Mr Redford knows that I have been here for more than five minutes.

Clause passed.

Clause 12.

**The Hon. SANDRA KANCK:** I move:

Page 57, lines 5 to 17—Leave out subsections (9) and (10) and substitute:

(9) If an application for an exploration licence relates to an area within a River Murray Protection Area and is within a class of applications prescribed by the regulations for the purposes of this provision (which class may consist of applications for all such licences), the Minister must, before making his or her decision on the application—

(a) consult the Minister for the River Murray; and

(b) comply with the Minister's directions (if any) in relation to the application (including a direction that the application not be granted, or that if it is to be granted, then the licence be subject to conditions specified by the Minister).

When I was addressing the second reading of this bill I raised a number of questions in relation to mining, in particular about mineral sands. Although those questions were not

answered in the second reading summing up, I received a letter from Minister Hill which responded to some of those issues and basically indicated that the proposal for mineral sands mining near Loxton is 65 km south-west of that town.

The other proposal he refers to in the letter is a proposal to take ground water from the mallee prescribed wells area, which was 30 km from the River Murray and would not be impacted by that. In terms of projects currently existing, it appears that there may not be a problem, but in the longer term there is the potential for quite a number of mineral sands projects to be set up along the River Murray, and they could end up being a lot closer than the ones currently being considered. In the letter I received from Minister Hill he said:

> I am pleased to advise that there is an established mechanism for agencies within the environment portfolio to comment on applications for mineral exploration and mining leases.

The operative words for me are 'comment on'. It is interesting to observe that, in the bill we are dealing with today, in relation to numerous acts listed in the schedule, namely, the National Parks and Wildlife Act, the Historic Shipwrecks Act, the Heritage Act, the Native Vegetation Act, and so on, the relevant minister is required not only to consult but also to comply with the directions of the Minister for the River Murray. They are also required to comply with the minister's directions. That is repeated over and over. Yet, for some reason or another, when it comes to mining, the same requirement is not there. That is quite disturbing.

In another letter which I received from minister Hill, which relates to the planning issues, he was justifying the position that the government has taken in relation to planning by the consultation that occurred with focus groups leading up to the preparation of this bill. He said:

> The comments reflect the very reasons why this government determined that the River Murray Bill would address deficiencies in the planning system, ensuring that the interests of the River Murray are in future given special priority in all activities and developments affecting the river.

The reality is that, if mining is not given the same coverage (that is, a requirement for the mining minister to comply with directions from the Minister for the River Murray), special priority is not being given to all activities and developments affecting the river. It will simply be special priority for some activities and developments affecting the river.

I noted that, earlier today, the Hon. Caroline Schaefer made the comment about the extent of the physical coverage of this act going as far afield as Macclesfield. That area, interestingly, is an area where gold mining has occurred in the past. I note that, in the Mount Lofty Ranges catchment area, there are new applications for gold mining exploration to occur. Some of that potentially could impact on the Marne River, which is a tributary of the River Murray. One of the side impacts with respect to gold mining is the use of cyanide. I do not like to begin to think what would happen if we had cyanide coming into the River Murray via these tributaries. I therefore find it unacceptable that the bill in its present form treats the minister for mines in a different way from the minister, or ministers, covering these other acts. If we are serious about protecting the River Murray, given the potential damage that can occur through sand mining, gold mining and various other forms of mining, in terms of water going into the River Murray, we must make certain that this part of the bill is consistent with the others. This amendment will put the same requirements for complying on the minister for mines that the other ministers will be expected to have when this bill becomes law.

**The Hon. T.G. ROBERTS:** In response to the position of the Democrats, the government opposes the amendments. The amendments proposed would give the Minister for the River Murray the last word over individual applications for mining tenements within River Murray protection areas so far as they might have an impact on the river. The amendments would bring the process for approving mining tenements into line with other applications affected by the amendments contained in the River Murray Bill schedule. The bill as it stands requires the mining tenements to be referred to the Minister for the River Murray. However, it requires that, where agreement cannot be reached between the mining authority and the Minister for the River Murray, the governor will determine the application.

