LEGISLATIVE COUNCIL

Tuesday 1 June 2004

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

GAMING MACHINES (EXTENSION OF FREEZE) AMENDMENT BILL

Her Excellency the Governor, by message, assented to the bill.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Industry, Trade and Regional Development (Hon. P. Holloway)—

- Reports—
  - Port Access Review—Final Report
  - Urban Water Prices in South Australia, 2004-05—
    - Transparency Statement—Report
- Regulations under the following Acts—
  - Associations Incorporation Act 1985—Fees
  - Bills of Sale Act 1886—Fees
  - Births, Deaths and Marriages Registration Act 1996—
    - Fees
  - Building Work Contractors Act 1995—Fees
  - Business Names Act 1996—Fees
  - Community Titles Act 2004—Fees
  - Conveyancers Act 1994—Fees
  - Co-operatives Act 1997—Fees
  - Cremation Act 2000—Fees
  - Criminal Law (Sentencing) Act 1988—Fees
  - Development Act 1993—Fees
  - District Court Act 1991—Fees
  - Environment, Resources and Development Court Act 1993—
    - Fees
    - Native Title Fees
  - Fees Regulation Act 1927—
    - Assessment of Requirements Fees
    - Proclaimed Managers Fees
    - Public Trustee Fees
    - Registered Agents Fees
  - Firearms Act 1977—Fees
  - Goods Securities Act 1986—
  - Harbors and Navigation Act 1993—Fees
  - Land Agents Act 1994—Fees
  - Land Tax Act 1936—Fees
  - Liquor Licensing Act 1997—Fees
  - Magistrates Court Act 1991—Fees
  - Motor Vehicles Act 1959—
    - Expiation Fees
    - Fees
  - Partnership Act 1891—Limited Partnership Fees
  - Passenger Transport Act 1994—Fees
  - Petroleum Products Regulation Act 1995—Fees
  - Plumbers, Gas Fitters and Electricians Act 1995—Fees
  - Public Trustee Act 1995—Fees
  - Real Property Act 1886—
    - Fees
    - Land Division Fees
  - Registration of Deeds Act 1935—Fees
  - Road Traffic Act 1961—
    - General Inspection Fees
    - Inspection Fees
    - Miscellaneous Fees
  - Second-hand Vehicle Dealers Act 1995—Fees
  - Security and Investigation Agents Act 1995—Fees
  - Sexual Reassignment Act 1988—Fees
  - Sheriff's Act 1978—Fees
  - Strata Titles Act 1988—Fees
  - Summary Offences Act 1953—Fees
  - Supreme Court Act 1935—
    - Fees
    - Probate Fees
  - Tobacco Products Regulation Act 1997—Fees
  - Trade Measurement Administration Act 1993—Fees
  - Travel Agents Act 1986—Fees
  - Worker's Liens Act 1893—Fees
  - Youth Court Act 1993—Fees

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

- Regulations under the following Acts—
  - Mines and Works Inspection Act 1920—Fees
  - Mining Act 1971—Fees
  - Opal Mining Act 1995—Fees
  - Petroleum Act 2000—Fees

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

- Regulations under the following Acts—
  - Adoption Act 1988—Fees
  - Authorised Betting Operations Act 2000—Fees
  - Botanic Gardens and State Herbarium Act 1978—
    - Fees
    - Vehicles Fees
  - Controlled Substances Act 1984—
    - Pesticides Fees
    - Poisons Fees
  - Crown Lands Act 1929—Fees
  - Dangerous Substances Act 1979—Fees
  - Environment Protection Act 1993—
    - Beverage Container Fees
    - Fees and Levy
  - Explosives Act 1936—
    - Fees
    - Fireworks Fees
  - Freedom of Information Act 1991—Fees
  - Gaming Machines Act 1992—Fees
  - Heritage Act 1993—Fees
  - Historic Shipwrecks Act 1981—Fees
  - Housing Improvement Act 1940—Fees
  - Local Government Act 1999—Fees
  - Lottery and Gaming Act 1936—Fees
  - National Parks and Wildlife Act 1972—
    - Hunting Fees
    - Wildlife Fees
  - Occupational Health, Safety and Welfare Act 1986—
    - Fees
  - Pastoral Land Management and Conservation Act 1989—Fees
  - Private Parking Areas Act 1986—Fees
  - Public and Environmental Health Act 1987—Fees
  - Radiation Protection and Control Act 1982—Fees
  - Roads (Opening and Closing) Act 1991—Fees
  - Sewerage Act 1929—Fees
  - South Australian Health Commission Act 1976—
    - Private Hospitals Fees
    - Recognised Hospital Fees
  - State Records Act 1997—Fees
  - Valuation of Land Act 1971—Fees
  - Water Resources Act 1997—Fees
  - Waterworks Act 1932—Fees
- By-laws—
  - Corporation—
    - City of Adelaide—
      - No. 1—Permits and Penalties
      - No. 2—Dogs and Cats
      - No. 3—Local Government Land
      - No. 4—Roads
      - No. 5—Lodging Houses.

NATIONAL ACTION PLAN

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement on the National Action Plan made today by the Hon. John Hill.

QUESTION TIME

SMALL BUSINESS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation prior to asking the Leader of the Government a question about small business.

Leave granted.

The Hon. R.I. LUCAS: Yesterday, a series of questions were directed to the minister concerning the government's new policies in relation to assistance or lack of assistance for small and medium-sized businesses in South Australia. My attention is drawn to the budget papers (which have been tabled in the last week or so) which highlight almost a halving in the total government expenditure on the small business section of the Department of Trade and Economic Development. In particular, I draw the minister's attention to the fact that last year (in total) 320 small business development services were provided; 28 000 information advisory services (or client contacts); 17 public events or promotions supporting the small business sector; and 200 small business training sessions and workshops. There were 2 900 small business people who attended those training sessions and workshops, with 95 per cent of the respondents marking those services as either four out of five or five out of five.

When one looks at the proposed measures in relation to small business for 2004-05, the minister has included a note which gives no indication of how many small businesses will be assisted at all, and says that, as a result of restructuring, they will be having another look at what the appropriate performance indicators will be for assistance to small business in 2004-05. I draw the minister's attention to the performance commentary statement which says that the department aims to deliver services—this is for next year—that do not duplicate services currently delivered in industry or those which could more appropriately be delivered commercially. There is another reference to issues the minister raised yesterday regarding Business Enterprise Centres and Regional Development Boards, but the reference to commercial services and industry services is in a separate section.

Will the minister indicate what commercial services he is talking about, and does he agree that, in essence, his restructuring involves the privatisation of small business services within his department? These services were previously provided by publicly paid public servants, but is the minister now supporting a policy that they should be supplied by commercial operators and business industry associations on a fee-for-service basis?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I refer, first, to the portfolio statements, Program 3: Small Business. I point out to the council that, with the new Office of Small Business, part of the economic advisory services will actually be funded under Program 1: Economic Strategy and Policy, funding for which has increased from $6.457 million last year to $11.992 million this year. So, if the honourable member is talking about what is being spent in the budget on small business, one does need to take into account that that will be under that first program, which has been significantly increased, as well as that which is specifically aligned to small business.

In relation to the question about commercial services, it has certainly been a recommendation of the Economic Summit and the Economic Development Board that the assistance that is provided to industry within this state should be that which is appropriate. I think we would all agree that that assistance should address market failure, rather than be used to subsidise individual companies. It is the preference of this government—this has been made quite clear in all the economic statements that have been made—that what assistance we give to industry should be neutral in that sense, that we should not give hand-outs to individual companies. Rather, the assistance that government provides should be by way of infrastructure. That is extremely important in this state. One of the great problems we have is, for example, that in years gone by in terms of electricity infrastructure the Electricity Trust of South Australia provided electricity throughout the state. That is not the case now under a privatised system, so we have to look at other ways of providing that sort of assistance.

This is yet another cost as a result of the privatisation of the electricity network that has been passed back to government. Of course, part of this budget includes $2 million for augmenting Kangaroo Island, because if we had not done so the people on that island would have had all sorts of problems with the unreliability of the electricity supply, and that in turn would have affected our tourism industry. So, if the Leader of the Opposition wants to talk about privatisation and its impact, many of the problems that are addressed in this budget are the direct result of the privatisation of the electricity industry.

If there are commercial services available, the government believes that the scarce resources that are available to us in terms of industry assistance should be directed to ways that assist business across the board, rather than assisting individual businesses. We do not believe that it is the role of this or any government to provide assistance to particular companies. Rather, it is the role of government to facilitate industry more broadly unless, of course, there is market failure or other special circumstances where there is a proper assessment that it is in the interests of the state. That will be the basis on which any future assistance is provided. As I say, if privatisation of services has had any impact on industry in this state one need look no further than electricity, which has given us the highest cost electricity in the country and problems in terms of extending the electricity network, particularly to our regional areas.

The Hon. R.I. LUCAS: I have a supplementary question. Given that the minister has conceded that these services (previously provided by the public sector) have now been privatised, how is that consistent with Premier Rann's commitment that this government would not support any further privatisations?

The Hon. P. HOLLOWAY: I did not concede that at all. On the contrary, I made the point—and I am quite happy to repeat it—that one of the issues this government faces in terms of its industry policies is addressing the problems that have resulted from the privatisation of electricity, which has given us the highest cost electricity in the country, and finding the capacity to provide that electricity. So, I do not concede the point made by the leader.

The Hon. R.I. LUCAS: Does the minister acknowledge that the services that were previously provided to small businesses by the public sector will not be provided by public servants in the future but will now be provided by private sector providers?

The PRESIDENT: It is actually the same question.

The Hon. P. HOLLOWAY: Yes, but I intend to say that—

The PRESIDENT: I only look at the standing orders; I do not provide the answers.

The Hon. P. HOLLOWAY: I indicated in answer to a question yesterday that there would be some change in the way in which services are delivered. Business enterprise centres will be the shopfronts, if I can use that term, in terms of service delivery to small business. There are some transition arrangements, which I indicated yesterday, that will be provided through North Terrace through the office of the Department of Trade and Economic Development. The services provided to small business—and they will be significant—will be those that address the needs of those industries subject to a proper review of the public interest. If there are services that can be provided commercially to industry, then I believe industry should pay for those services as, indeed, does every other industry.

The Hon. R.I. LUCAS: I have a supplementary question arising from that answer. Has the minister been warned by his department, in relation to these policy changes, that this will lead to a reduction in the level of services in total to the small and medium sized business sector in South Australia?

The Hon. P. HOLLOWAY: There will be a change in the level of services provided to industry in this state.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister advise the council whether the government has had any discussion with any outside organisations in relation to the provision of services?

The Hon. P. HOLLOWAY: Certainly. The Economic Development Board and the Small Business Advisory Council represent not just individuals from small business but individuals on the council are also significant players in various industries in the state. In relation to the broad direction in which this government is moving, I think it is fair to say that it has the support of business generally, which has supported its moving away from grants to individual companies towards the broad provision of service. In the budget that was handed down last week, this government provided significant tax cuts to industry by way of reductions in payroll tax.

Members interjecting:

The Hon. P. HOLLOWAY: The reduction in payroll tax is a way of providing assistance to business in a neutral way. It is not a handout to individual companies: it is a benefit to every single member of the business community. What do members opposite think about that? What is their policy? Some shadow ministers have been criticising this government for not spending enough money in various areas. I think the case stands for itself.

The Hon. J.F. STEFANI: Will the minister advise the council whether the government has obtained estimates—

Members interjecting:

The PRESIDENT: Order! I cannot hear the Hon. Mr Stefani.

The Hon. J.F. STEFANI: —for the provision of these services previously provided by public servants from organisations outside the government?

The Hon. P. HOLLOWAY: I need to examine that question carefully, as I am not quite sure what point the honourable member is making. I will take that question on notice. I am certainly not aware of anything specific, but I will examine that issue. However, I take the opportunity to say that, in a press release last Tuesday, Sensus (which is the former Telstra Yellow Pages) stated that South Australian business confidence was at a 12-month high. I think that really—

The Hon. G.E. Gago: Says it all.

The Hon. P. HOLLOWAY: Yes; it says it all.

ANANGU PITJANTJATJARA LANDS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about detention facilities on the AP lands.

Leave granted.

The Hon. R.D. LAWSON: In the report by the Hon. Bob Collins, tabled in this parliament recently, under the heading 'Community safety' is a section dealing with short-term detention facilities on the lands. Mr Collins said:

> . . . about the adequacy of the short-term detention facilities in the region and whether they met appropriate standards. I was told the facilities were substandard and would need to be substantially improved. It is essential that this matter be attended to at once regardless of a response to other issues. If a prisoner in custody were to suffer negative consequences that were in any way attributable to the substandard nature of the facility the responsibility of the government would be obvious.

In his recommendations, under item 7 Mr Collins recommends that funds be provided immediately to upgrade the short-term detention facilities at Pukatja, Amata and Pipalyatjara. That was a clear recommendation. Bearing in mind that the Premier is widely quoted as saying, 'What Bob wants, Bob gets,' my questions to the minister are:

1. Have funds been provided to upgrade immediately the short-term facilities?

2. In what manner is it proposed that the upgrade of these facilities take place, and when will the work begin?

3. Were you as minister, or your department, consulted in relation to the implementation of this recommendation?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): It is true that the coordinator of government services in the lands, Bob Collins, recognised the inadequacies of the holding cells within the lands. It came not only as an observation from Bob Collins but also from observations from anyone who visited the lands and had a look at the facilities there. The visiting justices also made comment, and I suspect that the Coroner, amongst others, has made observations as well. The visiting justices have had difficulty not only with alternatives to sentencing in the lands and any facility that could be used as an isolation area or an alternative to sentencing but also with an alternative to prison on the lands.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: I am just supporting the honourable member's observation about the inadequacies of the facilities on the lands. It is recognised across agencies. It is recognised by justice, it is recognised by the police, it is recognised by the government generally, and it is now recognised as an observation by the honourable member. We are allocating funding for alternative provisioning for Corrections. Extra funding has been made available for programs within the AP lands, and Correctional Services or the lock-up services for police is one of those areas being addressed. I am unsure what form or shape they will take.

The lock-ups are a police matter. If there is to be a response from the corrections department, it will be done across responsibilities with the Northern Territory. Discussions are going on between the Northern Territory and South Australian Corrections and police.

The Hon. A.J. Redford: So, you're going to blame them now.

The Hon. T.G. ROBERTS: It is not a matter of blame. We are starting off from ground zero. From talking to the police in Oodnadatta, I understand that they have difficulties with their facilities as well. Anyone who has visited the remote regions in relation to alternative facilities for lock-up and for alternative sentencing options, other than community service orders, have found them impractical to carry out. We have provided extra community Corrections visits. We are now starting to come to terms with the number of young people, in particular, who are on a merry-go-round because there have not been any clear sentencing options for Correctional Services.

The lock-ups are required to isolate, in particular, petrol sniffers and drug and alcohol abusers who have become dangerous and appear to have endangered other people on the lands. We recognise this problem, and we are applying our minds to it. Funds will be made available, but I cannot give the honourable member an accurate indication of the funding because a full assessment has not been made as to the real requirements. However, the cost of any structure built on the lands can generally be multiplied by a factor of at least two if not three in relation to building similar sorts of structures in the metropolitan area, the outer metropolitan area or regional areas because of the isolation and lack of skilled people who are able to deal with putting up structures on the lands.

There are some difficulties. There are some logistical difficulties in getting things done immediately but the assessments are being made and we are dealing with those issues that the honourable member raises. As to whether I was consulted in the process, I was confident that the recommendations that were being made in relation to the facilities cross-agency—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: I do not have control over the police budget. I do not have control over police policy in relation to the application of facilities in any part of the state. It is a matter for police and it will go through the budgeting process, as I have said, but I have also stated that the priorities have been listed. There will be more police and there are more police on the lands as a result of this government's initiatives, and there will be back-up support facilities for those police to carry out their jobs in an effective and efficient way.

The Hon. R.D. LAWSON: I have a supplementary question. If, to use the minister's own words, 'it was obvious to anyone who visited the lands that the facilities were inadequate', what action did he take to remedy the inadequacy before he received the report of Bob Collins?

Members interjecting:

The PRESIDENT: Order! The interjections are getting quite boring because they are the same interjections from both sides. I am sick of this childish comment about ministers being mushrooms—it is becoming tedious—and if they are indeed, they are being well nourished by some of the people on my left.

The Hon. T.G. ROBERTS: There has been consultation, and issues arose in relation to alternative sentencing options for the magistrates who were visiting the lands and for those who were sentencing AP in Port Augusta. We met with the resident magistrate in Port Augusta. The committee that I was with spoke to the magistrate about alternative sentencing for APY, not bringing them down to Port Augusta but having some facilities in the AP lands, and that is something that the government will be working through over a period of time.

The subtotal for the extra spending, for the $12.96 million that the government has allocated in this budget and subsequent budgets to 2008, is $1.9 million for police, upgrading of cells in the police stations $750 000 this year, and, to be prioritised, $1.5 million for the APY task force. There is money being allocated—

The Hon. A.J. Redford: Is all of that $1.9 million and $750 000 for the Pit lands?

The Hon. T.G. ROBERTS: Yes, I have read the figures out. For extra police this year, 2004-05, there is—

The Hon. A.J. Redford: All for the Pit lands?

The Hon. T.G. ROBERTS: Yes, all for the APY lands. For the upgrading of cells in the police stations there will be $750 000. I understand that Amata is one of those areas that is being considered. At the moment the only police holding cells are in Marla, which is at the extreme eastern edge of the AP lands. The APY executive and many of the community leaders have requested that we place extra police and holding cells in the geographical centre of the lands and, if further extension of those policies is required, we will be looking at other areas, as well. We are starting from a very low base but we will be working towards bringing law and order to the lands and increasing the police presence and the options for justice in relation to sentencing.

The Hon. A.J. REDFORD: I have a further supplementary question arising out of the minister's answer. In referring to additional funding for programs which are yet unknown and police lockup services, will there be any provision for medium or longer term facilities for offenders?

The Hon. T.G. ROBERTS: We are having discussions at present with the Northern Territory government, although these involve justice matters. A tri-state justice body is looking at shared facilities. This is something that this government has been encouraging in trying to come to terms with the problems on the APY lands: that is, shared services between Western Australia, the Northern Territory and South Australia. Those discussions are progressing. There is excess capacity in the Northern Territory in the Alice Springs police cells—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Well, the honourable member—

The PRESIDENT: Order! This is not a debate: one question, one answer.

The Hon. T.G. ROBERTS: Discussions are being held in relation to facilities. We do not want to duplicate facilities that may not be able to be used as shared facilities with the Northern Territory. Alice Springs is much closer to the lands than Port Augusta or Adelaide. If there is an expressed need for a secure facility and a health facility to treat petrol sniffers, then that is something the government will look at.

The Hon. A.J. REDFORD: I have a further supplementary question. Will the minister release all requests or

submissions to Bob Collins in relation to what is required in the Pit lands, including the Parole Board's submission?

The Hon. T.G. ROBERTS: Many of the requests are verbal and would be hard to release, but I cannot see any reason why documentation relating to submissions before Bob Collins cannot be made public. I am not sure in what form they exist, but I will refer that question to the Department of the Premier and Cabinet and bring back a reply. I give an assurance that that will be done as soon as possible.