**The Hon. Sandra Kanck:** So it is not the same as the others.

**The Hon. T.G. ROBERTS:** This system is consistent with the current framework for assessment and approval of mining tenements that are referred to the planning minister under the Development Act. That system has been supported by successive governments. Mining tenements that are of major social, economic or environmental importance are presently handled by the minister for mines in conjunction with the planning minister under a special section in the Development Act. This section provides that ministerial disagreement over the approval of conditions of such tenements will be resolved by the Governor in council.

The system created in the schedule to the River Murray Bill applies the same policy premises. By virtue of the proposed tenements being sited within a River Murray Protection Area, the River Murray Bill classifies the application as being of special significance and requires the application to be referred to the Minister for the River Murray to consider its impacts on the river. If the minister cannot agree over the approval of conditions of the tenement, it will be resolved by the Governor in council. The Mining Act amendments as proposed by the government meet the government's policy objectives for the River Murray while being consistent with the existing framework for management of particular mining tenement applications as reflected by the current provisions of the Development Act.

**The Hon. SANDRA KANCK:** I have to say that, if the government is not prepared to accept my amendments, it is not being serious about the River Murray. We have the Historic Shipwrecks Act, for instance, which is covered by this, where the relevant minister is expected to comply with directions, and I am quite certain that historic shipwrecks are going to do far less damage to the River Murray than any mining proposal. The fact that the minister himself has said that, if there is a problem, the Governor will effectively adjudicate—which means that they will fight it out in cabinet one way or another—is an indication of inconsistency. It does not apply to the other acts that are dealt with in this bill.

**The Hon. CAROLINE SCHAEFER:** The opposition does not support the Democrat amendment. I cannot fathom why this particular part of the bill rests final approval rights with the minister for mining when everywhere else it seeks to leave them with the Minister for the River Murray. I think my stance has been consistent. I believe that it is appropriate that decisions made on mining rest for the most part with the minister for mining but, of course, I recognise that the final decision is that of cabinet.

Amendment negatived.

**The Hon. SANDRA KANCK:** I move:

Page 57, lines 19 to 31—Leave out subsections (7) and (8) and substitute:

(7) If an application for the renewal of an exploration licence relates to an area within a River Murray Protection Area and is within a class of applications prescribed by the regulations for the purposes of this provision (which class may consist of applications for all such renewals), the minister must, before making his or her decision on the application—

(a) consult the Minister for the River Murray; and

(b) comply with the minister's directions (if any) in relation to the application (including a direction that the application not be granted, or that if it is to be granted, then the licence be subject to conditions specified by the minister).;

I am aware that, on the basis of the previous vote, I am unlikely to receive support for my amendment. Nevertheless, I know that the environment movement is very concerned about this aspect of the bill and I want it on record that an attempt was made to bring about this consistency with the rest of the bill and that someone in this parliament at least understands the potential for mining to do damage. I generally despair at the way both the government and the opposition in this parliament see mining as some sort of strange holy grail.

Amendment negatived.

**The Hon. SANDRA KANCK:** I move:

Page 57, lines 36 to 38, and page 58, lines 1 to 9—Leave out subsections (2b) and (2c) and substitute:

(2b) If an application for a mining lease relates to an area within a River Murray Protection Area and is within a class of applications prescribed by the regulations for the purposes of this provision (which class may consist of applications for all such leases), the minister must, before making his or her decision on the application—

(a) consult the Minister for the River Murray; and

(b) comply with the minister's directions (if any) in relation to the application (including a direction that the application not be granted, or that if it is to be granted, then the licence be subject to conditions specified by the minister).

This is consequential.

Amendment negatived.

**The Hon. SANDRA KANCK:** I move:

Page 58, lines 11 to 22—Leave out subsections (5) and (6) and substitute:

(5) Despite a preceding subsection, if an application for the renewal of a mining lease relates to an area within a River Murray Protection Area and is within a class of applications prescribed by the regulations for the purposes of this provision (which class may consist of applications for all such renewals), the Minister must, before making his or her decision on the application—

(a) consult the Minister for the River Murray; and

(b) comply with the Minister's directions (if any) in relation to the application (including a direction that the application not be granted, or that if it is to be granted, then the lease be subject to conditions specified by the Minister).