VISITORS TO PARLIAMENT

The PRESIDENT: On behalf of all members, I acknowledge the presence today in the public gallery of some very important young South Australians from Our Lady of Sacred Heart School. They are in the company of their teacher Mr Michael Roberts—no relation to me—and they are sponsored by the member for Enfield (Mr John Rau). On behalf of all members, I hope their visit to our parliament is both educational and interesting.

RURAL AND OUTBACK COUNSELLING

The Hon. CAROLINE SCHAEFER: 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 rural and outback support and counselling program.

Leave granted.

The Hon. CAROLINE SCHAEFER: As someone who comes from Eyre Peninsula and who has witnessed the human tragedy of losing 30 per cent of the population on Upper Eyre Peninsula from the late 1970s through to the middle 1980s, I have great support for a project, which has been lobbied for by the community reference group in the North East and which reaches out to the pastoral country in South Australia. Both regions have suffered climatic and economic downturns, but the real tragedy in those cases is the human tragedy. I am aware of a number of families that broke up due to their economic circumstances. A number of people suffered from clinical depression, and, indeed, it got so bad on Eyre Peninsula that there were a number of suicides. Anecdotally, the North East of the state is in just that situation now.

One of the successful initiatives on Eyre Peninsula at that time was funding for a travelling counsellor. People in country areas, particularly sparsely settled areas, do not visit the local health clinic and do not discuss their problems in public. The successful way in which to treat them is for them to be visited in their own homes. This is recognised by the community reference group in that area, which has lobbied and received support from not only me but also the member for Stuart (Mr Graham Gunn).

I know that Senator Jeannie Ferris has written a letter of support and I believe that other federal members, including Barry Wakelin, also have supported their submission for what was quite modest funding for one person for one year to see whether this would be a successful initiative in that region, which is in dire need at the moment.

I have been informed that there is no extra funding in this budget for that project, but the Mid North and Northern and Far Western Health Regions have considered it so important that they have offered to fund this project for six months out of their own existing budgets. The terms of reference that have been handed down include the following:

The role of the project worker is envisaged to include:

- identification of support needs for the client group;
- provision of information about generic counselling and support services and how to gain access to them, including referral where appropriate;
- undertaking a community needs assessment including collecting data to describe the situation including regard to whole-of- family wellbeing;
- consultation with other key stakeholders (including Divisions of General Practice, RFDS, Mid North and Northern and Far West Mental Health Teams, NGO providers, RHS services, local government, FPRC&IS [whatever that is];
- development of an appropriate and sustainable service delivery model which meets the needs of the client group; and
- preparation of a detailed report to the community reference group. . .

This is all to be overseen by a community advisory group with, as I read it, only one member of the current community reference group on it.

I think just from reading that members will see that this is not a counsellor's role; this is an information seeking role. I have gained this information by simply reading the reports that already exist on an annual basis by the rural financial counsellors in that region. For that amount of work, the budget that this wonder worker is meant to be able to exist on is a total of $40 000, which is inclusive of six months' salary plus 11 per cent on costs; lease and, as I understand it, running costs of a vehicle, $5 000; mobile phone/two-way radio, $1 000; and purchase of external project supervision and mentorship, $2 000. My questions are:

1. Does the minister agree that this project is doomed to failure by merit of its terms of reference, in the first place, and a lack of funding in the second place?

2. Did the Minister for Agriculture, Food and Fisheries consult or lobby her on this matter, given that he was approached?

3. Did he suggest at any time that the surplus funds that exist from unspent drought funding could be used, at least for the first 12 months, to finance this officer?

4. Did he mention that $9 million of surplus cash from PIRSA has gone back into general revenue, and that some of that could have been used?

5. Did he explain the special needs for confidentiality in such a sparsely populated area?

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

UPPER SPENCER GULF

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about Upper Spencer Gulf.

Leave granted.

An honourable member interjecting:

The Hon. R.K. SNEATH: You don't know where it is? Listen and you will learn. Before the last election the Labor Party promised to improve the economy of the Upper Spencer Gulf by, amongst other things, establishing an enterprise zone, improving infrastructure and assisting the minerals industry to increase exploration. What steps has the government taken to deliver this promise?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I am happy to tell the council that, as part of the budget, the state government will

spend $3 million over the next four years on establishing an Upper Spencer Gulf and Outback Enterprise Zone Fund. The initiative honours a commitment made at the last state election campaign and complements the government's state strategic plan. The Upper Spencer Gulf and Outback Zone will focus on building and capitalising on the region's economic strengths as well as improving its competitive advantages.

The zone will look at key areas such as infrastructure, planning, training and maximising the potential of local industries. The zone will be able to promote the positive image for the region and build on the considerable existing potential, which I am sure you are aware of, Mr President, as someone who has lived in that region for a long time. The $3 million will be allocated from the fund over the next four years for implementing specific initiatives through a management committee of local representatives from the region and the South Australian government. Those initiatives will be designed to contribute to investment growth, the development of appropriate skills and improved employment opportunities.

The establishment of the fund follows a number of recent state government economic development and social inclusion initiatives in the region, such as: the Regions at Work program that is providing more than $1.3 million to the region this year; the Social Inclusion Board's Innovative Community Action Networks (ICAN) project injecting $400 000 into the region; $1 million in support for the new commercial fishing harbour, near Whyalla, which was under the Regional Development Infrastructure Fund, and also $25 million committed to the SAMAG magnesium smelter proposal.

The zone's work will also complement the new minerals and energy exploration policy, where the government will spend $15 million over the next five years to treble investment in mining exploration by 2007 and boost annual minerals production to $3 billion by the year 2020. So, I am very pleased that, through this measure, the government has been able to deliver on that promise and show its commitment for this very important region of our state.

The Hon. R.I. LUCAS: I have a supplementary question. What tax advantages has the state government provided for firms being attracted to invest in the zone or to expand their operations in the zone?

The Hon. P. HOLLOWAY: The government has decided to provide a fund.

The Hon. R.I. LUCAS: I have a further supplementary question. Did the minister and the Labor Party promise prior to the election to provide tax incentives to firms expanding or being attracted to this particular enterprise zone? If so, is the minister conceding through this announcement that this is another broken promise from Premier Rann and this minister?

The Hon. P. HOLLOWAY: I am sure that people in the Spencer Gulf region will ignore the knocking of members opposite and be extremely grateful for the tangible, real assistance that this government is providing. We are providing $3 million over four years by way of the fund. We are determined that this is the best way in which we can assist industry in the Upper Spencer Gulf and outback regions.

TUNA BOAT OWNERS

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the minister representing the Minister for Agriculture, Food and Fisheries a question relating to tuna boat owners at Port Lincoln.

Leave granted.

Members interjecting:

The PRESIDENT: Order!

The Hon. IAN GILFILLAN: I have been contacted by Mr Greg Kent of Port Lincoln who said in an email:

> I am a 38 year old ex-Port Lincoln Tuna farm diver and was seriously injured on the tuna farms in 1994. For 10 years I have been trying to find a way to seek compensation for my injuries. In South Australia, it seems that tuna boat owners are untouchable.

I am advised that there are several divers (or former divers) in a similar circumstance in Port Lincoln and that they express the same concern that Mr Greg Kent has expressed to me. His problem was that he was diving from two vessels owned by a well-known tuna boat owner in Port Lincoln. The processes then were such that he and others have suffered serious lifelong detrimental effects from the bends.

Fortunately, I think, to allow this situation to be looked at objectively, Professor Martin Davies of the Admiralty Law Institute, Tulane Law School, New Orleans, USA, put to a national conference a paper entitled 'International Perspectives on Admiralty Procedures—2003', in which he addresses specifically the case of Greg Kent. It appears both in this and other observations that the use of shell companies is the measure which is used to protect the owners of tuna boats from accepting and being charged with their proper responsibilities, and I read from the report:

> The plaintiff in *Kent* was a diver and deckhand employed by South Australian Marine Farms Pty Ltd to work on tuna fishing boats. He alleged that he had suffered severe decompression illness while working on the tuna boats *Monika* and *Boston Bay*. He commenced proceedings in rem in the Federal Court of Australia against the tuna boat *Maria Luisa* as surrogate for the *Monika* and the *Boston Bay*.

I will not go into the complications of it, but it is a reasonable process to look for satisfaction from this boat in this particular circumstance. The report goes on:

> The registered owner of the *Maria Luisa* was Everdene Pty Ltd, which was the trustee of the Maria Luisa Unit Trust. Everdene was wholly owned by Australian Fishing Enterprises Pty Ltd (AFE), which held all the shares of the Unit Trust. The plaintiff's writ in rem alleged that AFE owed him a duty of care, that AFE was the owner or charterer of, or in possession or control of, the *Monika* and the *Boston Bay* at the time his cause of action arose, and that AFE was the owner of the *Maria Luisa* at the time the proceeding was commenced.

The owners moved to have this legal case dismissed. It continues:

> By a majority, the Full Court affirmed the order of Beaumont J, granting Everdene's motion to dismiss the in rem action. The *Maria Luisa* was not a surrogate for the *Monika* and the *Boston Bay* because AFE was not the beneficial owner of the *Maria Luisa*.

I emphasise that statement for the council: according to law, AFE was not the beneficial owner of the *Maria Luisa*. AFE operated the *Maria Luisa*, paid for its insurance, maintenance and repairs, and received all the income generated, yet the legal structure is that it was allegedly not the owner of the *Maria Luisa*. The report continues:

> Nevertheless, AFE's status as beneficiary of a trust and owner of the shares of the trustee meant that it was two steps away from beneficial ownership, so far as the majority was concerned. As owner of all the shares of Everdene, AFE did not own the assets of

Everdene; as beneficiary of all the units in the trust, AFE had a beneficial interest in the ship, but that was a 'contingent defeasible interest', not ownership.

The report goes on, and this is the powerful part of it:

The decision in *Kent* shows how easy it is for ship operators to circumvent the surrogate ship provisions of the Admiralty Act 1988 (Cth). The court's resolute refusal to look through the corporate veil means that one need only interpose a wholly-owned subsidiary and or a unit trust to be free of the possibility of surrogate ship arrest.

That relates to the fact that one only has to interpose a wholly-owned subsidiary and or unit trust to be free of any responsibility.

I do not believe that people in Port Lincoln accept that this is a process which should continue in the employment of their population, and I think that these people—who are extremely wealthy owners—use shell companies to protect themselves from what I and the people of Port Lincoln believe to be fair responsibility. So, my questions are:

1. Will the minister ascertain the legal ownership structures applying to all tuna boats operating out of Port Lincoln and inform parliament of the names of any vessels which are operating in shell companies?

2. Will the minister inform parliament of the person or persons who are, in fact, the real and moral owners of the vessels in question?

3. Does the minister agree that the structure protecting the owner of the tuna boat *Maria Luisa* is a device designed to avoid morally proper responsibility for compensation in damages, and what action does the minister intend to take?

The PRESIDENT: Before the minister answers that I have to say, Mr Gilfillan, that in all fairness to other members that was a very long contribution in your explanation and it was rife with opinion—

The Hon. Ian Gilfillan: It was four questions in 20 minutes.

The PRESIDENT: You may well be right, but I am applying the standing orders. I allowed you to finish, but you do need to pay particular attention to the length of your contribution and the amount of opinion contained therein.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question and his show of concern for someone who I would say is a non-union member. I will refer the question to the minister in another place and bring back a reply.

The Hon. A.J. REDFORD: I have a supplementary question. Does the fact that he is a non-union member mean that an answer will be delayed?

The Hon. T.G. ROBERTS: That is not a question that requires an answer. The same speed will be given to the answer as with any other question.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister advise the council whether Workplace Services has investigated this case?

The Hon. T.G. ROBERTS: I will refer that question to the minister in another place and bring back a reply.

GOVERNMENT ADVERTISING

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Premier, a question about the use of taxpayer funded advertising.

Leave granted.

The Hon. NICK XENOPHON: The concerns of the Premier are well known, when leader of the opposition, on the use of taxpayer funds to pay for government advertising perceived as party political. This Thursday marks the third anniversary of my media conference with the Hon. Mr Rann when he courageously supported a bill I was about to introduce to clamp down on government advertising that could be seen as being party political. That bill was modelled very closely on a bill introduced in federal parliament by the then opposition leader, the Hon. Kim Beazley.

The Hon. Mr Rann supported concerns over the Olsen government's spending on advertising that featured the former premier. In a media release, entitled 'Mike Rann backs advertising controls move', the Hon. Mr Rann set out his strong support for these advertising controls. The final paragraph stated:

Labor believes in different priorities. I am quite happy to take a knife to the spin doctors if it frees up more money for real doctors to cut the hospital waiting lists.

At the media conference on 3 June 2001, the Premier said:

When you see a politician in an ad, then you know basically it is about politics.

In *Hansard* of 19 June 2001, the Hon. Mr Rann reiterated his concerns and said:

We all know that, when we see a politician in a taxpayer funded ad, it is just a cheap way of doing the party ads.

In media reports last Friday, I note that a spokesperson for the government said that the $90 000 spent on the budget campaign was about half that spent by the Olsen government. My questions are:

1. Given the Hon. Mr Rann's strong and principled statements on 3 and 19 June 2001, will the Premier request that the Australian Labor Party repay the cost of the government's television advertising campaign? If not, why not?

2. Will the Premier undertake that he and his ministers will not feature in future in any government TV, radio or press advertising campaigns?

3. Do the government's comments mean that, because it spends only half as much as the former government, such spending is therefore acceptable?

4. With respect to the promise to 'take a knife to the spin doctors', will the minister advise the amount spent on media advisers and television advertising featuring the face of government ministers, or radio advertising featuring government ministers, compared to the previous government?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I am delighted that the honourable member has asked the same question he asked last year, because I can again correct his misrepresentation in the media on this matter. As the Hon. Nick Xenophon stated, he moved a bill in this place three years ago.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: It was debated on 4 July 2001. On behalf of the government, I will state what I said at that time:

Governments have always undertaken a certain amount of advertising, and certainly this opposition has accepted that there is a genuine, legitimate role for governments to advertise on occasions. A good example of that might be after every budget when taxation changes are made and various decisions affect people. Previous Labor governments have issued brochures outlining what has happened in the budget. This Liberal government has done the same and the opposition has accepted that as legitimate activity.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: It continues:

It might be legitimate for a government to advertise changes such as one sees in a budget.

I was speaking on that very bill—

The Hon. A.J. REDFORD: I rise on a point of order, Mr President. The question was quite specific, and that was: what was Mr Rann's position?

Members interjecting:

The Hon. A.J. REDFORD: Well, it is relevance. The question was quite specific. It was directed to what Mr Rann said and what he was doing. No-one is particularly interested in what the Hon. Paul Holloway said when he was relatively junior in opposition.

The PRESIDENT: Order! I disagree. The question was broad ranging and deserves a broad ranging answer.

The Hon. P. HOLLOWAY: Absolutely, Mr President. I was speaking on behalf of the opposition in relation to the Hon. Nick Xenophon's bill, the bill on which the Premier and the Hon. Nick Xenophon spoke. It was always made clear that, whereas this government and the now Premier (the then opposition leader) strongly objected to the use of taxpayers' money for the ETSA sale program, which cost a damn sight more than $90 000—

Members interjecting:

The Hon. P. HOLLOWAY: Because the sale of ETSA had not at that stage passed the parliament. That point was made quite clearly. I put it in that speech on behalf of the then opposition, and that is the basis on which the Premier supported the legislation. However, what the Hon. Nick Xenophon was talking about at the time was this bill which, as I indicated, we supported. However, it was made quite clear that we regarded advertising after a budget as a legitimate activity by the then government (the previous Liberal government). As I said then—

Members interjecting:

The Hon. P. HOLLOWAY: As I said, we did then and we do now. In every budget there will be changes in taxation regimes, as there have been this year, with a number of tax concessions. It has always been a legitimate activity of governments to advise the public of those changes. The very modest television campaign that has been promoted by this government is reasonable in light of the sorts of things we have seen in the past, particularly if you compare it with what the federal government is doing. I think the figure I saw there, with an election coming up, was $100 million to be spent by the federal government in the next few weeks. It is quite a legitimate use of taxpayers' money, given the changes that have been made to benefits: in particular, the stamp duty scheme for first home owners. It is quite appropriate, I would suggest, that the government would advise those first home owners of changes to the stamp duty and mortgage duty schemes.

In terms of the article quoting the Hon. Nick Xenophon in the newspaper on Saturday, and the slant he has put on this, I again appreciate that the record needs to be corrected. It was always made quite clear by the Labor Party—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: It is on the *Hansard* record of 4 July 2001 that we exempted from those considerations information in relation to the budget.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! The Leader of the Opposition knows his responsibilities.

The Hon. P. HOLLOWAY: Of course, the main matter that the Hon. Nick Xenophon was addressing at the time was the use by the previous government of taxpayer's money to promote the sale of the Electricity Trust before that legislation had even passed through parliament.

The Hon. A.J. REDFORD: I have a supplementary question. Was any consideration given in this advertising campaign to not using the Premier personally to sell the message?

The PRESIDENT: It's a cabinet decision. The Hon. Mr Dawkins has the call.

The Hon. A.J. REDFORD: I rise on a point of order, Mr President. It is not clear when the minister fails or refuses to answer my question whether he is refusing to answer or whether you are ruling my question out of order.

The PRESIDENT: I am not ruling the question out. The minister has the right to answer or not answer questions.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister advise parliament of the individual amounts which the Labor government has committed to the self-promotion of the state budget through the television, radio and print media?

The Hon. P. HOLLOWAY: As reported the other day, it was a $90 000 campaign. If that press report is not correct, I will get the answer for the honourable member.

INDIGENOUS MEDICAL SCHOLARSHIPS PROJECT

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Indigenous Medical Scholarships project.

Leave granted.

The Hon. J.S.L. DAWKINS: The Indigenous Medical Scholarships Project was a jointly funded initiative between the Australian Rotary Health Research Fund and the previous state government through the Department of Human Services on a dollar for dollar basis. This initiative has continued with the current government. The purpose of the Indigenous Medical Scholarships Project is to increase the number of indigenous doctors and, by so doing, improve the health of Aboriginal people, particularly in remote areas of South Australia where access to basic preventive medical treatment is often difficult.

Indigenous doctors are important role models for other indigenous people considering career opportunities in health. They also provide community advocacy and leadership in other related areas such as housing, education and community services. Rotary offers scholarships to selected students in consultation with the Aboriginal Services Division in the Department of Human Services and the universities. The amount of the scholarship is $5 000 per year with the actual cost to sponsoring clubs being $2 500 per year. I understand that this project, which was originally suggested by the Rotary Club of Mitcham, has now been taken up by the New South Wales government. My question are:

1. Given that there has been no increase at all in the Aboriginal health budget for 2004-05, will the minister indicate whether he will support this worthy project to make up the shortfall in funding for indigenous health?

2. What involvement, if any, has the Department of Aboriginal Affairs and Reconciliation had in this project?

3. How many students are currently participating in the project?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his questions in relation to Aboriginal health and the program being run by a non-profit organisation in conjunction with the state. These programs are important and I congratulate the Mitcham council on its initiative—

The Hon. J.S.L. Dawkins: Mitcham Rotary Club, actually.