Amendment negatived.

**The Hon. SANDRA KANCK:** I move:

Page 58, lines 27 to 38—Leave out subsections (3b) and (3c) and substitute:

(3b) If an application for a retention lease relates to an area within a River Murray Protection Area and is within a class of applications prescribed by the regulations for the purposes of this provision (which class may consist of applications for all such leases), the Minister must, before making his or her decision on the application—

(a) consult the Minister for the River Murray; and

(b) comply with the Minister's directions (if any) in relation to the application (including a direction that the application not be granted, or that if it is to be granted, then the lease be subject to conditions specified by the Minister).

Amendment negatived.

**The Hon. SANDRA KANCK:** I move:

Page 59, lines 2 to 14—Leave out subsections (5) and (6) and substitute:

(3) Despite a preceding subsection, if an application for the renewal of a retention lease relates to an area within a River Murray Protection Area and is within a class of applications prescribed by the regulations for the purposes of this provision (which class may consist of applications for all such renewals), the Minister must, before making his or her decision on the application—

(a) consult the Minister for the River Murray; and

(b) comply with the Minister's directions (if any) in relation to the application (including a direction that the application not be granted, or that if it is to be granted, then the lease be subject to conditions specified by the Minister).

Amendment negatived.

**The Hon. SANDRA KANCK:** I move:

Page 59, lines 20 to 32—Leave out subsections (3b) and (3c) and substitute:

(3b) If an application for a miscellaneous purpose licence relates to an area within a River Murray Protection Area and is within a class of applications prescribed by the regulations for the purposes of this provision (which class may consist of applications for all such licences), the Minister must, before making his or her decision on the application—

(a) consult the Minister for the River Murray; and

(b) comply with the Minister's directions (if any) in relation to the application (including a direction that the application not be granted, or that if it is to be granted, then the lease be subject to conditions specified by the Minister).

Amendment negatived.

**The Hon. SANDRA KANCK:** I move:

Page 59, lines 34 to 41, page 60, lines 1 to 5—Leave out subsections (5) and (6) and substitute:

(5) Despite a preceding subsection, if an application for the renewal of a retention lease relates to an area within a River Murray Protection Area and is within a class of applications prescribed by the regulations for the purposes of this provision (which class may consist of applications for all such renewals), the Minister must, before making his or her decision on the application—

(a) consult the Minister for the River Murray; and

(b) comply with the Minister's directions (if any) in relation to,the application (including a direction that the application not be granted, or that if it is to be granted, then the lease be subject to conditions specified by the Minister).

Amendment negatived.

**The Hon. SANDRA KANCK:** I move:

Page 60, lines 11 to 24—Leave out subsections (1ab) and (1ac) and substitute:

(lab) If an application for an authorisation to use declared equipment relates to an area within a River Murray Protection Area and is within a class of applications prescribed by the regulations for the purposes of this provision (which class may consist of applications for all such authorisations), the Director of Mines must, before making his or her decision on the application—

(a) consult the Minister for the River Murray; and

(b) comply with the Minister's directions (if any) in relation to the application (including a direction that the application not be granted, or that if it is to be granted, then the licence be subject to conditions specified by the Minister).

Amendment negatived; clause passed.

Clause 17.

**The Hon. CAROLINE SCHAEFER:** I move:

Page 64, line 5—Leave out paragraph (i) and insert:

(i) the River Murray Parliamentary Committee;

This seeks to change the heading of the natural resources committee to the River Murray parliamentary committee and to make this an unpaid standing committee of the lower house. It is the belief of my party that there is a plethora of standing committees. While we supported the standing committee on Aboriginal lands the last time we sat, as I said at that time we believe that no committee currently serves that

purpose. However, we have an efficient, effective and working Environment, Resources and Development Committee, which we believe was set up for just such actions as are suggested for the natural resources committee. Next year we will have a major bill which deals with natural resource management throughout the state. If there is a need for such a committee, we believe it should be set up at that time. We believe that the committee which is to be a watchdog for the River Murray should be a committee specific to that purpose. However, the powers of a remunerated committee should remain with the Environment, Resources and Development Committee.

**The Hon. T.G. ROBERTS:** The government does not oppose the amendment.

**The Hon. SANDRA KANCK:** I indicated in my second reading speech that I opposed the setting up of this new River Murray parliamentary committee. In the amendments I have on file I have indicated opposition to the clause, but I am happy to support the amendment as moved by the Hon. Caroline Schaefer because it vastly improves it. I am still not quite sure how this new committee will fit in and interact with the Environment, Resources and Development Committee. I have not seen any indication at any stage that anyone is unhappy with the sort of work that the ERD Committee does. It will be very interesting to see how these two committees—and maybe the natural resources one that the Hon. Caroline Schaefer has referred to which is likely to appear next year—will interact. Certainly, the amendment being proposed by the Hon. Caroline Schaefer is acceptable.

**The CHAIRMAN:** I propose to use this amendment as a test and, if it is successful, we will then do the others as a package.

Amendment carried.

**The Hon. CAROLINE SCHAEFER:** I move:

Page 64, line 7—Leave out the heading and insert:

**Part 5D—River Murray Parliamentary Committee**

Page 64, line 10—Leave out 'Natural Resources Committee' and insert:

River Murray Parliamentary Committee

Page 64, after line 15—Insert:

(2a) The members of the committee are not entitled to remuneration for their work as members of the committee.

Page 64, lines 24 to 37, page 65, lines 1 to 4—Leave out paragraphs (a) and (b) and insert:

(a) to take an interest in and keep under review the protection, improvement and enhancement of the River Murray; and

(b) to consider the extent to which the Objectives for a Healthy River Murray are being achieved under the River Murray Act 2002; and

(ba) to consider and report on each review of the River Murray Act 2002 undertaken under section 11 of that act; and

(bb) to consider the interaction between the River Murray Act 2002 and other acts and, in particular, to consider the report in each annual report under that act on the referral of matters under related operational acts to the minister under that act; and

(bc) at the end of the second year of operation of the River Murray Act 2002, to inquire into and report on—

(i) the operation of subsection (5) of section 22 of that act, insofar as it has applied with respect to any Plan Amendment Report under the Development Act 1993 referred to the Governor under that subsection; and

(ii) the operation of section 24(3) of the Development Act 1993; and

Page 65, lines 7 to 11—Leave out subsection (2).

These amendments are consequential.

Amendments carried; clause as amended passed.

Clause 18.

**The Hon. CAROLINE SCHAEFER:** I move:

Leave out this clause.

This amendment also is consequential.

**The CHAIRMAN:** I draw members' attention to the state of the committee.

Amendment carried.

*A quorum having been formed:*

**The Hon. T.G. CAMERON:** I move:

Page 78—

Line 40—Leave out 'this clause' and insert:

subclause (2).

After line 42—Insert:

(4) The first review required by section 11 must be undertaken by the end of the 2004-05 financial year and the outcome of that review must be reported on as part of the minister's annual report to parliament for that financial year.

Section 11 of the bill requires that three-yearly reports must be handed down, and the clauses are set out governing that requirement. I seek merely to have the first report handed down before the end of the 2004-05 financial year.

Amendments carried; clause as amended passed.

Schedule as amended passed.

Long title.

**The Hon. CAROLINE SCHAEFER:** I move:

Leave out 'the Parliamentary Remuneration Act 1990'.

This amendment is consequential.

Amendment carried; long title as amended passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

## NURSES (NURSES BOARD VACANCIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 July. Page 2694.)

**The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries):** I thank members for their indications of support for this bill, and I look forward to its speedy passage.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

New clauses 2A, 2B, 2C and 2D.