The Hon. T.G. ROBERTS: Sorry, the Mitcham Rotary Club. Over the years a number of suggestions that have been put forward by Rotary have contributed to better community health generally, and in this case specifically for Aboriginal health. I am unaware of the number of participants who are expected to benefit from this program at a personal level. As the honourable member said, it is attached to the Aboriginal section of health. I will endeavour to get replies to those questions for the honourable member but it is important that states join non-profit organisations and other bodies such as the universities which are able to participate in health screening programs, immunisation, etc.

I have launched programs with Flinders University, and I understand that Adelaide University runs programs as well. When we total up the number of people who are impacted on by organisations for non-profit and community organisations such as Rotary, we can see that there are benefits to be drawn from it. I congratulate them on doing it. I will find out what, if any, role DAARE has played. Although I am unaware of any participation from DAARE, that does not mean there is no participation, and I will endeavour to refer that part of the question to DAARE and bring back a reply.

OFFICE OF THE SOUTHERN SUBURBS

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Correctional Services, representing the Minister for the Southern Suburbs, a question regarding the Office of the Southern Suburbs.

Leave granted.

The Hon. T.J. STEPHENS: According to Budget Paper 4, Volume 3, page 8.14, the Labor shopfront called the Office of the Southern Suburbs will receive an additional $250 000 for supplies and services. This quantity seems to be quite small as the office is being upgraded to undertake some of the responsibilities it currently delegates to other departments. Members would be aware that in previous years supplies and services lines in the budget have masked the use of consultancies by this government. My questions are:

1. What has this $250 000 been allocated for in this budget?

2. If this money is for consultants, will the minister make available the taskings and recommendations of any consultancy?

3. If it is not for consultancy work, will the minister provide a detailed explanation of what the money will be used for?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the minister in another place and bring back a reply.

NATURAL RESOURCES MANAGEMENT BILL

Adjourned debate on second reading.

(Continued from 31 May. Page 1676.)

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank members for their second reading contributions to this bill. I note that the opposition has filed many amendments that were put in the other place. The government has amendments of its own. I assure the council that the government will give due consideration to supporting any amendments that, in our opinion, will improve the bill and not undermine its intention to integrate natural resource management through this legislation.

The government's approach to this bill has been to seek a consensus wherever this is consistent with achieving our fundamental policy goals. During debate in the other place 266 amendments were proposed to the bill by the Hon. Iain Evans. Of those 266 amendments, 90 were adopted in full or in part, or their basis slightly revised and adopted in a more acceptable form. Nine amendments were withdrawn following clarification with the government on the issue in contention. The Minister for Environment and Conservation agreed to further consider 45 amendments between the houses. This shows the extent to which the government is prepared to discuss provisions within this bill and to accept any amendments that it considers improves the bill.

I will move over 60 amendments in this place, most of which are in response to the considerations of the amendments raised by the opposition in the other place, which the government agreed to review. These amendments will provide for clarification, for increased reporting requirements and accountability, for regions to be established by proclamation and for a number of penalties to be reduced. There is also a number of minor amendments requested by the Local Government Association.

The amendments also include a proposal to appoint the existing interim NRM Council as the first statutory national resource management council in order to facilitate the initial appointment of regional NRM board members. I will also be proposing amendments to the Native Vegetation Act that are supported by the Conservation Council of South Australia and the South Australian Farmers Federation. These amendments will allow the Native Vegetation Council to take account of any overall environmental benefits that may be gained when it is making native vegetation clearance application decisions. These decisions will be subject to guidelines.

The Minister for Environment and Conservation has provided summary details of all these amendments and explanations of their intent to key stakeholders, the Hon. Caroline Schaefer, the Democrats and Independents to ensure that a consensus approach can be taken wherever possible. It is important to note (as has been acknowledged by the Hon. Caroline Schaefer) that both the South Australian Farmers Federation and the Local Government Association support the bill. All the amendments supported by the government have been provided to these key stakeholders and their issues have been taken into account.

The objectives of the bill specifically recognise that primary industries and all economic activity that is dependent on the use of natural resources are equal considerations alongside environmental and social issues. The bill is based on ecologically sustainable development (ESD) principles

and seeks to assist South Australians to achieve ESD through adopting an integrated approach to natural resource management. ESD itself encompasses the economy, the environment and society and requires a triple bottom line approach to be taken. It is simply not the case that this bill focuses on environmental protection at the expense of industry and economic development, and I thank the Hon. Sandra Kanck for her support for this legislation seeking to achieve ESD.

In response to concerns raised by the Hon. Caroline Schaefer, I point out that the regulatory controls in the bill are, for the most part, incorporated directly from the soil conservation, water resources and animal and plant control acts—the acts to be repealed. These regulatory controls have been reviewed and updated to provide consistency. The bill does not introduce draconian measures; rather, it replicates existing responsibilities in the framework of a general duty to act reasonably in relation to natural resource management.

The objectives and principles of the bill require an educative and facilitative approach to be taken by NRM bodies. Regional NRM boards are comprised of community members who are required to develop and implement their NRM plans in consultation with their communities and local government. The minister and all NRM bodies at the state, regional and local level are required to work with and assist land-holders and other natural resource users in South Australia to achieve more sustainable natural resource management. A coordinated and integrated approach, as is being proposed here, is a necessary step forward. Ongoing community engagement in stable and integrated natural resource management regional arrangements will provide a stable framework for community and stakeholder engagement in an ongoing process of addressing serious degradation issues.

The bill integrates institutional arrangements in South Australia for natural resource management. It builds on South Australia's successes to date and will put South Australia at the cutting edge of integrated and natural resource management in Australia (although other states are also moving in the same direction). The Hon. Sandra Kanck has noted that this proposal for integration is limited. As members will appreciate, achieving integration to the extent proposed in this measure has required extensive community consultation and will involve a great deal of support for stakeholders in regional communities throughout the transition process. The NRM bill includes the requirement that the legislation be reviewed by 2006-07, and during this process the merits of further integration will be considered.

The capacity of regions to support regional NRM programs by way of funding raised by NRM levies within their region will obviously vary. For example, the Mount Lofty Ranges Greater Adelaide region, where most South Australians live, will be given significantly more resources than smaller, more remote and sparsely populated regions, such as Kangaroo Island and the range lands, which have small populations and fewer community resources.

The state and commonwealth currently invest significant resources in regional NRM and less populated areas. This investment in regional NRM will continue. South Australia has one NRM system for both commonwealth and state funding. This is a major breakthrough and I thank the two federal ministers for their agreement to participate in this model.

The Hon. Caroline Schaefer noted that this bill includes the capacity for regional NRM boards to propose amendments to council development plans. In this respect, the bill continues the arrangements that apply under the current Water Resources Act, and the Water Resources Act provides that the regional NRM boards may recommend changes to the local government development plan, if the board considers that it is necessary to change the development plan to achieve natural resource management outcomes and/or address particular natural resources management.

It should be noted that the NRM boards would not be able to change development plans under these provisions unless that proposed change is approved by the minister for planning. This is also the case under the NRM bill. Revision of the development plan amendment arrangements is part of a major review of the planning and development system in South Australia. That is currently subject to community consultation.

In the second reading speech in the other place, the Minister for Environment and Conservation agreed to support the removal of the capacity of regional NRM boards to propose changes to the development plans from this measure, as part of the better development system programs. In other words, the government is maintaining what currently exists under the Water Resources Act for the moment, and through the current process of reviewing development planning arrangement expects to make consequential changes to the NRM bill to remove this capacity.

Some concern has also been expressed that this bill comes under the direction of one minister. The Hon. Caroline Schaefer has suggested that this will remove the intellectual rigour of the debate between several ministers. However, cabinet will be involved in a number of processes under the bill, where the Governor's assent is required.

The government acknowledges that consultation with a range of ministers in relation to aspects of the bill is desirable and accepted an amendment in the other place to consult with a wide range of ministers in the selection of regional NRM board members. The structure proposed by the legislation also provides for extensive involvement of the department and the Minister for Agriculture, Food and Fisheries at regional and statewide level.

The minister is responsible for numerous functions under the legislation, as it is appropriate and commonly found. The opposition, in fact, increased the minister's power in some areas, such as the power of a proposed regional NRM board to acquire land and oversight of the financial systems being provided by regional NRM boards. The proposed amendment filed by the Hon. Caroline Schaefer to ensure three NRM regions are established in the Mount Lofty Ranges Greater Adelaide Area is not supported by the government. It will, of course, be important to ensure that there is adequate communication with the larger population in the Mount Lofty Ranges Greater Adelaide region.

The commonwealth has also agreed that these regions will suit the delivery of the NHT and NAP funding. I think this is a major advance because, at the moment, in South Australia we have state arrangements, state funding, and we then have an overlay of commonwealth boards and approval processes in funding arrangements, all of which cost money and either duplicate or are different from what is happening through state and regional boards.

The Hon. Caroline Schaefer noted that a licence for water can be issued on the basis of the type of crop and the area to be irrigated. This provision comes across unchanged from section 29 of the Water Resources Act and maintains the same regulatory regime, which ensures that water can be

allocated appropriately in areas where volumetric allocations are not possible because metering is not in place.

The purpose of this section is the allocation of water, rather than to dictate what crops may be grown. The Hon. Caroline Schaefer has noted that the penalties in this bill have been increased and has questioned the reason for this. Penalties have been updated to better reflect current penalties in other acts and provisions nationally. For example, the proposed penalty in this legislation better reflects the value of water, because under the Water Resources Act the penalty has been regarded by some as a reasonable fee for the overuse of water.

In legal proceedings, magistrate A.R. Newman described the current penalties for the unauthorised taking of water as grossly inadequate given the high value of the water taken. The Hon. Caroline Schaefer also expressed concern that appropriate checks and balances may not be included in the legislation. The bill includes a formal role to involve the broader community in NRM decision making, and checks and balances are provided. The Natural Resources Committee of parliament has a formal role in reviewing the levels of levies proposed, and the NRM bodies are required to provide annual reports and financial reports audited by the Auditor-General. These reports are required to be tabled in parliament each year.

In summary, the NRM bill will establish a supportive and collaborative institutional framework in which all levels of government and the community will be able to work together to achieve a sustainable future. The level of proposed community involvement, the requirement for consultation and the potential contribution of levy funding from the entire regional community will ensure that the community is engaged. Sensitivity to the needs of primary producers and other natural resource users is a requirement, and the process of negotiation and adaptation that is required to make sure that South Australia protects its natural resources in the future will be promoted by the triple bottom line approach.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

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

Page 18, line 4—after 'not)' insert:
In which water is contained or flows whether permanently or from time to time

This amendment clarifies that a watercourse does not need to contain water for it to be recognised as a watercourse. This is particularly relevant given that, in South Australian conditions, watercourses often do not contain water.

The Hon. CAROLINE SCHAEFER: In the interests of bipartisanship, cooperation and so on, the opposition supports the amendment.

The Hon. SANDRA KANCK: The Democrats support the amendment.

The Hon. NICK XENOPHON: I support the amendment.

Amendment carried.

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

Page 18, line 24—After 'stormwater' insert:
(to the extent that it is not within a preceding item)

This amendment is a drafting matter and is required to distinguish between surface water and stormwater. It has been proposed on the basis of advice from parliamentary counsel and is required to provide certainty in relation to distinguishing between surface water and stormwater when water resources are being managed and regulated under the legislation.

The Hon. CAROLINE SCHAEFER: We support the amendment.

The Hon. SANDRA KANCK: We also support the amendment.

The Hon. NICK XENOPHON: I support the amendment.

Amendment carried.

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

Page 19, line 13—After 'environmental' insert:
, social and economic

This amendment provides for a consistency with the definition of 'land', so that the social and economic value of water is recognised as it is for land. The member for Chaffey proposed this amendment in another place, and the minister agreed to consider it between the houses to check whether it had unintended consequences. A review suggests that the member for Chaffey's proposed amendment is appropriate and it is therefore supported and proposed in this place.

The Hon. CAROLINE SCHAEFER: I move:

Page 19, lines 6 to 13—Delete subclause (2)

The opposition wishes to delete this subclause. It defines the meaning of 'land' as including soil, organisms, other components, ecosystems, physical state, environment, social and economic value and water resources, similarly. We believe that it is an unnecessarily pedantic definition. There is a perfectly adequate definition of 'land' on page 13 which provides:

land means, according to the context—
(a) land as a physical entity, including land under water; or
(b) any legal estate or interest in, or right in respect of, land, and includes any building or structure fixed to land;

This has been the previous definition of 'land' in most of the legislation I have looked at, and we seek to delete the subclause.

The Hon. SANDRA KANCK: The Democrats do not support the opposition's amendment. The wording currently in the bill is comprehensive, and needs to be so, because land is more than land, and this makes it very clear. Land can appear to be only physical, but this amendment makes it very clear that there are biological and biodiversity implications in the definition of 'land'. I think it is very important that it stay as it is.

The Hon. NICK XENOPHON: I do not support the opposition's amendment. I, too, believe that the definition of 'land' ought to be broad. I cannot see that the expanded definition will cause undue harm. I believe that it will be consistent with the purposes of the bill.

The Hon. T.G. Roberts' amendment carried.

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

Page 19, lines 14 to 20—Delete subclause (3) and substitute:
(3) For the purposes of this act—
(a) a reference to a watercourse is a reference to either—
(i) the bed and banks of the watercourse (as they may exist from time to time); or
(ii) the water for the time being within the bed and banks of the watercourse (as they may exist from time to time),
or both, depending on the context.
(b) a reference to a lake is a reference to either—
(i) the bed, banks and shores of the lake (as they may exist from time to time); or
(ii) the water for the time being held by the bed, banks and shores of the lake (as they may exist from time to time),

or both, depending on the context.

(3a) For the purposes of this act, a reference to an estuary may include, according to the context, a reference to—

(a) any ecosystem processes or biodiversity associated with an estuary;

(b) estuarine habitats adjacent to an estuary.

This amendment is required due to a drafting error in the bill advanced in the other place, which we acknowledge. This amendment ensures that references to a watercourse, a lake and an estuary are transferred to the NRM exactly as they are in the existing Water Resources Act. There was a printing error in the bill presented to the House of Assembly, and this amendment is to correct the error.

The Hon. CAROLINE SCHAEFER: I support the amendment—and I am keeping score, Mr Chairman.

Amendment carried; clause as amended passed.

Clauses 4 to 6 passed.

Clause 7.

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

Page 21, line 29—After 'seeks to' insert 'enhance,'.

This amendment provides that the objects of the act 'seeks to enhance, restore or rehabilitate land and water resources'. This amendment is recommended by the interim Natural Resources Management Council, which is the peak body representing all stakeholders.

The Hon. CAROLINE SCHAEFER: Will the minister clarify why the interim council—or, indeed, anyone—would believe they need to add the word 'enhance'. Surely the words 'restore' and 'rehabilitate' already enhance. My fear is that, in this context, the word 'enhance' could mean 'make better than' not just 'make reparation for'. That concerns me if we are getting into an area where someone may be asked to rehabilitate, say, a piece of land for whatever purpose. They then have to enhance that land, which may be a considerably more costly process.

If the word 'enhance' in this context purely means 'to use best practice to rehabilitate', I am happy to accept it. However, it seems to me that, given that this is still a 211-page document, every possible word that can be used, whether necessary or not, has been used in the most bureaucratic fashion. I will not call for a division on this, but I cannot reasonably see why we need to add the word 'enhance' because it is already covered.

The Hon. T.G. ROBERTS: The word 'enhance' has been added to make sure that best practice is applied to the restoration and rehabilitation and I do not think it should be feared as an unachievable step. It is a matter of degree, I guess.

The Hon. NICK XENOPHON: I do not have the benefit of a dictionary definition, but does the word 'enhance' in this context mean that you have to make the land and water resources better than they were, not just simply restoring them but to improve them to a state beyond what they were previously?

The Hon. T.G. ROBERTS: I am advised that that is not the case, and the objects state 'in so far as it is reasonable and practicable to enhance, restore or rehabilitate'. If it was not practicable, it would not be insisted upon as an object.

The Hon. CAROLINE SCHAEFER: This is going to become long and arduous, I know, but at these early stages each time the minister stands up he worries me more. This has been one of my questions right through: who decides what is reasonable and practicable? It may well be an improved state but, if the manager of the land or the lessee of the land or the freehold owner of the land or water resource cannot afford to do what is deemed by the council or whoever it is as enhancing, it is unnecessarily draconian.

The Hon. T.G. ROBERTS: It is probably not draconian. It possibly adds another word that can be argued over in relation to the definition within an object. As the whole clause says, it is to make sure that the objects of the act are carried out in relation to what is reasonably practicable. That would be done. There are practical people at a local level. You might not have the confidence of the board, but certainly at a local level practical people will tell you whether the objects are going too far in a particular case. I will leave it open.

The Hon. SANDRA KANCK: I have no particular objection to the word 'enhance' being added. I am not sure that it adds or alters anything. I take, for example, the issue of the clearance of native vegetation on Beach Road at Noarlunga a week and a half ago. We will not be able to enhance, restore or rehabilitate the land there when 300-year old trees have been removed, so the language in the end will be pretty immaterial.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 22, lines 8 and 9—Delete paragraph (c)

The opposition seeks to delete paragraph (c) because it includes remedying, mitigating, etc., any adverse effects. We should read this in the context of the whole of this subclause, which is under general statutory duties, and the general statutory duties are outlined in a number of ways, as follows:

(1) A person must act reasonably in relation to the management of natural resources within the State.

(2) In determining what is reasonable for the purpose of subsection (1) [which is to act reasonably] regard must be had, amongst other things, to the object of this act [which we have just passed], and to—

(a) the need to act responsibly in relation to management of natural resources. . .

(b) any environmental, social, economic or practical implications, including any relevant assessment of costs and benefits. . . financial implications of various measures or options, and the current state of technical and scientific knowledge; and. . .

(d) the nature, extent and duration of any harm. . .

We think that any degrees of risk that may be involved are very hard to assess and, again, are unnecessary in the clause.

The Hon. NICK XENOPHON: In relation to paragraph (c), could the government indicate whether in its current form it would be so broad? For instance, if there were measures on a property to prevent wind erosion, which might impact on natural scrub on the property—in other words, in order to conserve the soil in terms of wind erosion, you have to remove native scrub because that is what needs to be done—could that arguably be in breach of this subclause?

The Hon. T.G. ROBERTS: You would be in breach of the Native Vegetation Act and also in breach of this act.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. ROBERTS: You would be in breach of both acts with that example you gave.

The Hon. SANDRA KANCK: The Democrats will not support this amendment. We believe this paragraph is about an important principle. Effectively, it defines 'ecologically sustainable development'. The portion that the Hon. Caroline Schaefer is attempting to remove—namely, 'avoiding, remedying or mitigating any adverse effects of activities on natural resources'—is an important aspect of ensuring ecologically sustainable development, which is about

ensuring that the resources we are using will be available to be used at the same rate by future generations.

The Hon. CAROLINE SCHAEFER: This bill contains almost more fines than generated by minister Wright's speeding offences. It would have been nice to have a more positive part to the objects. I think the objects are well and truly covered in paragraphs (a) and (b). I think paragraph (c) has a veiled threat within it, so I will proceed with my amendment.

Amendment negatived.

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

Page 22, after line 38—Insert:

(ha) consideration should be given to other heritage issues, and to the interests of the community in relation to conserving heritage items and places;

This amendment ensures that consideration is given to heritage issues and places, in addition to Aboriginal heritage. This amendment is being proposed as the Minister for Environment and Conservation agreed in another place to draft an amendment to include reference to other heritage issues.

The Hon. CAROLINE SCHAEFER: We support the amendment.

Amendment carried; clause as amended passed.

Clause 8 passed.

Clause 9.

The Hon. CAROLINE SCHAEFER: I move:

Page 24, after line 7—Insert:

(6a) In addition, if a person can demonstrate that he or she has acted in a manner consistent with any methods or standards in the relevant industry or sphere of activity that are recognised as being acceptable for the purposes of subsection (1) by the relevant regional NRM board then, to the extent of the consistency, no action can be taken against the person in connection with the operation of this section.

This amendment is identical to an amendment to be moved by the government. It refers to a general statutory duty and seeks to protect those who have done their best to comply under the other provisions within clause 9. In other words, if someone is attempting to remediate using best practice at the time, then they will not be penalised. I hope that, given the government has an identical amendment, perhaps it will support me on this occasion.

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

Page 24, after line 7—Insert:

(6a) In addition, if a person can demonstrate that he or she has acted in a manner consistent with any best practice methods or standards in the relevant industry or sphere of activity that are recognised as being acceptable for the purposes of subsection (1) by the relevant regional NRM board, then, to the extent of the consistency, no action can be taken against the person in connection with the operation of this section.

This amendment ensures there is no offence against the general duty where a person demonstrates that they are meeting best practice—'best practice' are the two words that are different in our amendments—industry standards recognised and accepted by the regional NRM board. There is a slight difference.

The Hon. CAROLINE SCHAEFER: I apologise because I did not read my own amendment properly. Obviously, we are so close that it really does not matter. When briefed on this, I argued that 'best practice' is very hard to establish. By whose standards is it best practice? What about the person who is carrying out what they believe to be the best practice they can afford, for instance minimum tillage? I would prefer that the government be gracious. Again, I think it is too close to call a division.

The Hon. NICK XENOPHON: I support the government's amendment in that it refers to best practice, but I cannot resist saying that when I moved an amendment for best practice for medical practitioners when the Ipp bill was before this parliament it was rejected by the government. It seems there is a double standard here. Nevertheless, I support it.

The Hon. SANDRA KANCK: The Democrats will support the government's amendment.

The Hon. Caroline Shaefer's amendment negatived; the Hon. T.G. Roberts' amendment carried; clause as amended passed.

Clause 10.

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

Page 25, line 21—

After 'an NRM authority under this act' insert:

(other than a direction that, in the opinion of the NRM authority, is of minor significance taking into account its function and powers)

This amendment clarifies that the directions given by the minister to an NRM authority do not need to be reported to the Natural Resources Committee of parliament if the directions are considered to be of a trivial nature. The minister reserves the right to review the amendment adopted in the other place that requires the minister to report to the Natural Resources Committee if the minister gives a direction to the NRM authority. This amendment is proposed to ensure that the reporting requirements will not involve unnecessary reporting of minor, everyday matters.

The Hon. CAROLINE SCHAEFER: This is one of a series of amendments that are really a compromise between the government and the opposition. We have sought greater reporting and the government has agreed to greater and more accountable reporting provided that the matters are not considered trivial. As such, we will support the amendments (and there is a series of them) throughout the debate.

Amendment carried.

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

Page 25, after line 23—

Insert:

(6) The minister must, in acting in the administration of this act, seek to act fairly and reasonably and recognise the need to enhance and support sustainable primary and other economic production systems.

This amendment ensures that the functions of the minister include the need to recognise the importance of economic development. The minister agreed to consider this issue between the houses. The proposed amendment ensures that the NRM minister is required to recognise the need to support primary production, but it is broader in that it covers other industries reliant on the use of natural resources—that is, mining, tourism, and so on.

The Hon. CAROLINE SCHAEFER: The opposition supports the amendment. It adds considerable weight and recognition to primary industries and other economic production as being essential, in the end, to natural resource management. We support this amendment with some pleasure.

Amendment carried; clause as amended passed.

Clause 11 passed.

Clause 12.

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

Page 26, line 13—

After 'minister' insert:

(but the minister cannot give any direction with respect to any advice or recommendation that the NRM Council might give or make or with respect to the contents of any report)

I understand that there also have been negotiations with respect to this clause. The amendment clarifies that the minister cannot direct the NRM Council to refrain from providing advice or to provide only advice that is supported by or acceptable to the minister—heaven forbid! This amendment is proposed because of the opposition's concern that the minister could restrict the NRM Council's capacity to provide independent advice by directing the NRM Council not to make recommendations that the minister may not want to receive.

The Hon. SANDRA KANCK: I indicate Democrat support for this amendment. I think it preserves the independence of the NRM Council, and that is vital if this is to operate properly.

The Hon. NICK XENOPHON: I welcome the amendment for the reasons set out by the Hon. Sandra Kanck.

The Hon. CAROLINE SCHAEFER: One of the major concerns of the opposition throughout the passage of this bill has been the extreme power of the minister. This is one small step to limiting his powers and retaining the independence of the NRM Council, and we are grateful for the compromise.

Amendment carried; clause as amended passed.

Clause 13.

The Hon. CAROLINE SCHAEFER: I move:

Page 26, line 27—
Delete '1 must be nominated from a panel of 3' and substitute: 3 must be nominated from a panel of 6

This amendment seeks to increase the representation of those who will be most responsible for natural resource management—that is, practising agriculturalists and managers of the land—and seeks to delete '1 must be nominated from a panel of 3' and substitute '3 must be nominated from a panel of 6'. This would have the effect of having three practical practitioners (not necessarily farmers) amongst the nine nominated members.

The Hon. T.G. ROBERTS: The government opposes the amendment. There would be farmers on the board as a natural part of the selection process. If we directly used affirmative action to add another farmer to the board, it would perhaps upset the balance in relation to the power/weight ratio of contributions and influence.

The Hon. SANDRA KANCK: I indicate that the Democrats will not support this amendment. I cannot come at having farmers over-represented on this body. It is, after all, natural resources management. Certainly, it is appropriate that there be one person who is deliberately there to represent the Farmers Federation. It may be that, on consideration of the skills, and so on, the minister will decide to put another farmer amongst those that he chooses. Nevertheless, as currently worded, I think it is perfectly adequate.

The Hon. NICK XENOPHON: Can I have some clarification from the minister? As I understand clause 13 in its current form, it would mean that there will be one farmer on the council—

The Hon. Sandra Kanck: At least.

The Hon. NICK XENOPHON: At least one farmer on the council, but that is the minimum level that would be guaranteed. The Hon. Caroline Schaefer is proposing that it be increased to three. If the Hon. Caroline Schaefer's amendment is successful, that would mean three out of nine. That is still far short of a majority. Can the minister elaborate on why he says that would upset the balance of the functioning of the council, or upset the balance that is proposed for the council?

The Hon. T.G. ROBERTS: The reason why the government has opposed this amendment is that the skills base of a farmer is variable. Farmers from different sections have different skills and knowledge.

The Hon. Caroline Schaefer interjecting:

The Hon. T.G. ROBERTS: I am sure that the minister would want the skill mix and the experience mix to be there, but without having a direction as to how that would occur. I am informed that the formula that has been used is:

(a) 1 (who will be the presiding member) must be a person who has, in the opinion of the minister, extensive experience in the management of natural resources and been actively involved in community affairs; and
(b) 1 must be nominated from a panel of 3 persons submitted by the LGA;—

many of the people at the LGA may be considering nominally falling into that category—

(c) 1 must be nominated from a panel of 3 persons submitted by the Conservation Council of South Australia;—

it is unlikely to be the Conservation Council, but it is not out of the question. There are farmers who are on the Conservation Council, I suspect—

(d) 1 must be nominated from a panel of 3 persons submitted by the South Australian Farmers Federation Incorporated;—

it is quite likely a farmer may come from that organisation—

(e) 1 must be nominated after the minister has consulted with bodies that, in the opinion of the minister, are suitable to represent the interests of Aboriginal people for the purposes of this act.

So, that has been thrashed out with the stakeholders and an agreed position drawn out by the minister and duly incorporated into the bill.

The Hon. CAROLINE SCHAEFER: I cannot let the minister's offensive comments go without some recourse. First of all, he has said that the skills base of farmers is variable. The skills base of any profession, I know, but particularly of politicians, is also variable, but it does not necessarily mean that they are not the best suited people to represent a given topic. This is a bill about natural resource management which will be put into practice by people who are outside the city, generally, and practising, in most cases, farming.

It would seem to me, therefore, that to have three out of nine does not create a poor balance at all. He then went on to say that it is unlikely to have a farmer on the Conservation Council. In fact, I think there are a couple of farmers on the Conservation Council. His implication is that farmers are not conservationists. That is one of the things that worries me about this entire bill: that is, the implication that farmers are not natural resource managers or conservationists. The minister has just said so. So, while this was not originally a particularly important amendment to me, it now is.

The Hon. SANDRA KANCK: I wanted to put my own comment in relation to the question that the Hon. Nick Xenophon has asked, and that is that I think that this needs to be read in conjunction with subclause (5), which provides 12 criteria upon which the minister will make his judgment about who will comprise the nine members of the Natural Resource Management Council.

It is perfectly possible within the current wording that SAFF would nominate a farmer who has experience in, say, pest, animal and plant control, but will not have experience in coast, estuarine and marine management. By having the

different bodies submit names, one each coming from the LGA, one from the Conservation Council, one from SAFF and so on, the minister will be able to balance his choices from that, looking at these criteria, and as best as possible ensure all of that criteria that is there can be encompassed in the choice of people for the council. I think that, if you allow SAFF to have three people, there is a risk that you are going to miss out on one or more of these 12 criteria. It just makes the job of the minister potentially a lot more difficult to get that balance.

The Hon. T.G. CAMERON: I indicate my support for the government on this amendment.

The Hon. NICK XENOPHON: I would like to indicate my position. I am still concerned that clause 13 in its current form is somewhat too narrow. Maybe the position should not be as broad as that as the opposition wants, but, for instance, under paragraph (d) it provides:

> 1 [person] must be nominated from a panel of 3 persons submitted by the South Australian Farmers Federation Incorporated.

I think the point is being made there that aquaculture is increasingly important in this state, and it may be that there ought to be a representative from the aquaculture industry. I would be much more comfortable with an amendment that would allow for two representatives, not necessarily just from the South Australian Farmers Federation but from another peak body with respect to that. I am not sure where the Hon. Andrew Evans stands on this. I am in the hands of the committee, obviously, but I wonder whether we could have a short adjournment to consider this. I think there is a valid point there in relation to not just the land but our water resources and our aquaculture industries, and I think there may be a case for representation from those industries.

The Hon. CAROLINE SCHAEFER: I would be, at this late stage, amenable to considering a late amendment along those lines. The purpose of the opposition is to have as many practitioners involved on councils, boards and groups. If the Hon. Nick Xenophon wants two, that is better than one, but it should be two nominated from appropriate resource based peak bodies. In some cases—perhaps not within the council but within boards—a more appropriate representative might be from a wine grape growers group, or the Seafood Council, or SAFIC, or any number of other peak bodies that are out there. If he wants to move that one be nominated by SAFF and another by an appropriate peak body, I would be prepared to look at that.

The Hon. T.G. ROBERTS: I take the point the honourable member makes about reporting progress: we will have to report progress to bring on another bill shortly. The information I am given is that the skills mix in clause 13(5) would be restricted if you became more prescriptive about the particular areas that the composition of an NRM council would have to accommodate. There would be applications from all of the representatives of peak bodies representing industries such as forestry or seafood to be on the NRM council as a right. At this stage, that is not possible, because of the work that is being put into getting the NRM right, and then in clause 13(5) the skills need to be flexible enough for the minister to get the correct people onto the council with those appropriate skills. So, it is a mix and match exercise that is taking some considerable time at this stage.

The Hon. CAROLINE SCHAEFER: Given that at this stage we are talking about the NRM council, and I acknowledge that the council will need statewide and very finely honed skills, I am prepared to accede to the government on this if perhaps discussions can be held between the Hon. Nick Xenophon and the rest of us with regard to representation on the boards.

As I say, my purpose is to try to get as many practical people as possible and I think it is probably, in fact, more appropriate to hold this discussion with regard to amendments to the composition of boards than it is to the composition of the council. At this stage, I am prepared to leave the composition of the council as it is and hold further discussions deeper into the bill, if that is appropriate.

Progress reported; committee to sit again.

PITJANTJATJARA LAND RIGHTS (EXECUTIVE BOARD) AMENDMENT BILL

In committee.

The Hon. SANDRA KANCK: Mr Chairman, I draw your attention to the state of the committee.

A quorum having been formed:

Clause 1.

The Hon. R.D. LAWSON: I have a general question. Could the minister indicate what, if any, consultation took place with the AP executive or any person on the lands regarding the development of this bill?

The Hon. T.G. ROBERTS: There were no consultations with the AP regarding the drafting of the bill, but as far as the content of the bill is concerned there has been a lot of discussion about the election process—not in relation to the forthcoming election but in relation to forward directed discussions about how elections would look in the future and how they have been changed in the past by discussions and negotiations.

The bill has tried to stick as closely as possible to those negotiated terms of reference, which came out of what was called Rolling Thunder. Rolling Thunder was a process set up by Chris Marshall who was himself a director of the APY council and who was, in many regards, a consultant brought in by the previous government to bring about change in the lands in relation to how elections were to be considered and run. The Rolling Thunder campaign involved, I think, three individuals who went around the communities to consult. They set up meetings within the communities to describe to them the changes in the way they saw future elections being held: that is, with representatives from communities. Rather than all of the APY turning up at one annual general meeting for a vote, there would be representatives from designated communities: that is, the larger communities within the AP lands.

They would have a local council and, by right. the local representative would be on the APY executive. I am not sure that an argument about proxies was ever finalised, but that was the process that was developing within the APY lands. I understand that there was a provision for proxies, but there did not appear to be any written guarantee about the rights of proxies; however, I may be wrong. Formulae were drawn up, and the bill tries to reflect as closely as possible what came from those discussions and negotiations with APY about a future form of elections, if indeed they were to change. Under the review, they were to change the way the APY executive itself and its role and function were to be determined.

I was also involved in discussions with the APY about a future local government style structure. Although no formal agreement resulted, the question is still alive in the minds of the APY about a form of local governance that allows infrastructure, human services and administrative services to

be set up. Witnesses at the standing committee have indicated that part of its brief should be to look at issues such as governance.

This recommended formula appears to have general agreement. Under a similar formula, at least one election has been put together successfully, and one election did not produce the endorsement of an elected executive. However, based on previous negotiations, this appears to be an outcome that has been as well negotiated and discussed as possible. The direct answer to the honourable member's question is—

The Hon. T.G. Cameron: That would be welcome.

The Hon. T.G. ROBERTS: Well, there are two stages: the bill and the understanding that the APY has in relation to the future. I hope that answers the honourable member's question.

The Hon. R.D. LAWSON: In his response, the minister said that this is the recommended form. However, it is the case, is it not, that this form has not been specifically recommended by any committee of the parliament, or committee on the AP lands, or the APY executive itself? It is not formally recommended anywhere that this model be adopted.

The Hon. T.G. ROBERTS: This is the government's preferred position.

The Hon. R.D. LAWSON: The minister has outlined the government's position. It is true that various people on the lands at various times have suggested various models, but any unanimous position on the appropriate form of the APY executive has not yet emerged. Is that a fair comment?

The Hon. T.G. ROBERTS: That is a fair comment. A preferred position for the future has not been advanced, but the review process will accommodate any future negotiations or discussions about future governance, such as a local model style with a separate land council. We have discussed many times in this place how the current land council formation is not suitable for administration and the delivery of services and infrastructure in this day and age, and the APY agree with that. It is a matter of what negotiated and agreed formula we come up with at a future date. If the honourable member is suggesting something different from the government's position, he is quite free to move an amendment.

The Hon. KATE REYNOLDS: The Electoral Commissioner wrote to the legal officer of the APY in 2002 offering to assist with the development of codes of candidates and elector and observer behaviour. I think a number of other issues were discussed with the Electoral Commissioner prior to that time. Were any concerns raised with the government when the Electoral Commissioner was consulted on this bill?

The Hon. T.G. ROBERTS: My information is that the commissioner was involved in the drafting of the recommendations in this bill. However, I am not sure what messages he sent in relation to his views on it. I assume that, because the commissioner was involved in the drafting of the bill, he is satisfied with it as it stands.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. R.D. LAWSON: Proposed subclause (2) deletes section 9(3) of the existing act, which presently provides:

> (3) A person is not eligible for election as a member of the Executive Board unless he is a Pitjantjatjara.

That section is being removed. Will the minister indicate why the government has decided to remove that requirement for eligibility, namely, that those elected must be Pitjantjatjara?

The Hon. T.G. ROBERTS: Clause 6 of schedule 3, eligibility and nominations, provides the requirements for somebody to be eligible to vote, as follows:

> (1) A Pitjantjatjara of or above the age of 18 years who is a member of a community constituting an electorate will be eligible—
> (a) to nominate for one (but not both) of the following offices—
> (i) member of the Executive Board to be elected from the electorate; or
> (ii) Chairperson of the Executive Board; and
> (b) to vote in an election held in relation to the electorate.
> (2) Nominations will be called in each electorate at a time and location determined by the returning officer, and will close 7 days after the nominations are called.
> (3) A person wishing to nominate must nominate in writing and lodge their nomination with the relevant electoral official.
> (4) If, at the close of nomination, it appears that the same person has nominated for election to two or more offices, both or all the nominations are void.
> (5) If more than one person nominates in an election for a particular electorate, a photograph of each candidate will, if permissible under local custom, be taken and be used to assist voters during the voting process.
> (6) The relevant electoral official must cause all nomination forms and photographs of candidates (if any) to be sent to the returning officer in a manner determined by the returning officer (but so that the documents reach the returning officer within 7 days after the close of nominations).

Those are the regulations for eligibility and nomination.

The Hon. R.D. LAWSON: Is the minister telling the committee that the requirement that persons on the board must be Pitjantjatjara has not been removed but has simply been put in another place in the bill?

The Hon. T.G. ROBERTS: That is right.

The Hon. R.D. LAWSON: And there is no other effect other than that change of position in the bill?

The Hon. T.G. ROBERTS: That is right.

Clause passed.

Clause 5.

The Hon. KATE REYNOLDS: The bill proposes a series of offences relating to the election of the executive board and also the constitution of a court of disputed returns. The latter is to be constituted with a District Court judge. It seems likely that both a court of disputed returns and the prosecution of any electoral offences would come before the Port Augusta District Court. As the Lands Committee has heard, Magistrate Fred Field has considerable experience in conducting courts on the APY lands. He has previously noted the many obstacles his court faces when trying to progress cases in which Anagu are involved.