**The Hon. SANDRA KANCK:** I move:

New clauses, page 3, after line 5—Insert:

Amendment of s.1—Short title

2A Section 1 of the principal Act is amended by inserting 'and Midwives' after 'Nurses'.

Amendment of s.3—Interpretation

2B Section 3 of the principal Act is amended by inserting in subsection (1) 'and Midwives' after 'Nurses' in the definition of 'Board'.

Amendment of heading to Part 2

2C The heading to Part 2 of the principal Act is amended by inserting 'AND MIDWIVES' after 'NURSES'.

Amendment of s.4—Establishment of Board

2D Section 4 of the principal Act is amended by inserting in subsection (1) 'and Midwives' after 'Nurses'.

While we have the Nurses Act 1999 before us to amend, I am taking the opportunity to address the question of recognition of midwives in the act. When we dealt with the original act in this place in 1999 I attempted at that stage to retitle it the 'Nurses and Midwives Act'. That was opposed. One of the arguments I gave at the time was that there was soon to be

direct entry midwifery in this state and, when that occurred and the midwives graduated at the end of their degree course, they would not under any circumstances be nurses. It would create a problem in terms of having people who were not nurses classed as nurses having to prove the competencies of nurses. At the time, some doubt was argued by the then opposition as to whether or not those direct entry midwifery courses would go ahead, and part of their response at the time was that, if it went ahead, then some way down the track we might have to have a look at it. In fact, quite surprisingly or by coincidence, I have an undertaking from the Hon. Paul Holloway. At that time the Hon. Paul Holloway said:

> I have the permission of the shadow minister for health, Lea Stevens, to give an undertaking to consider this issue again, that is, the recognition of midwifery in a few years when we have had a chance to see what has happened in relation to the direct entry midwifery courses.

I can report to the council that direct entry midwifery courses began at the beginning of last year, which means that, in 18 months, the first of those midwives will be in the work force as midwives, not nurses, and we do need to address the issue. As the Nurses Act does not come before us very frequently (in fact, I would suggest that this is the first time it has come to the attention of the parliament since its passage in 1999), I consider that it is a very appropriate opportunity to amend the bill, and therefore the act, accordingly.

**The Hon. P. HOLLOWAY:** The government opposes the amendment at this time. I can say on behalf of the minister that, as the honourable member just mentioned, the government is prepared to follow up this issue in the future. This is a very simple bill: it corrects an anomaly in the election procedures for the Nurses Board. We believe that it would be inappropriate, in a bill that is dealing with just a specific problem, to undertake the sorts of changes the honourable member is suggesting. In any case, if the purpose is to define the midwifery profession through legislation (such as the nursing profession), then changing the title of the act alone does not achieve that.

Discussions between the Nurses Board of South Australia and the College of Midwives SA Branch have commenced and are at a very preliminary stage. They have only recently met. The Nurses Board is not averse to discussing its needs with the College of Midwives. It is unclear as to whether the College of Midwives wishes to consider a totally separate midwifery act or suggest amendments to the existing Nurses Act. The necessary consultation in relation to this matter has not occurred. The process either to amend the Nurses Act or, indeed, develop a separate midwifery act would require extensive consultation between the Nurses Board, the College of Midwives, peak professional bodies, midwives and nurses and the community.

If these changes are to be truly reflective of the midwifery profession, there is a need for relevant consultation with all midwives and not just members of the College of Midwives. As part of the consultative process, the College of Midwives and other relevant professionals will be required to articulate why such changes are required and why their needs cannot be accommodated within the existing act. Within any changes to the Nurses Act or, indeed, the establishment of a new midwifery act consideration would need to be given to the structure, competencies for registration, definition of 'midwife', scope of practice, etc.

The time is probably now appropriate for the respective professions to commence these discussions with a view to changes in the future. The bill needs to be passed in its present form, though, and this urgency is necessary to ensure that the Nurses Board of South Australia can function in an efficient and effective manner. Recognition of the practice of midwives and midwifery in the form of legislation, such as the Nurses Act, needs to be undertaken with the due consultation of all parties, and that is why we are opposing the amendment. However, I have given undertakings on behalf of the minister.