In relation to these offences, minister, what specific steps is the government proposing to take to ensure that any electoral offences or disputes over returns can be satisfactorily and meaningfully dealt with by the District Court, and has the minister consulted with magistrate Fred Field as to the appropriateness of the offences outlined in the bill and the fines and sentences attached?

The Hon. T.G. ROBERTS: I am unaware of any consultation taking place between Fred Field and those who drafted this clause. However, I am told that the first stage for registering a complaint would be with the Electoral Commissioner, who would be present within those communities when the ballot was being taken and would observe the process (as set out in another clause or regulation of the bill). The only

way in which complaints can be reviewed is to petition the court.

The Hon. KATE REYNOLDS: New section 9A(1)(a)(i) provides that it is an offence to induce a person to withdraw their candidature for an election. My understanding is that the bill fails to explain how such a withdrawal may occur. Given that the proposed elections are to be 'first past the post' results and given that a person may not stand for the position of both chairperson and local member, how will the government correct this?

The Hon. T.G. ROBERTS: I am informed that, if someone exercises violence or intimidation, or offers and gives bribes, which would be reflected in whatever actions the candidate took and the actions that individual took in withdrawing, that would be investigated as an offence. The way in which the intimidation, bribe or offers would be investigated would then be matched against the offence, and the petitioning of the court would take place once the breach had occurred.

The Hon. NICK XENOPHON: My question relates to the enforcement or compliance of this clause. Given the unique circumstances in which the people in the AP lands find themselves—their cultural needs and the whole issue of intimidation to which the offences relate—what resources will be made available and how is it proposed to ensure compliance with this clause, given the community's unique circumstances and disadvantages, which are important cultural issues?

The Hon. T.G. ROBERTS: I am informed that the first stage would be for the individual to report that action to the police, and the police would then investigate the alleged offence. The honourable member referred to cultural understanding of what constituted abuse or intimidation. We would hope that all people delivering services on the lands (including public servants) would have some understanding of the cultural requirements of the communities within the AP lands.

I am aware at a personal level that the police are now very sensitive to the training that will be required for people to understand the cultural requirements of AP. The government is doing a number of things to try to increase the level of understanding of the cultural differences by senior public servants right through to all levels of bureaucracy. I would hope that, as well as the police and the community police, there will also be Aboriginal police on the lands so that two options will be available in relation to policing—both the police officers themselves and the community police. Hopefully they will be able to be part of that investigation and adjudicate on some of the areas where cultural sensitivities have to be taken into account.

The Hon. R.D. LAWSON: This clause will insert for the first time specific offences in relation to the conduct of elections on the lands with respect to the exercise of violence, intimidation, offers or bribes, etc., in connection with elections. Does the government have any evidence that there have been occasions in the past where violence, intimidation, bribes, etc., have been offered in connection with any election on the lands?

The Hon. T.G. ROBERTS: I am not sure if any instances of offences have been reported but I, and others who have witnessed elections on the lands, have witnessed forms of intimidation that are not the sole province of any single individual. There have been occasions when annual general meetings, where elections have taken place, have broken up in disarray. The general APY method for dealing with that was to hold over to another day some of the elections that were contestable to a point at which they were not able to reach conclusions. At a personal level I have witnessed confrontation that I thought was quite severe but, from talking to interpreters, I found out that, in one instance, the dispute had nothing to do with the ballot but concerned an internal family dispute.

That is where the cultural training and understanding needs to come into the tolerance of how this will be policed. Not only is English a second language for many of the AP people but their own methods of governance rely on an entirely different form of democratic expression, and whatever system we negotiate or impose through legislation will have to be sensitively policed. We will be trying to get an understanding from all the participants that there now will be electoral office participation, that there will be a legal process or a process that is consistent with other forms of ballot in other areas, and we hope that, with a few cultural adjustments, people get to know and understand exactly what their responsibility is.

The first responsibility is to turn out. I notice that voting is not compulsory. In the past, there has not been the sensitivities that have been imposed over the years in relation to the roles and functions of the APY executive. Of course, their role has changed considerably since the collapse of the Pitjantjatjara council as a representative body, and more import is put on the elections at the APY level.

In an educative way, we hope to show that the government's preferred method of voting is to have a fair election in each large community and to have a system that is understood. That involves the placing of a marble on a photograph, which has grown into a traditional way of voting on the lands. We want a method that does not pose any fear for anybody to have a free, unfettered vote, and to express their opinion as to who their preferred candidates are.

The Hon. R.D. LAWSON: There is no specific provision that enables the Electoral Commissioner to call for police assistance or other assistance in the conduct of an election. Was any consideration given to including any such provision and, if so, why was it not included?

The Hon. T.G. ROBERTS: The honourable member is right. It is not a legislative requirement to have police available in any particular booth or centre. If the Electoral Commissioner or anyone else feels that there may be intimidating circumstances at a ballot on any given day, I guess that they can call on the police to be available. Historically from time to time police have been at elections—some of them probably vote—but there is no codified legislative measure to make it compulsory. This will separate the election from the general business, and the tradition has been to hold annual general meetings and discuss general business at the same time. At many meetings that business has been contentious and there has been a lot of argument and debate—good, solid, rigorous debate as we would describe it—over many of the issues leading up to the ballot. If we have a ballot that is separate from the discussion of any other issues then we would expect the ballot to be trouble free, and that should also be improved with the extra police presence on the lands.

Prior to the changes that we have made in relation to police presence, police had to come from Marla, and it is a considerable drive to Umuwa taking considerable time, unless they were there in the morning prior to the ballot being held, which was usually the case. We would expect order at the ballots. Indeed, we would not expect any more trouble at

these ballots than at a ballot being taken in any local government arena.

An honourable member interjecting:

The Hon. T.G. ROBERTS: As the honourable member gestures by way of interjection, there has probably been as much trouble in our own elections, in our own factions—and I am talking of Liberal Party factional disputation here when I speak of factions. From time to time calls have been made for the police to attend state council arenas and other ballots where trouble has occurred. We hope that they will be trouble free but police could be called to intervene if necessary.

Clause passed.

Clause 6.

The Hon. KATE REYNOLDS: In relation to the approval of the constitution, the bill proposes to delete the Corporate Affairs Commission and substitute the minister as the person (instead of a body) responsible for approving changes to the constitution. Will the minister put on the record why he seeks this power, and whether he is prepared to leave that power in the hands of the commissioner, an independent arbiter?

The Hon. T.G. ROBERTS: The reason the minister has been brought in is so the understanding of any potential for change can be highlighted within the office of the Minister for Aboriginal Affairs and Reconciliation. He then may be able to interpret why the application for change is being made. It is felt that the Office of Consumer and Business Affairs probably has other matters with which to deal and which are far more important to it in terms of the way that it deals with changes to constitutions; and it should be more compatible, I suppose, to the ministerial effect of a minister who is actually aware of, and whose core business is, Aboriginal affairs, rather than a whole range of activities associated with the consumer affairs portfolio.

The Hon. KATE REYNOLDS: So this has nothing to do with the fact that the Office of Consumer and Business Affairs, the commissioner or the commissioner's representatives previously approved a change to the constitution that the government did not support?

The Hon. T.G. ROBERTS: I think it has highlighted an issue that the government felt it needed to address.

The Hon. R.D. LAWSON: I indicate Liberal support for the amendment to delete Corporate Affairs Commissioner and insert the minister as the appropriate official to arbitrate, if arbitration be necessary, on the appropriateness of changes to the rules. In my view it is somewhat anomalous that the Corporate Affairs Commission is inserted into this act in a way which suggests that the commission has a role more than simply monitoring compliance with the necessary corporations and associations regulations and suggests that the Corporate Affairs Commission has some oversight on the content of those rules. We believe the role of the Corporate Affairs Commission is to ensure due compliance with the formalities but that the substance of the constitution, if it is amended from time to time, is something which ought to be the interest of the executive government, which has important responsibilities in relation to this act.

The Hon. KATE REYNOLDS: If this amendment proceeds—although I put on record the Democrats' objection to it—will the minister advise how his office or he (as minister) will seek to ensure that any proposed amendments conform with the act, which I assume they still would be required to do—as the Corporate Affairs Commission had to do?

The Hon. T.G. ROBERTS: It is a policy question for the departments to work through, but I suspect that, if there were instances where changes were to be made to a constitution, there would be discussion and negotiation. It would be a policy determination that could be worked out as a result of talking to each other—but that may seem too simple for some. I think the best way in which to solve an issue is to do so before it becomes a major problem and to work one's way through why change is necessary. It does not have to be APY necessarily—it could be any organisation—but if the changes are going to be minor then neither ministerial office would involve itself. If they are major changes, you would expect the office of the Minister for Aboriginal Affairs and Reconciliation to be notified. Certainly, it is a policy matter of the two bodies working their way through without too much trouble.

The Hon. KATE REYNOLDS: You would not anticipate necessarily that, as a matter of course, you would run any proposed amendments to the constitution past the Office of Consumer and Business Affairs just to check whether it could identify major problems with it. You are saying that it would be an internal decision at your discretion.

The Hon. T.G. ROBERTS: There would not be any requirement, unless you were alerted by AP themselves that they wanted a major change. What we require here is partnership and confidence in each other's governance. That comes with respect. We would like to be able to negotiate partnerships so that we do not get into complication.

The Hon. KATE REYNOLDS: Would you anticipate that, if changes to the constitution were brought to you for your approval or rejection, the process would be instigated by the APY themselves; or would you anticipate that you as minister, or future ministers, could initiate that? How would you see that working? I understand that the act would enable both, but I am interested in how you view that process being started.

The Hon. T.G. ROBERTS: I think whoever initiates potential changes would seek advice. I would expect the APY body—however finally formed—would seek legal advice as to what change is required and for what purpose. If we were to seek change, we would seek crown law advice and then discuss with AP the impact of change. That is the appropriate way I see it happening. If you are operating in isolation, it means the spirit of the act is not working and respect on both sides has been lost. It would not be the first time any organisation or body has got into that situation. I would be hoping for two-way responsibility and responsibility for consultation to take place, and that will take time.

Clause passed.

Clause 7 passed.

Clause 8.

The Hon. KATE REYNOLDS: The bill proposes to divide the APY lands into 10 electorates. This division is made with reference to main communities and larger homelands, but the bill makes no mention of the many smaller homelands within which a number of Anangu live. Some of these proposed electorates are centred around one community or homeland and others encompass a cluster of communities and homelands. I believe that the census figures recorded in 2002 show that the indigenous population of the proposed electorates ranges from 50 to nearly 400 people, but I note that, under the provisions contained within the bill, each electorate, regardless of its size or population, is entitled to elect one member to the executive board.

The election of the 10 board members and the chairperson of the executive board will take place simultaneously right across the lands. However, within each of the 10 electorates, as I read the bill, there is to be only one polling booth. As some members would know, many of the people on the APY lands have no reliable means of transport, but under the proposed amendments anyone who offers to assist someone in getting to and from a polling booth runs the risk of being charged with a serious offence (we covered that section earlier). Has the government prepared a map identifying the boundaries of the 10 electorates so that people living within the smaller homelands are able to determine where they should go to vote?

The Hon. T.G. ROBERTS: The number of polling booths is not restricted to the number of electorates. I am advised that, although the electorates will produce one candidate from a result, if there was movement into homelands away from communities, for instance, it would be possible for the Electoral Commissioner to set up a booth in an area away from a township in the homelands if the number of people in the homelands required it. The issues they would face would be much the same as those that they face today in relation to how they would vote, based on the current method which takes into account the availability of transport and the subtleties of the weather. At the moment, sometimes elections are suspended, called off or postponed due to traditional business or, as I said, the weather.

The answer to the question is that I do not think there is a map. No maps have been drawn up but, if there was a request for a form of ballot box to be placed outside the main communities, I suspect that request would be considered by the Electoral Commissioner. As I said, I have no general instruction in relation to that question.

The Hon. R.D. LAWSON: The form of voting is not one that is commonly encountered in political elections. It does not provide for ballot papers or the marking of any ballot paper, although it does provide for marbles to be placed in a receptacle. The form of voting also does not envisage an electoral roll from which names are marked off when voting occurs. Can the minister indicate what measures will be in place to prevent people from voting on more than one occasion, either at the same place or at different places?

The Hon. T.G. ROBERTS: The way in which the bill is drafted at the moment, it is the Electoral Commissioner's role and responsibility to make sure that the method of voting, as the honourable member said, is one that is culturally understood; that the placing of a marble in a receptacle is adhered to. At the moment, the community has its own method of policing that is understood by all members of the community: if you are a member of the community you are allowed to vote; if you are not a member of the community you are not allowed to vote. So, a certain amount of peer group policing takes place.

If there are any recommended changes that emerge from this form of voting, I am sure that amendments could be moved at a later date if this form of policing does not produce a result or if it produces a result that is contested by many. However, I must say that after each annual general meeting and after each ballot there have been petitions and there has been contestability, for all sorts of reasons, under the current voting system, including accusations of intimidation.

I guess the answer to that question is that we have to try a procedure based on the system that exists. If that does not work, if the identification process is not adhered to and if people move to multiple votes and that is not picked up by the Electoral Commissioner and the disciplines that he is able to exert on the process, we may have to look at amendments to the act at a later date, or it may come out in the review process, through which a recommendation may be made on a different form of voting.

The Hon. KATE REYNOLDS: I wish to ask further questions about the marbles in a tin process outlined in the bill. The bill mandates that voting will take place by secret ballot and that voting will be conducted by the use of voting marbles placed in receptacles, each bearing the name and, if permissible under local custom, the photograph of the candidate. It states that each person wishing to vote must cast their vote in the presence of an electoral official, but otherwise in private. There seem to be some limitations in using such a system. For example, the second person to vote at any booth will obviously be able to determine how the first person voted as a result of there already being one marble in one tin. There is also the potential halfway through the process for the remaining voters to back the likely winner: that is, to cast their marble in the tin in which the majority of marbles have already been placed. I do not know whether they are planning on having black tins, or fixing them against the wall so you cannot shake them and doing an acoustic test, or what it might be.

The bill also outlines the processes that need to be followed if a re-count is called for. It seems pretty obvious to me that re-counting marbles is not the same as re-counting marked ballot papers. Electoral officers would have to be very diligent if anyone was to be confident about the outcome of any re-count. There is provision in the bill for a recount to occur within 48 hours. How will these issues be addressed?

The Hon. T.G. ROBERTS: In the experience that I have witnessed, you are unable to view the marble after it has been placed. The other issues the honourable member raises are where the community actually sets up returning officers of their own who stand in close proximity to the booths to make sure that the express wishes of the individuals who are placing their votes are carried out.

There are cultural differences whereby over time we have developed a method of democracy that is not one that the APY themselves are particularly used to. It is not one with which they are able to identify their elders who determine their law and culture and police their lifestyle through spiritual connectors and land. It is a foreign democratic process that we have imposed, but it has been modified over time to allow for the cultural acceptance of a form of balloting. This is the government's preference for the introduction of a new form of balloting through and within communities using the Electoral Commission as the agent for supervision; and, with the appeals process through the courts, we are able, hopefully, to put together the formation of a new style of voting that becomes acceptable—either that or it could be reviewed.

As I said, if this does not work, does not produce the results that are required, then I am sure there will be observers that will make recommendations to change the act to make it a more acceptable way of getting an outcome or a determination.

The Hon. J.F. STEFANI: Respecting what the minister is saying about this process and the cultural difficulties and traditions of the AP people, I just find that the system being proposed is obviously quite cumbersome. As I understand it, after the closing of the nominations there is a time lapse of 21 days to get this system up and running. You have to

transfer, if it is allowed by custom, the photograph and the name of the candidate onto a marble—

The Hon. T.G. Roberts: The photograph goes onto the receptacle.

The Hon. J.F. STEFANI: Then it is no longer a secret ballot, because people will know that you are voting for that person.

The Hon. T.G. Roberts: People go in one at a time.

The Hon. J.F. STEFANI: That will take forever, but I am trying to come to terms with what is being proposed and how effective that can be. The other thing that I missed out on asking before was that, during the seven day period from the closing of nominations until the announcement of the election, people will be out in the bush. I have had some experience in those areas, because, back in my former position as a public company director, we sold houses up there and erected quite a number of them in Fregon and Indulkana. They are not the easiest places to travel. We are talking about nominations and time frames that are fine for people in the city or suburbs of Adelaide but probably a bit more difficult in those areas.

The Hon. T.G. ROBERTS: The method of voting that I experienced was quite time consuming, but there was a barbecue running simultaneously to the vote, and the sausage sizzle I think determined the length of time the ballot took. If the sausages looked like running low then the ballot was hastened.

I think the method that has been worked out over time has stood the test of time. That is, that individuals place their marble in a receptacle that has a photograph of an individual on it, and that is then counted. That is done with privacy where it is required and at other times, the same as in our booths, we can help an elderly person in or someone who is disabled or whatever. Those sorts of methods seem to be acceptable to everyone.

There is a certain amount of flexibility in the way in which the ballots are taken, but the time frames did not seem to be too restrictive or did not seem to be upsetting to the people who were voting. We would probably be so impatient that we would go and do our shopping, or do something else, but, when they do get to ballots, APY people find it something they have to do and they do it with import. They are certainly responsible in the way in which they carry out their responsibilities. It is a whole family affair. The children are all brought along, there are balloons, and there are a whole lot of issues that they talk about, as I have said. The balloting always takes place alongside the discussion of a lot of other issues. It is a social event as well as an important political event.

The Hon. R.D. LAWSON: I notice that, in the budget, $35 000 has been allocated to the Electoral Commissioner for the holding of elections on the AP lands. That means that, if 350 people voted, it would cost $100 a vote. If 350 people voted, I think that would be approximately twice the number of people who voted on the last occasion. How did the government arrive at the $35 000 estimate of the cost of conducting an election on the AP lands?

The Hon. T.G. ROBERTS: I guess it was a calculated guess based on the number of people from the Electoral Commission who would be required—the infrastructure support, the airfares, the travelling—

The Hon. Kate Reynolds: Perhaps that is where they got the one polling booth per electorate from.

The Hon. T.G. ROBERTS: I am not too sure of the answer, and I am just speculating that it is a figure that has been looked at, calculated roughly and written into the legislation, and perhaps it is one of those things that may have to change. I do not think that it is a large impediment to the bill.

The Hon. R.D. LAWSON: Moving away from the mechanics of the election, from what source did the government identify the 10 communities which are to constitute separate electorates for this purpose? Were there some criteria such as the number of people, or geographical criteria, or a recommendation from some committee or person? I note, for example, that Umuwa—the Canberra of the lands—is not actually mentioned as one of the 10 places where an election would take place.

The Hon. T.G. ROBERTS: The townships named are basically the same townships that were in the previous election. I think that Umuwa was left off because it was the centre where the annual general meeting took place. This bill reflects, as closely as possible, the previous centres that were discussed by Rolling Thunder as the places where a ballot would be held for an elective representative to be returned. It may be that at a later date there is a recommendation that those centres be changed, but this is the government's preferred position from which to start the process.

The Hon. KATE REYNOLDS: I would like to go back to some of the technicalities of the election. As the minister would know, a number of Anangu are forced to spend long periods of time away from the lands. For example, many Anangu spend significant periods of time in Alice Springs, Adelaide, Port Augusta and Coober Pedy. Some go to these centres because they need to access medical services (such as kidney dialysis) that are not available on the AP lands; some travel for respite from the effects of domestic violence and substance abuse; some are forced to leave the lands to obtain either short or long-term employment, or to undertake education and training courses, or to support their children's education; and some other people are held in correctional institutions away from the lands.

However, I believe that the bill as it stands contains no provision to enable a Pitjantjatjara of or above the age of 18 years who is a member of a community constituting an electorate (page 7) to vote if they are residing outside the lands at the time an election is called and held. Similarly, many Anangu—also for a variety of reasons, including the need to fulfil cultural and familial responsibilities—relocate from their home community to other communities on the APY lands for varying periods of time. The bill contains no provisions that I can find to allow persons to cast an absentee vote: that is, to cast a vote in another electorate. Rather, it would seem that everyone—whatever their circumstances—will be like Joseph and Mary: required to make the long journey home.

The minister has told us that this bill has been based on a local government election-type structure, but this is clearly different from the structure of local government, state and federal elections in the white fella system. So, should the bill be passed, will the government take steps to ensure that all persons not residing within the community wherein their polling booth is located will have access to reliable transportation to and from that polling booth? In fact, whilst my question was about not residing, could the minister also comment about when people happen to be away for a period of time for things such as medical care and so on?

The Hon. T.G. ROBERTS: Rightly or wrongly, the formula at the moment does not reflect a local government model. The only change that was made by agreement was to

include the 10 communities rather than have the annual general meeting and all 10 executives elected from that meeting. The change towards a local government model is to have a PR exercise on behalf of those communities, if you like, where one individual is returned from those larger communities onto the executive. It has been kept as simple as possible to reflect the way in which votes are being taken on the lands at the moment. There was no provision for absentee votes and there was no provision for transport.

The contentious issue could be, as you pointed out earlier, whether offering a ride to someone or getting them transport to a balloting place could be seen as offering a bribe. I would not see it as that. I would see it as it is now: it is up to the voters to turn out because it is not compulsory. The number of people who turn out to vote is generally determined by the transport they can muster at a particular time. Because the 10 communities that have been listed do stretch across the lands, the availability of a polling booth should be reasonably easy, but it would be almost impossible to cast a vote if you had no transport, or if you were ill or disabled.

Because we are trying to make it as close as possible to the informal system that they have now, we have decided on this approach at this stage. Again, if a review process looks at the way in which future ballots need to be held, if they need to become more sophisticated or more closely mirror the way in which local government elections are held, then that is something for future negotiation and discussion. Perhaps it is something that the standing committee could take up as an issue to try to get a formal agreement out of it.

At the moment we are dealing with something that, culturally, not many people in our own governance know or understand. They are unable to grasp the nuances and connectivity to the sophisticated way in which we cast our votes. We are almost moving to an electronic form of casting votes, whereas in this bill we are endorsing a very basic form of participatory democracy. However, as I said, it mirrors as closely as possible what the Anangu have indicated over time through their own participation. They may put their hand up and say that there must be a better or fairer way or that they would like further consideration to be taken and that they would like a more sophisticated or more participatory way of voting. But there are no local government roles up there—there is no local government—and that is something that this government has to look at in relation to what happens in the future.

The Hon. KATE REYNOLDS: Can the minister confirm whether it is the government's view that many Anangu will not be particularly interested in voting? Because that is not my understanding: my understanding is that people want to vote but that they will be prevented from doing so because of barriers like the lack of transport and the fact that they have to relocate from their homelands. I would have thought that it was necessary for the government to take steps—certainly, more steps than are outlined in this bill—to ensure that they have that right to exercise a vote, and not simply say, 'It's too hard,' or, 'They're not interested.'

The Hon. T.G. ROBERTS: I hope I have not given the impression that they are not interested: they do cast their vote seriously and in a participatory way. They make a big day out of the annual general meeting.

The Hon. Kate Reynolds: But they will not be able to vote at the annual general meeting any more.

The Hon. T.G. ROBERTS: No; I understand that. I would be surprised if this method of voting does not result in a far better rate of participation than the annual general meeting, where the votes have been as low as the high seventies in communities of 3 000. It may be that there are not 3 000 people on the lands eligible to vote, but there may be 2 500. With the movement of the ballot boxes into the 10 large communities (which have an average size of 100, although some communities are much larger), I would be disappointed if 400 or 500 people, or more, did not vote. That is very different from the numbers of people who turn out to vote now. It is the very mobile and the very interested who turn out to vote at the annual general meeting. As I said, rain or extremities of weather can be a factor. If there is a death in the community, the community stops, and the grieving time would stop the whole process. That does not happen in other cultures.

If these issues become impediments to maximising the turnout, they need to be discussed in relation to how we handle elections in the future. However, at the moment, we are modelling legislation closely on what happens at the moment so that we do not come into conflict with the Anangu about the way to proceed. We certainly would not like them to use the legislation as an excuse for not participating because it has been made too difficult. We certainly would not like to see the first ballots invalidated by intimidation or by a postal system that has been interfered with. We would like to see the legislation used as a model for refinement in the future.

The Hon. J.F. STEFANI: I ask the minister whether there is a possibility of considering proxy voting in some circumstances? For example, people might be ill or have a legitimate reason for not being on the lands—legitimate in the sense that it might be considered to be an unusual circumstance.

The Hon. T.G. ROBERTS: As I said, voting is not compulsory, and there are no penalties for not voting. If changes were made to the current system and if somebody wanted to cast a vote but, for a particular reason, could not, the risk is that the form of voting would be so different that it would not be acceptable to the Anangu. As imperfect as it is, we have tried to mirror the system as closely as possible so that it does not seem too foreign to the AP in the way they cast their vote. We see this as a trial model, and we would like to see it endorsed by legislation as the preferred model.

However, as I said, the review may consider some of the members' suggestions of achieving high participation rates. At this stage, we are trying to keep it as simple as possible and to keep it to the 10 communities, with the electoral commission as the overseeing body. We hope that there will be a good turnout and that the results will confirm the leadership in the eyes of the Anangu for the next 12 months, which will be a difficult period, and it will carry over into the review period of the recommendations for major change as to how democracy will work in the future.

The Hon. KATE REYNOLDS: I return to some issues surrounding the distribution of information. Pitjantjatjara and Yankunytjatjara are the mother tongues of the majority of adult persons residing on the APY lands, many of whom have low English language skills. The vast majority of adult Anangu have extremely poor literacy skills in both their mother tongue and English. A number of the processes outlined in the bill appear to assume that most Anangu are literate. I will give three examples. Clause 6(3) provides:

> (3) A person wishing to nominate must nominate in writing and lodge their nomination with the relevant electoral official.

Clause 17(3) provides:

(3) The returning officer—
(a) must notify all candidates, in writing, of the result of the election.

Clause 9(2) provides:

(2) A candidate may nominate a person (not being a candidate) to represent him or her during the counting of votes by signing a scrutineer's form.

The bill does not indicate whether the processes I have listed may be completed in the subject's mother tongue, in which case electoral officials will need to be able to read Pitjantjatjara or have access to a neutral or non-aligned interpreter, nor does it indicate whether it must be completed in English, in which case the voter or the candidates will require access to a neutral interpreter.

It is important that members understand that addressing issues of language and communication should not be underestimated. Just within the past couple of months, we have seen Anangu indicating that they have signed a petition presented to Bob Collins without understanding what they had signed. Sadly, accusations such as this are quite common about people on the lands. Unless these language and communication issues are properly addressed, similar accusations may continue to undermine the results of any election held on the APY lands. I will ask a question about that in the moment.

The low level of effective literacy on the lands also requires candidates and their supporters to campaign to the electorate in face-to-face conversations, perhaps over the telephone and, especially, through the community radio station, Radio 5NPY. It seems to us that, in requiring a radio station to fairly and equally represent all candidates, monitoring that requirement should be the responsibility of the State Electoral Office. This also means that the state electoral office must also have very ready access to non-aligned Pitjantjatjara speakers. Will the minister address the issue of the use of the radio station in campaigning and the role of the state electoral office in monitoring that?

The Hon. T.G. ROBERTS: Over time, the radio station has been used to promote individual causes, but that issue is built into the equation when people make their decision on how to vote. Certainly, the language has an oral strength rather than a written one, but Anangu participate in both state and federal elections. As I said, they take elections seriously, and they know their candidates intimately. They are certainly enthusiastic about ballots, as can be seen from the way they carry out the responsibility of voting.

However, there is no doubt that there are some imbalances in relation to canvassing. Rolling thunder showed that, if you want to directly inform Anagu, the best way in which to do that is by engaging them by canvassing through direct contact. There is no doubt that some of the methods would confuse people. If literature is distributed that is confusing or misleading, I am sure the returning officer or Electoral Commissioner would view that with cause for concern. If attempts were made to subvert or slander candidates, I am sure the Electoral Commissioner would view that matter with concern, and clause 5 covers a little of that.

I am sure that we are not going to get a perfect system that is a pure democratic reflection of people's views, because they view democracy differently than we view it. Most of their allegiances are already tied in through family and language groups. There is a whole range of reasons why people support individuals within communities that have nothing to do with the way in which we make our choices. However, there are some similarities as to why people support various people within the communities. Clause 5 provides:

(1) The returning officer will be responsible for publicity of an election in each electorate (and the community administrators in relation to each electorate may provide assistance in relation to such publicity).
(2) Publicity of an election under these rules must include—
(a) the description of the election process; and
(b) the time and date when voting shall take place; and
(c) the location where—
(i) nominations will be called; and
(ii) voting will take place,
in each electorate;

This amendment applies to locations. Some of the concerns we have in relation to the comparison with our own democracy do not apply, but there are other concerns they would have that we have missed in relation to the legislation that will emerge after the first election takes place. That is where the electoral officer or the Electoral Commissioner would make a report and perhaps make recommendations, which would form part of a review. Lessons will be learnt out of the first election, and the government would be foolish not to take those lessons into account. As I have said, the standing committee can send an observer, if invited, to observe the results of the election to ensure that the result is fair and brings about what the government is trying to do, which is to get an engagement process between the Anagu and our own governance and to ensure that the delivery services are provided.

[Sitting suspended from 6.05 to 7.45 p.m.]

The Hon. KATE REYNOLDS: Under section 5, 'Distribution of information', the bill allows that local community administrators may, within their electorate, provide assistance in relation to publicising the election. Because the term community administrator is not a defined term within the bill, we are left to assume that this refers to what are more commonly known as municipal services officers or MSOs. Assuming that this is the case, it should be noted that, at the last election, at least two MSOs stood as candidates for the executive board, one of whom was successful. Given that I am sure all members would agree that it is inappropriate to establish an electoral system whereby some candidates may have oversight for the manner in which electoral information is distributed throughout their community, how will this be corrected?

The Hon. T.G. ROBERTS: Apparently an MSO is not defined; it is vague. If the term has to be clarified, it might have to be done in another place. At the moment, people's understanding of what an MSO is could be different from what the bill tries to describe. It would be up to the returning officer or the Electoral Commissioner to determine the parameters by which an MSO could proffer advice or participate or at what level they could do that. As to whether they would have more influence than an ordinary individual within a community, the answer is probably yes because they do have some influence and sway over the way funds are distributed, etc. It certainly would not be the government's intention to allow anyone to take an unfair advantage of a situation or a position that they hold within the community over and above an ordinary citizen or an ordinary community member.

The Hon. KATE REYNOLDS: Is the minister saying that he understands that the term community administrator

means MSO, even though nobody is really clear what the MSO might do?

The Hon. T.G. ROBERTS: I think that is correct. What we are talking about is a community administrator who holds his own position within the community as a community organiser or leader, if you like, on a salary. If it is an MSO, we will have to clarify that.

The Hon. R.D. LAWSON: I think it is correct to say that, whilst there are municipal services officers (MSOs) at some of the places mentioned in the 10, there are other communities that are of insufficient size to support a municipal services officer, as that term is currently employed. Am I correct in that?

The Hon. T.G. ROBERTS: Yes.

The Hon. KATE REYNOLDS: Can we have on the record that this will either be dealt with in the other place or dealt with now? Clearly there is a problem that needs to be resolved.

The Hon. T.G. ROBERTS: My advice is that it will be dealt with in another place because there is no-one here to describe or give instructions as to which term would operate. The general understanding of the term, as the Hon. Robert Lawson has said, is that it is a municipal services officer, but they only operate in some communities. In other communities different terminology is used for community leader.

The Hon. KATE REYNOLDS: If I have understood this correctly, it is not the government's intention to have a provision in this bill that would preclude MSOs from standing as candidates if they wished to.

The Hon. T.G. ROBERTS: If an MSO satisfies the other requirements of the act, there is no reason why an MSO could not stand.

Clause passed.

New clause 9.

The Hon. KATE REYNOLDS: I move:

Page 13, after line 32—Insert:
9—Insertion of section 4A
After section 4 insert:
4A—Expiry of act
This act will expire on 31 December 2005.

We move this amendment to cause this act to expire on 31 December 2005 because we are very concerned about the obvious flaws within the bill, and, of course, as I mentioned previously, the unseemly haste in which it has been developed, particularly because of the lack of consultation with Anangu. We are willing to see two elections proceed to test the workability of the bill, but we firmly believe there needs to be a sunset clause, which also would have the effect, we believe, of ensuring that the review mentioned a number of times by the minister was carried out with a very clear and distinct time line, known both to the parliament and to the communities affected by these current changes.

Previously, many flaws, faults or deficiencies within the bill have been identified and, if we had the select committee's report, I suspect they would be much clearer to the parliament now. If the amendment is supported, it would give the parliament 19 months in which to conduct a review of the existing act, so that review could be given proper terms of reference; it could be under way; it could receive submissions from a wide range of individuals, organisations, services and so on; and it could come up with a number of models or amendments to the act, provided there had been full and thorough consultation with Anangu and other organisations.

These amendments could deal with a number of issues and deficiencies we have discussed during debate on the bill. It also would allow time for amendments to be taken back to communities. If this amendment proceeds, then that would mean that changes to the existing act could be brought back to the parliament in, say, September 2005 and be dealt with prior to the sunset clause's causing the bill to expire in December 2005. It also would give a very good opportunity for the Aboriginal Lands Standing Committee to take a more active role in the review of the act. I put on the record for avid readers of *Hansard* and people who might not understand what the Aboriginal Lands Standing Committee was set up to do, the first four functions of the committee, as follows:

(a) to review the operation of the Aboriginal Lands Trust Act 1966, the Maralinga Tjarutja Lands Rights Act 1984 and the Pitjantjatjara Lands Right Act 1981; and

(b) to inquire into matters affecting the interests of the traditional owners of the lands; and

(c) to inquire into the manner in which the lands are being managed, used and controlled; and

(d) to inquire into matters concerning the health, housing, education, economic development, employment or training of Aboriginal people; and—

any other matter concerning the welfare of Aboriginal people. I think all members would agree that these issues sit fairly and squarely within the debate we have been having on this bill. The committee has seven members: it is chaired by the minister; and it has two members from Labor, two members from the opposition, and Kris Hanna MP and me. It can take a bipartisan approach in dealing with a number of issues that have been raised in recent months, where the spotlight has been put on the politics and moved away from some of the real issues facing the people and communities on the lands.

Certainly, there is time for the parliament to decide to undertake a proper, comprehensive and thoroughly consultative review of the act, and this sunset clause is intended to do that. I understand the complications of inserting an expiry date in an act that sets up a body corporate, but I do not think that should undermine the need for a complete review of the act within a set time line to deal with the many issues of which the parliament is now aware.

Having said all that, unless the opposition has changed its mind in the last couple of hours, I do not expect that this amendment will receive wide support. So I ask the minister whether he would consider appointing a suitably qualified and experienced person of the calibre of someone such as Professor Mick Dodson—I am not necessarily suggesting that particular individual but, rather, someone of that calibre—

The Hon. Sandra Kanck: Elliot Ness?

The Hon. KATE REYNOLDS: No, not Elliot Ness—to work with the Aboriginal Lands Standing Committee to review the act in the way that I mentioned before—in a proper consultative way—so Anangu people and the traditional owners are fully involved in the review; so amendments can be brought back to the parliament by September 2005; and so that the commitment the minister has made a number of times during debate on this bill can be kept.

The Hon. T.G. ROBERTS: The government's position is to oppose the amendment put forward by the Democrats in relation to the expiry of the act. We believe that, if it related to a section of the act, a sunset clause might be appropriate but, in relation to the whole act, what the Democrats probably are seeking is an undertaking that the consultation processes (as outlined) do take place. It is our intention to hold the review within a 12-month time frame. Many issues need to be settled in the shortest possible time frame. Having said that, sometimes there are difficulties in settling issues. I

would not expect it to run past the date set by the sunset clause.

The issues at which we would be looking during a review process would include administration and local government in a streamlined way to enable infrastructure, service delivery, and administration generally on the lands, which would include a section of the act relating to government elections. It will be done in a most uncertain political climate in that ATSIC and ATSIS will not be with us after July 2005. Certainly, state governments will have to look at funding regimes in relation to the commonwealth, so there will be a range of issues in which the committee could involve itself in a very short time, including taking evidence. Even if it is an interim report in relation to some of the important matters the honourable member has raised, I give an undertaking that, as chair of that committee and as the minister within the government, that would be my intention, bearing in mind that cabinet has a final say over those sorts of issues and matters.

In terms of the policy, that will be our intention: that is, to look at all those issues during the review process so that we have an orderly structure for dealing with remote, regional and metropolitan Aboriginal structures and funding streams. I give that undertaking to the honourable member to ensure that the time frames in which we do operate are reasonable and so that the committee itself can make recommendations on interim reports. Whatever may be the priority for the committee in relation to what it wants to investigate, interim reports will be able to be handed down within time frames that are within the province of the committee to determine.

Certainly, Mick Dodson did a good job in reviewing the AP lands with his first report, and I think he has broad respect for this parliament. I also think he has the broad respect of the community. As an Aboriginal person who is involved in leadership development and training and education within the Aboriginal community, he has a lot of support. I cannot see that the incorporation of Mick Dodson in any plan of the review would be ruled out.

I suggest that, if we did not have proper consultation with Anangu, we would not be paying them due respect, and if we did not incorporate and adopt changes within the office of Aboriginal affairs, DAARE and this government we would not be doing a service to our Aboriginal residents because of their dire circumstances right throughout the state.

The Hon. KATE REYNOLDS: I do not think that indigenous people, particularly Anangu, feel that they have been dealt with respectfully in the development of the amendments to this bill. I think there were some inconsistencies in the minister's remarks—or perhaps I just have not interpreted them properly. I think the minister initially said that he would support a 12-month time frame for a review, but in his later remarks it was a little more general. Would the minister support a review within a 12-month time frame from now, for instance, so that amendments could be brought back to the parliament in September 2005?

The Hon. T.G. ROBERTS: The government is committed to a review process within the next 12 months. The reference to an extended time frame would be around some of those issues at which we will be continually looking. I would be surprised if we got the issue of governance right the first time, or even the second time. Aboriginal affairs in the remote regions is a very difficult area. A whole range of governments in the past 30 years have attempted to get it right. I suspect that each state would put up its hand and say that they have failed to some degree; some miserably, some less so. Some areas have been let down more badly than others but, in general terms, if anyone were to stand up and say they have all the answers to all the questions that need to be posed to change the lives of Aboriginal people in Australia, I would look at them in a very quizzical way.