**The Hon. D.W. RIDGWAY:** I indicate that, at this stage, the opposition will not be supporting the Hon. Sandra Kanck's amendment. I reiterate the comment I made yesterday that the Liberal Party is in favour of supporting and enhancing the very important role that midwives play in our community, and especially in rural and regional South Australia. But, like the government, we are not sure that, at this stage, it is appropriate to visit this amendment. Advice from the shadow minister (Hon. Dean Brown) and other advice I have sought indicates that this amendment opens a Pandora's box of other issues. I think that to hasten the passage of this bill in its present form is important. The Liberal Party will not be supporting the amendment.

**The Hon. A.L. EVANS:** I oppose the amendment, which would have huge implications for the nursing profession. I understand that there has been no broad consultation with the College of Midwives, only with the Nursing Board, and that the College of Nursing and the College of Mental Health have not been consulted. I am not opposed to the idea of midwives being given greater recognition—I believe they have done a great job—but I do not believe it is appropriate for this bill to be used as a vehicle for change.

This is a simple bill that will assist the Nurses Board financially concerning the filling of casual vacancies. It is not appropriate that we get bogged down and delay the passage of the bill for the consideration of a far broader issue. However, I point out to the Hon. Sandra Kanck that I will favourably consider any measures that she may bring in the future to achieve her purpose on behalf of midwives in our state.

**The Hon. SANDRA KANCK:** Clearly, I do not have the numbers, but I am heartened by the undertakings to consider this matter further and to treat it seriously in the future.

New clauses negatived.

Clause 3.

**The Hon. SANDRA KANCK:** I move:

Page 3, lines 9 to 27—delete lines 9 to 27 and substitute:

(6) If a casual vacancy occurs in the office of a member of the board appointed under subsection (1)(b), the Governor must, subject to subsection (7), appoint the person who was the sole candidate not elected or excluded after the election of the fifth person at the election in which the member was elected.

(7) If a person who would otherwise be appointed under subsection (6) is no longer qualified to be appointed, or is unavailable or unwilling to be appointed, then the Governor must appoint the last excluded person at the election in which the member was elected, or, if that person is no longer qualified to be appointed, or is unavailable or unwilling to be appointed, the second-last excluded person, and so on.

(8) If there is no person qualified, or available or willing, to be appointed under subsection (7), then the Governor may fill the vacancy by appointing a registered or enrolled as nominated by the minister.

(9) The minister must consult with the bodies representing the interests of nurses referred to in the schedule before making a nomination under subsection (8).

(10) A person appointed to a casual vacancy under subsection (6), (7) or (8) will hold office for the balance of the term of that person's predecessor.

The bill as it stands has a countback mechanism for a casual vacancy within the first 12 months of the election of the board, but thereafter it allows the count to make the appointment. It is the view of the Democrats that there is no reason for the countback not to occur for the rest of the time, except in the instance cited in my amendment in proposed subsection (8). Unless there is a dearth of people willing to fill the position via a casual vacancy, I see no reason for the minister to intervene.

**The Hon. P. HOLLOWAY:** In drafting this bill, advice was sought from the Australian Nurses Federation and the Nurses Board, as well as from parliamentary counsel and the State Electoral Commission. The consensus was that to fill a casual vacancy it was feasible and efficient to use a countback of the votes for that election within the first 12 months. It was agreed that the currency of people's availability, interest or even eligibility could have changed once 12 months had elapsed and that, therefore, the minister responsible for the act would make an appointment only after consulting with the peak nursing bodies as described in the act. We therefore oppose the amendment to extend the countback period beyond 12 months.

**The Hon. D.W. RIDGWAY:** I indicate that the opposition will not support the amendment for reasons similar to those outlined by the minister.

Amendment negatived; clause passed.

Clause 4, schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

## ADJOURNMENT

At 6.31 p.m. the council adjourned until Wednesday 9 June at 2.15 p.m.