The best thing that we can do is to achieve the cooperation that is required in a bipartisan manner to project in a unified way what non-Aboriginal legislators believe is a way to proceed, and by then we can show some leadership. I think that, if we can show some leadership as to how we want to go about our business for change and incorporate that in a consultative approach to gaining the respect of Aboriginal leadership that has been let down on so many occasions, we are halfway there. I think the question now is partnership with responsibility. If we move away from that, we will lose confidence. I think there are enough people of goodwill to try to recapture some of the spirit of reconciliation that has been around for a while, and I think this gives us an opportunity to be able to do that.

The Hon. KATE REYNOLDS: The minister said earlier that he would not rule out appointing someone of the calibre of Professor Mick Dodson. Will the minister rule that in?

The Hon. T.G. ROBERTS: As matters associated with budget spending cover a multitude of ministerial responsibilities, I would have to run that past cabinet. I will take the sentiments that have been expressed by the honourable member into that area and, hopefully, we can come away, in part, with a solution to engaging specialists of Mick Dodson's ilk to assist with the review process in a number of the areas that we have listed, including local government administration, leadership development, capacity building, service delivery, a review of the act and a review of the structures that we need to engage—the commonwealth, church organisations and other non-profit funding bodies.

The Hon. SANDRA KANCK: The answer that the minister has just given is probably reason for an amendment such as that which my colleague has moved. The minister has said that he cannot guarantee something like this because of budgetary constraints or ramifications; he cannot guarantee that the money will be available, so he cannot—

The Hon. T.G. Roberts: No, I haven't got access to the funding.

The Hon. SANDRA KANCK: I understand that, and that is part of the problem. By having a sunset clause, the parliament has a tool that gives an instruction to government about what we want done; about the fact that we want something reviewed. I know that our current minister's heart is definitely in the right place with respect to this issue. But, if money is suddenly cut back, the reviews that we are hoping to have may not occur, hence the need for a sunset clause such as we have.

Members would have heard earlier today the notices of motion with respect to noting the select committee's report into the Pitjantjatjara lands. Although that report is not quite with us, it is fairly clear from the notice of motion that it is on its way, because the notice of motion referred to tomorrow. While I cannot talk about what is in that select committee report, I can talk about my own views regarding this bill.

One of the things that concerns me about this bill is that it sets in concrete one-year terms for the AP executive. It has been demonstrated on the lands on a number of occasions now that annual elections are destabilising for the Anangu. State parliament has a four-year term. Imagine what it would be like if our state parliament had to be re-elected every 12 months. We would not get anything done: there would always be grandstanding. Local government has three-year

terms and yet this parliament, in its wisdom, is basically institutionalising one-year terms, knowing the history of destabilisation, and just a day before the select committee is to make recommendations about possible amendments to the Pitjantjatjara Land Rights Act.

I think that the opposition should seriously consider supporting this amendment for a sunset clause. As my colleague has said, this would give two elections, in practice, to see whether our prediction about its not working—about the destabilising of annual elections—is correct. If we are wrong, and all the work that anyone else does in the interim shows that we are wrong, it will be a simple matter of parliament's revisiting this in 18 months and saying, 'Your worries were not of concern and we can go on doing this on an annual basis.' I also think that the opportunity to have a look at this in 18 months could allow us, for instance, to look at this methodology of voting to see whether or not there has been a way to educate the Anangu about different ways of voting so that we do not have to rely on what is, basically, a first past the post method of voting.

I heard what the minister had to say; that he would be surprised if we got it right the first time, and probably even the second time. So, he has indicated with his own argument a need for something like this sunset clause. I urge the other members of this chamber who have not yet declared their position to support this sunset clause.

The Hon. T.G. ROBERTS: I will just be quick. I have not ruled anything out. Basically I am saying that we have a commitment to a one year life for the election this time. During that period there will be a review process that looks at the extended term. There is a general view around that it gets linked. If a local government model gets picked up, it will be a three year term that is incorporated into any change if we are going to review the act with local governance in mind.

So, we will be looking at a shorter time frame for the implications of moving to a different form of governance with an extended term. I think that is something that I can give a commitment to within the time frames we are talking about. To move a sunset clause to an act takes the time frames out to 18 months, and I think that probably moves against your amendment. The only criteria you are moving on is the basis that you do not think I can swing the numbers to enable it to happen. The safeguard in that is parliament itself. The standing committee itself can look at and make recommendations to government based on its investigations.

The Hon. Kate Reynolds: I will.

The Hon. T.G. ROBERTS: You can then use the parliament to draft a private member's bill, or whatever, to bring that about. That is a consideration that needs to be taken. There is commitment by all parties to try to change the circumstances in which we find ourselves now.

The Hon. R.D. LAWSON: The opposition does not support the amendment moved by the Hon. Kate Reynolds. We believe that this bill is a good measure. It is timely and it is a beneficial measure. It is not necessarily just a temporary measure. If it is found to work, we will commend it and hope that it will continue for years into the future. We believe that it would be inappropriate to put a sunset on a measure of this kind, which is, as I say, beneficial, timely and appropriate.

The Hon. Sandra Kanck suggests that a longer than 12 month term would be appropriate for members of the AP executive board. That may or may not be the case, depending upon the functions that parliament wishes to confer on the AP executive board. It may well be that, as the government, the parliamentary committee and the community generally advance through this review process, it is considered inappropriate for the AP executive board to have conferred upon it functions like overseeing the delivery of services, planning for expenditure of triennial funding and the like. It might well be that it is decided that those functions should be conferred on some other body.

If that is the case, it might be quite appropriate for the AP executive board to continue to have only a one year term and to be a representative body to represent the people as land holders—merely a land holding body. If it is merely a land holding body, it is probably unnecessary to have lengthy terms. I think that, when the honourable member says, 'We are all agreed that it should be a three year term,' it is putting the cart before the horse. We must decide what it is that the AP executive board will be charged with, and then decide with those responsibilities what the appropriate term is.

The Hon. Kate Reynolds in moving her amendment envisages that the Aboriginal Lands Parliamentary Standing Committee will have certain roles and responsibilities in relation to the review. It will, but I think it is important to realise that that body was established really to scrutinise the activities and performance of government to gain a better understanding, which can be passed on to this parliament as a legislature of issues on the lands. For far too long, these very remote lands have been remote not only from service providers in the Adelaide metropolitan area but also remote from this parliament.

I believe that one of the single functions of the parliamentary standing committee will be to ensure that both houses of this parliament are better informed on issues, and also that this parliamentary committee does have the opportunity to utilise research services and to compile information, not only about the Pit lands but generally about Aboriginal lands throughout the state. Its function is not to be some sort of supervisor of government. That is the responsibility, in our system of government, of the elected government and the executive. The parliament is a legislature. We look at legislation, whilst of course we do scrutinise what is being done. I do not see our position in believing that this is an appropriate amendment which should not be sunsetted is inconsistent with any sort of wide ranging review.

We are certainly very happy to participate in a wide ranging review. On that subject, I feel that I should mention that I believe, when the minister summed up on this bill, he referred to Chris Marshall. He suggested that Mr Marshall had a particularly narrow view of what his role was. I think by implication, when the honourable member mentions Mick Dodson, she is suggesting there is somebody with a wider vision. I do not believe, with the greatest respect to the minister, that he paid due respect to the considerable achievements of Chris Marshall in devising the community development model that he was working on.

I know it suits some people on the lands who were not Mr Marshall's supporters to denigrate him, but I believe, as do other people who have had a great more to do with the lands than I have had, that Mr Marshall was on the right track, and his contribution to the select committee, the report of which we will be seeing tomorrow, was an important contribution, and one that has not been sufficiently valued.

The minister said that the brief given to Chris Marshall by the previous government was too narrow. Once again, I believe that it is incorrect to describe the previous government as having given a brief to Chris Marshall. Mr Marshall

was actually appointed by the AP executive board. That appointment was encouraged by ATSIC and by other Aboriginal organisations. He was not the agent of the previous government.

New clause negatived.

Schedule and title passed.

Bill reported without amendment; committee's report adopted.

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

That this bill be now read a third time.

The Hon. KATE REYNOLDS: I have a brief contribution, you will be pleased to hear. I would like to put on the record that we still believe that this bill is premature, that it is flawed in both the processes of its development, and flawed in its provisions and in its intent. We believe that this bill will contribute to destabilising Anangu and, to put it mildly, we still believe that the bill and some of the comments during the debate send some very disturbing signals to indigenous people. There were some good signals sent, but I think that the disturbing signals far outweigh those positive messages. We will continue to oppose the bill.

The council divided on the third reading:

AYES (14)

Dawkins, J. S. L.	Evans, A. L.
Gago, G. E.	Holloway, P.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Ridgway, D. W.
Roberts, T. G. (teller)	Schaefer, C. V.
Sneath, R. K.	Stephens, T. J.
Xenophon, N.	Zollo, C.

NOES (3)

Gilfillan, I.	Kanck, S. M.
Reynolds, K. (teller)	

Majority of 11 for the ayes.

Third reading thus carried.

Bill passed.

PITJANTJATJARA LAND RIGHTS (EXECUTIVE BOARD) AMENDMENT BILL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I seek leave to make a personal explanation.

Leave granted.

The Hon. T.G. ROBERTS: Some time yesterday evening I made a statement, which I will read:

> We are saying that it will clear the obstructions that are being laid at a political level from those people who oppose the position as it stands at the moment. Cabinet made the observation that it would be difficult to get a lot of the problems sorted out on the basis that the previous administration—

and it goes on. What I meant to say was that the community made the observation, not cabinet. It is basically the AP community that I was referring to, not the cabinet.

NATURAL RESOURCES MANAGEMENT BILL

In committee (resumed on motion).

(Continued from page 1705.)

Clause 13.

The Hon. CAROLINE SCHAEFER: Prior to the dinner break I moved an amendment that would have the effect of allowing three people nominated from a panel of six by the Farmers Federation to be members of the council. In the absence of any contact with anyone during the dinner break, I will proceed with my amendment and take it to the vote.

Amendment negatived.

The Hon. CAROLINE SCHAEFER: I move:

Page 26, after line 31—Insert:

(2a) A person named on a list submitted by the LGA under subsection (2)(b) must be a member of a council at the time that the list is furnished to the minister.

This amendment seeks to ensure that the representative of the Local Government Association on the NRM Council is a serving member of council and is, therefore, an elected representative of the people—not simply a nominee of the council or an officer of the council. When read in *Hansard*, that probably will not be very clear. I am talking about the Local Government Association nominee to the Natural Resource Management Council. When I talk about a 'serving member of council', I obviously mean a serving member of a local government council.

The Hon. T.G. ROBERTS: We oppose this amendment. I am advised by the Local Government Association that it conflicts with LGA policy. The policy is that it be merit based, that is, the best skilled person. This amendment is restrictive, so we oppose it.

The Hon. SANDRA KANCK: The LGA has not contacted me about this, so l have to accept what the minister has said, namely, that the LGA says that it is against its policy. Under those circumstances, I do not support the amendment. It appears to be a sensible amendment but, on the basis of what the minister has said, I do not support it.

The Hon. NICK XENOPHON: I support the amendment. I understand the arguments of the LGA. However, in terms of accountability, I think that it is much better to have an elected member of council rather than a bureaucrat for interaction at the coalface. I think it would be a good thing with respect to representation. In the circumstances, I support the amendment.

The Hon. A.L. EVANS: In talking to the LGA, it seemed not to want the amendment.

The committee divided on the amendment:

AYES (8)

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

NOES (8)

Evans, A. L.	Gago, G. E.
Holloway, P.	Kanck, S. M.
Reynolds, K.	Roberts, T. G. (teller)
Sneath, R. K.	Zollo, C.

PAIR(S)

Redford, A. J.	Gazzola, J.
Stefani, J. F.	Gilfillan, I.

The CHAIRMAN: There being eight ayes and eight noes, I cast my vote for the noes.

Amendment thus negatived.

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

Page 26, line 33—Delete 'a reasonable time' and substitute '2 months'.

This amendment allows peak bodies two months to provide submissions regarding the NRM Council membership. The opposition was concerned that 'a reasonable time' was subjective and that a set period should be legislated. This

amendment follows the recommendations of the interim NRM Council to set a time period at two months.

The Hon. CAROLINE SCHAEFER: The minister's amendment is the result of a compromise reached by the two major parties between the houses. We support the amendment.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 27, after line 9—Insert:
(ai) conservation and biodiversity management;

In my second reading speech I indicated my concern that, in a bill about natural resources, skills or expertise in conservation and biodiversity management was the third criterion. As a matter of principle, I think it should be the first criterion. My next amendment to this clause is to remove subparagraph (iii) completely so that conservation and biodiversity management is taken from one part in that list and put higher up in the order.

The Hon. NICK XENOPHON: My question is directed as much to the Hon. Sandra Kanck as the government. My understanding, from a drafting point of view, is that changing the order just because something is half way down the list of things that need to be considered does not mean that it is less important: 'conservation and biodiversity management', wherever it appears in those criteria, is just as important, irrespective of the order in which it is placed. From a drafting point of view, I would be grateful if the minister could assist me with that. To paraphrase, and to give the *Reader's Digest* version of the question: does it make any difference in terms of the weight of the criterion referred to in the Hon. Sandra Kanck's amendment whether it appears at the top, middle or bottom of the list?

The Hon. T.G. ROBERTS: The short answer to that is no. However, if people want to see it in lights and prioritise it as No. 1, we have no objection at this stage.

The Hon. CAROLINE SCHAEFER: You might be surprised, Mr Chairman, but I do have an objection. I have an objection to semantics, and this is semantics at its worst. I object to the government agreeing to it. Does that then mean that water resource management is less important than soil conservation because it is at No. 4, and so on? Should we then go through and regrade the entire list? I object to it, because it is a trivial amendment.

The Hon. SANDRA KANCK: If I thought the amendment was trivial, I would not have moved it. Although I understand that all 12 of the criteria are things the minister will take into consideration when he is making his decision, as I said when I moved it, it is a philosophical thing. It is not a practical thing; it is philosophical. Usually, when you come up with a list of things, you tend to put the most important thing in your own mind to the top of the list and, as you think of others, you add them on to the list. Given that this is a natural resources bill, I find it concerning and not trivial that conservation and biodiversity management sort of slipped to third place when someone was thinking up the list.

The Hon. T.G. ROBERTS: If it is just a priority setting on the basis of personal preference rather than reshaping the list to prioritise it, we will be sticking to the list we have.

Amendment negatived; clause as amended passed.

Clause 14.

The Hon. CAROLINE SCHAEFER: I move:

Page 28, line 7—Delete '4 years' and substitute '3 years'.

This amendment seeks to make the term of office of a councillor three years, not four. This would make a maximum sitting term six years, and we consider that to be a more appropriate time frame for such a position.

The Hon. NICK XENOPHON: I ask the Hon. Caroline Schaefer and, indeed, the government, in terms of other pieces of legislation that deal with resource issues or other boards, what tends to be the time frame? Is it three or four years? Is there any uniformity or consistency in similar areas of administration?

The Hon. T.G. ROBERTS: It is four years for the water catchment boards. We want to keep it at four years in order to keep the cycles of change even, so that each two years they are looking at changes rather than shorter cycles.

The Hon. NICK XENOPHON: As I understand the minister, he wants consistency in the biodiversity of board positions. I support the government in this matter.

The Hon. SANDRA KANCK: I have just done a quick flick through my bill folder and checked my midwives bill, and the midwives board will be for a three-year term. I checked the Medical Practice Bill, and the Medical Practitioners Board will be for three years. So, I am going to ensure consistency and support the opposition amendment.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 28, line 10—Delete '8' and substitute '6'.

This amendment is consequential to the previous amendment.

Amendment carried.

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

Page 28, after line 20—Insert:
(da) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or

This amendment ensures that, if a member of the NRM Council becomes bankrupt, their position will fall vacant. The amendment has been requested in another place.

The Hon. CAROLINE SCHAEFER: This is another compromise amendment, as I understand it, and the opposition will be supporting it. However, we sought and thankfully received a briefing last night and there was an agreement from the officers that they would check as to some ambiguity within the wording of that amendment. I seek an answer to that.

The Hon. T.G. ROBERTS: The wording is standard and exists in the Water Resources Act.

Amendment carried; clause as amended passed.

Clauses 15 and 16 passed.

Clause 17.

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

Page 29, line 37—
After 'under subsection (1)(i)' insert:
(other than a function that is not, in the opinion of the NRM Council, a significant extension to its current functions)

This amendment clarifies that reports of additional functions assigned by the minister to the NRM Council are not required if they are not considered to be significant functions.

The Hon. CAROLINE SCHAEFER: This is one of a number of amendments that we have referred to as the triviality amendments. They are not at all trivial. There was a great deal of debate between the opposition and the government in another place with regard to the use of the word 'must' enforcing certain actions and the use of the word 'should'. Compromise has been reached to say that such an action must take place as long as it is not of a trivial nature. This is one of those amendments and we will be supporting it.

Amendment carried; clause as amended passed.

Clauses 18 and 19 passed.

Clause 20.

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

Page 31, lines 7 and 8—
Delete 'received under part 3' and substitute:
and NRM groups provided under this act

This amendment clarifies that the annual report that the NRM Council provides to the parliament must include the reports of regional NRM boards and of NRM groups.

The Hon. CAROLINE SCHAEFER: We support that amendment.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 31, after line 15—Insert:

(5) In addition, if the minister fails to lay an annual report of the NRM Council before both houses of parliament by 31 December in any year, the minister must—
(a) ensure that a copy of the report is furnished to the Natural Resources Committee of the parliament by that date; and
(b) until the report is laid before both houses of parliament, furnish to any member of parliament, on request, a copy of the report.

This again is a compromise, as can be seen by the identical amendment of the minister. It requires the minister to deliver the annual report of the Natural Resources Management Council to both houses of parliament by 31 December or in any case supply a copy to the parliamentary Natural Resources Committee and to any member on request.

Amendment carried; clause as amended passed.

Clause 21 passed.

Clause 22.

The Hon. CAROLINE SCHAEFER: I move:

Page 31—
Line 24—Delete 'The minister may by notice in the Gazette' and substitute:
The government may, by proclamation made on the recommendation of the minister
Line 26—Delete 'The minister should, in establishing NRM regions' and substitute:
The minister must, in formulating a recommendation for the purposes of subsection (1)

I understand the second of these amendments is consequential to the first one.

Amendments carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 31, after line 30—Insert:

(2a) The initial proclamation dividing the state into NRM regions under subsection (1) must provide for at least 10 regions.

This is a very important amendment to the opposition. We would seek to increase the number regions. It is our belief that the region which includes all of the Adelaide Hills, the Mount Lofty Ranges, the Barossa Valley, the Northern Adelaide Plains, the Southern Vales, the Fleurieu Peninsula and the Adelaide metropolitan area, and which therefore accounts for something like two-thirds of the population of the state and which has such a diversity of natural resources to be managed, is by definition unworkable. That would add some expense to the administration of this bill but, surely, having gone through the agonies we have to set it up, it is better to establish something that is workable at the beginning. This is a clause which is very important to the opposition.

The Hon. T.G. ROBERTS: The position of the government is not shared with the opposition. The opposition's position does not create a unified approach to the hills zone, and the government's position is the same as the LGA's position. The councils have accepted the proposed regional boundaries on the basis of the bill as it stands. It provides a starting point that can be reviewed with the benefit of some practical experience at a later date, and also lines up the boundaries with which we are working with the commonwealth.

The Hon. NICK XENOPHON: I prefer the government's position. I understand the opposition's argument about population and the like, but if this bill is about consistency and approach in terms of the management of those natural resources, then splitting the Adelaide Hills does concern me. As I understand it, essentially it is one catchment area. There is a common thread in terms of concerns for the management of natural resources. For those reasons I support the government's position.

The Hon. CAROLINE SCHAEFER: I think the Hon. Nick Xenophon perhaps does not understand. At this stage I do not seek to draw lines on a map. However, I think it would be quite possible to achieve that which our amendment seeks without splitting the Adelaide Hills. The region that is encompassed under the current bill goes as far north as Two Wells, encompasses the Adelaide Plains and takes in the Fleurieu Peninsula to Goolwa, Port Elliot, Victor Harbor and Cape Jervis. Given that we have nine people on these boards, it would seem to be simply more practical to have smaller areas with greater similarities of interests than would be encompassed by such a huge region. I think it is easy for us all to focus on natural resource management issues outside the metropolitan area, but many issues with which this bill will deal are very much urban related. Again, I find it difficult to work out how whoever is on the boards involved will manage such a huge and diverse region.

The Hon. SANDRA KANCK: The Democrats will not be supporting the amendment. I think it is actually quite important for this particular region to remain intact. I may be wrong, but I suspect that the requirement to set up committees within each individual board can probably go some way towards dealing with problems such as the size of the area about which the honourable member is speaking. Committees can look at a particular area within the authority of that particular board. I also point out that we have a federal electorate which fits largely over that same area (the electorate of Mayo) and which goes from the southern Barossa all the way down to Kangaroo Island. I think it is not unmanageable. Given that we also have NRM groups functioning under that, it does not seem to be a problem.

The Hon. J.S.L. DAWKINS: Will the minister advise how many local government areas are contained in the region we are discussing compared with the average number of local government bodies in the other regions?

The Hon. T.G. ROBERTS: It is 26 local government areas, but the government's intention always has been to make the amalgamation processes easier for voluntary amalgamation. Certainly, we would like to see fewer councils within the hills region.

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

The Hon. T.G. ROBERTS: Local government carries out different functions. We have a geographic zone that has a lot of unified problems. There are a lot of geographical reasons for keeping it to one zone. The framework we have does not limit or set a number of however many zones it will be. It is not that we have said that zones will be so large they will be unmanageable. The Hon. Sandra Kanck is correct. Groups are working at ground level that will have the interest of the communities at heart and work together with the boards.

Ultimately, the information that is required to protect the natural resource management boards and plans will work effectively. I do not think there is anything of which to be afraid.

The Hon. J.S.L. DAWKINS: I thank the minister for his answer. Given not only the number of local government bodies in that zone but also what the Hon. Caroline Schaefer has said about the variations in the sub-regions within that large region, it is an enormous population when compared with other regions. I think there will be competing views about what should happen in that region. For that reason, I believe this region is unwieldy and unworkable. As someone who lives at the northern end of it, I believe we have very little in common with the other end of the region. I do place on the record my concern about the large number of local government bodies contained within that region compared with the average for the other regions proposed for the state.

The Hon. CAROLINE SCHAEFER: In spite of the fact that my other occupation when I am not here is that of a farmer—and the minister has already said that he thinks that means I have limited skills—I can count (even with my shoes and socks on) so I will not be calling a division. But I place on record that I do not believe this will work. I believe this is an unwieldy and too large a region, and I will enjoy saying, 'I told you so,' at a later date.

Amendment negatived.

The Hon. CAROLINE SCHAEFER: I move:

Page 31, line 31—

Delete 'The minister may, by subsequent notice in the Gazette' and substitute:

The Governor may, by subsequent proclamation made on the recommendation of the minister.

Page 32—

Lines 1 and 2—

Delete 'If the minister takes action under subsection (3), the minister may, by notice in the Gazette' and substitute:

If a proclamation is being made under subsection (3), the Governor may, by the same or a subsequent proclamation.

Line 7—

Delete 'publishing a notice' and substitute:

a proclamation is made.

Line 8—

Delete 'minister's intention to public a notice' and substitute:

proposed proclamation.

These amendments are identical to the government's amendments. I think they are best explained by amendment No. 10. Amendments Nos 14, 15 and 16 are, indeed, consequential to amendment No. 10. It appears that amendment No. 13 is consequential or has the same end result, that is, to allow proclamation rather than gazettal.

Amendments carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 32, after line 14—Insert:

(7) The area of a council must not be split between 2 or more NRM regions under this section without the written approval of the council before the split is made.

This amendment seeks to prevent a local government council from being split by two or several NRM regions without the written approval of the local government councils involved.

The Hon. T.G. ROBERTS: The government will not support this amendment. We are counting on the geographical areas to be run on the geography, not on local government boundaries.

The Hon. SANDRA KANCK: I indicate that the Democrats will not support the amendment. I think that having the boundaries based, for instance, on particular water catchment areas, and so on, rather than just based on local government boundaries is very important in terms of management of these issues.

The Hon. NICK XENOPHON: I support the government's position, essentially, for the reasons set out by the Hon. Sandra Kanck. I note that the Local Government Association, which I thought would have been sympathetic to this amendment, supports the current arrangements, given the legislative framework of the bill.

The Hon. A.L. EVANS: I support the government.

Amendment negatived; clause as amended passed.

Clauses 23 and 24 passed.

Clause 25.

The Hon. CAROLINE SCHAEFER: I move:

Page 33, after line 33—Insert:

(1a) Of those members, 3 must be nominated from a panel of 6 persons submitted by the South Australian Farmers Federation Incorporated.

This amendment seeks to have three people selected from a panel of six, and it is submitted by the South Australian Farmers Federation. It has the same purpose as my amendment with respect to the NRM Council. It seeks to give operating farm managers and practitioners a firm and solid voice. I remind members that it is three on a panel of nine, and I seek their support.

The Hon. T.G. ROBERTS: The government opposes the amendment on the same basis as previously. We need a variety of skills and a mixture that will allow us to get the best possible advice. The same argument stands as for the previous clause.

The Hon. SANDRA KANCK: The Democrats will not support this amendment. I had some conversations this morning with people from the forest industries association, and yesterday in my second reading contribution I also raised the issue of appropriate people in regard to the pastoral lands, for instance. One assumes that, when the minister is choosing the appropriate people for each of these boards, in the South-East, for instance, one would choose someone from the forestry industry and that, if one is dealing with the region that covers the Far North of the state, one would choose someone who has expertise in working on the pastoral lands.

The wording is vague enough for me to not have confidence that that will occur. On the other hand, the amendment that the Hon. Caroline Schaefer has moved does not make that happen. It is almost as if, in some instances, we need to specifically state what varieties of primary industry should be selected for particular boards. The wording as currently suggested in this amendment of the Hon. Caroline Schaefer does not cause that to happen, so there is little purpose in supporting it.

The Hon. NICK XENOPHON: I indicate that I will not support this amendment in that I would prefer a position of two members. I think there should be some additional representation. I think the concern of the government was that it would be unbalanced. I also note the concerns of the Hon. Sandra Kanck that, for instance, in some areas there is no certainty that sufficient weight will be given to certain industries or interests being represented, such as forestry in the South-East. In the unlikely event that this clause is recommitted, I would be amenable to supporting a clause that would give some increased representation and allow the criteria for membership of the board to take into account any regional factors and regional concerns.

The Hon. A.L. EVANS: I tend to agree with the Hon. Mr Xenophon's comments. I plan to support the government, but I think there is a very clear point: there may be some

missing out, and I wish the government would take that into consideration.

Amendment negatived.

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

Page 34, lines 1 to 7—Delete paragraph (b) and substitute:

(b) must give to—

(i) each peak body; and

(ii) such other bodies representing the interests of persons involved in natural resources management, or Aboriginal people, as the minister considers to be appropriate in the circumstances,

notice of the fact that an appointment or appointments are to be made and give consideration to any submission made by any such body within a period (of at least 21 days) specified by the minister.

This amendment ensures that the Local Government Association, the Conservation Council and the South Australian Farmers Federation are given notice and are given 21 days to make submissions about membership during the process of selecting members for the regional NRM boards. This amendment is proposed on the basis of the review of the use of the terms 'should' and 'must' in the bill. The amendment will tighten up the consultation requirements of the board membership selection process by specifying that notice must be given to the Local Government Association, the Farmers Federation and the Conservation Council of South Australia and that these peak bodies are given 21 days to make submissions to the minister about membership of the regional NRM boards.

The Hon. CAROLINE SCHAEFER: The opposition supports the amendment.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 34, line 11—Delete 'should' and substitute 'must'.

There is a list of the type of knowledge, skills and experience to which the minister should give consideration before appointing boards. We seek to change 'should' to 'must'. I recognise that, in a number of cases, the government has already accommodated us on this matter. However, we believe that, given that a vast array of skills is already listed, it is consistent with our stated desire to make the minister as accountable and as transparent as possible and, therefore, we seek to compel him to give consideration to those skills.

The Hon. T.G. ROBERTS: In view of those militant statements we concede.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 34, after line 14—Insert:

(ai) conservation and biodiversity management;

This is in the same mould as the previous amendment that I moved to clause 13, which is to reorder the priorities so that conservation and biodiversity management is at the top of the list.

The Hon. CAROLINE SCHAEFER: Similarly to my previous statement, I oppose the amendment.

The Hon. NICK XENOPHON: Ditto.

Amendment negatived.

The Hon. CAROLINE SCHAEFER: I move:

Page 34, line 31—Delete 'endeavour to'.

This is similar to but not consequential on my previous amendment. By deleting the words 'endeavour to', the subclause would provide that 'the minister must ensure that a majority of members of the board reside in the relevant region' and so on. We believe that 'endeavour' is too soft and allows too much leeway.

The Hon. T.G. ROBERTS: The government opposes the amendment. There are a number of reasons why people may want to be on the board but they are living outside of their region or area. People might shift. 'Endeavour' does allow a little bit of flexibility. 'Must' means that you have to ensure that those people live and reside in a particular area.

The Hon. SANDRA KANCK: I indicate that the Democrats will not support this. It is not uncommon for people who are on boards to reside outside the area. For instance, the Mount Gambier District Health Service has a number of people on its board who do not live in the South-East, and that may be for the reason that nobody in that area wants to put their hand up for it. That can actually be a real concern when any group is trying to find people to take on what might appear to be quite an onerous task. I recall that, when about 12 or 14 years ago I worked for the Conservation Council, one of my jobs was to find people to put on government committees. Sometimes in country regions, I could not find the requisite three people that the government required. The minister used to get very upset when I would come up with only one person, and I sometimes could not even find any. It is not always possible to get people onto a group like this who live in that area, and I think that must then create a few problems that could make the boards a little more difficult to run in terms of having a quorum and so on.

The Hon. NICK XENOPHON: Don Watson in his book *Death Sentence* talked about using mealy mouthed words that do not really mean anything. I am just wondering whether 'endeavour' is one of those words, particularly from a statutory interpretation point of view. I am really concerned about it. It is a bit like 'down-sizing' and 'pro-active'. It is one thing to say, but it is another thing to see it—

The Hon. Sandra Kanck: I used to be part of the Christian Endeavour.

The Hon. NICK XENOPHON: That proves my point. So, I am inclined to support this amendment with some reservation, because I think there is an important principle that the majority of members have some connection with the land. I think, though, that I can understand in terms of the minister's and the government's point of view that that may not always be possible. It may create some practical difficulties, so I wonder whether, in the event that this amendment gets up, there may be some room for compromise in the sense that there is some connection.

If someone is a pastoralist, for instance, and does not actually live in the area, but has a substantial connection with that area, with that region, I do think that should form part of the majority in terms of what the opposition is seeking. With those reservations, I support the amendment. The word 'endeavour' is something that—

The Hon. Sandra Kanck: It's a lovely word.

The Hon. NICK XENOPHON: It may be a lovely word, as the Hon. Sandra Kanck says. It is a nice name for a boat, but in terms of statutory interpretation it worries me. It is a nice name for a ship, Mr Chairman, I am sorry—a big boat.

The Hon. A.L. EVANS: I support the amendment.

The committee divided on the amendment:

AYES (10)

Dawkins, J. S. L.	Evans, A. L.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Schaefer, C. V.
Stephens, T. J.	Xenophon, N.

NOES (8)

Gago, G. E.	Gilfillan, I.
Holloway, P.	Kanck, S. M.
Reynolds, K.	Roberts, T. G.
Sneath, R. K.	Zollo, C.

PAIR

Stefani, J. F.	Gazzola, J.

Majority of 2 for the ayes.

Amendment thus carried.

The Hon. SANDRA KANCK: I move:

Page 34, line 35—after 'management' insert ', conservation or rehabilitation'.

This relates to what the minister is endeavouring to do: he is endeavouring to ensure in this case:

(c)(ii) that a majority of the members of the board are engaged in an activity related to the management of the land.

I seek to add the words 'conservation or rehabilitation' after 'management' so that there would be three activities in the criteria: that is, management of the land, conservation of the land, or rehabilitation of the land would be part of the criteria which the minister is endeavouring to ensure are involved.

The Hon. CAROLINE SCHAEFER: The whole of that subclause provides: 'that a majority of the members of the board are engaged in an activity related to the management of land'. Surely, in that context, conservation and rehabilitation are part of the management of land. Therefore, I am inclined to oppose the amendment.

The Hon. NICK XENOPHON: Will the minister confirm whether management of land includes issues such as conservation or rehabilitation?

The Hon. T.G. Roberts: Yes.

The Hon. SANDRA KANCK: I ask the minister how he comes to that understanding that management includes that?

The Hon. T.G. Roberts: I have been advised.

The Hon. SANDRA KANCK: I want to know where it is derived from.

The Hon. T.G. ROBERTS: From the definitions.

The CHAIRMAN: He is just using his best endeavours.

The Hon. T.G. ROBERTS: In answer to the question just posed, for the purpose of the act:

(a) a reference to the land in the context of the physical entity includes all aspects of land, including the soil, organisms and other components and ecosystems that contribute to the physical state and environmental, social and economic value of land;

(b) a reference to a water resource includes all aspects of a water resource, including the water, organisms and other components and ecosystems—

which would include environmental management.

Amendment negatived; clause as amended passed.

Clause 26.

The Hon. CAROLINE SCHAEFER: I move:

Page 35, line 26—Delete '4 years' and substitute '3 years'.

This amendment seeks to change the length of membership of a board for similar reasons to those expressed in my previous amendment.

The Hon. T.G. ROBERTS: For similar reasons, we support the retention of four years for experience and management plans, etc.

The Hon. NICK XENOPHON: I support the government's position.

The Hon. A.L. EVANS: I support the opposition.

The Hon. SANDRA KANCK: I support the opposition.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 35, line 27—after 'reappointment' insert 'subject to the qualification that a person cannot serve as a member of a particular regional NRM board for more than 6 years in total'.

This amendment is consequential. Again, it seeks to make it a maximum term of six years, not eight, as is consistent with my other amendments.

The Hon. SANDRA KANCK: I indicate the Democrats' support for the amendment.

The Hon. T.G. ROBERTS: My information is that it is not consequential, and in pastoral areas it would be difficult to get people to turn over that frequently because there is not a lot of movement out of pastoral areas. It may make it difficult to get people if there are restrictions on their ability to run. So, you might have people keen to run but unable to, just on the basis that there are very few people in that particular zone or region.

The Hon. NICK XENOPHON: I support the government's position. I can understand the rationale behind the opposition's amendment, but I am concerned that in some areas there will be a real difficulty in getting people to serve, particularly in smaller areas where there is a smaller pool. Given that I support the principle that you should get a majority of people from a particular area, I think that it may be counterproductive to limit it to six years. However, I note that there may be some room for a compromise here: either a slightly longer term or giving people an opportunity to step down for one term, which the Hon. Sandra Kanck has brought to my attention in relation to other legislation. I do not know what her position is, but it may well be an alternative approach.

The Hon. SANDRA KANCK: I will elaborate on what the Hon. Nick Xenophon is talking about. The Medical Practice Bill that we have before us has a maximum nine year term and then, effectively, you cannot apply at the next term for reappointment. So, you would have to have a spell for three years, but it would not stop you from putting your hand up again for the three years after that. That would be something that I would consider if the government wants to further amend what the opposition proposes.

The Hon. T.G. ROBERTS: If it is to be fixed in another place, that suggestion may well be taken up, because it could be a little restrictive. People are probably lining up to become members on the board and tribunal outlined in the Medical Practice Bill, whereas Kangaroo Island, the pastoral areas and the West Coast do not have the population to support such a commitment, because of the distance to drive. Many people in regional areas are feeling the pinch because of petrol price increases, together with a whole range of other social issues that impact on their ability to participate.

Amendment carried.

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

Page 36, after line 2—Insert:

(da) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or

This amendment provides that a regional NRM board member's position becomes vacant if he or she becomes bankrupt. The member for Chaffey proposed the inclusion of a provision to ensure that a person's position on the NRM board ceases if that person becomes bankrupt. The minister agreed to have an appropriate amendment drafted between the houses, and I understand that that has been done with general agreement.

The Hon. CAROLINE SCHAEFER: We support this amendment.

Amendment carried; clause as amended passed.

Clauses 27 and 28 passed.

Clause 29.

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

Page 36, after line 39—Insert:

(2a) However, if a regional NRM board acts with respect to a particular matter in the circumstances described in subsection (2), the board must furnish a report on the matter to the Natural Resources Committee of the parliament (unless the matter is not, in the opinion of the board, significant).

This amendment ensures that a regional NRM board is not required to report to the Natural Resources Committee of the parliament when it acts outside the scope of its regional NRM plan if the board does not consider the activity to be significant.

The Hon. CAROLINE SCHAEFER: This is similar to other amendments, and we support it.

The Hon. SANDRA KANCK: We support the amendment.

Amendment carried; clause as amended passed.

Clause 30.

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

Page 38, after line 8—Insert:

(5a) However, if a regional NRM board acts outside its region, the board must furnish a report on the matter to the Natural Resources Committee of the parliament (unless the matter is not, in the opinion of the board, significant).

This amendment improves accountability so that a regional NRM board is required to report to the Natural Resources Committee of the parliament if it acts outside its region, unless it considers the actions insignificant.

The Hon. CAROLINE SCHAEFER: We support this amendment.

Amendment carried; clause as amended passed.

[Sitting suspended from 9.50 to 10.11 p.m.]

Clause 31 passed.

Clause 32.

The Hon. CAROLINE SCHAEFER: I move:

Page 39, line 38—Delete '$20 000' and substitute '$5 500'.

This is the first of a series of amendments which deal with fines which are designated as hindering fines, and are therefore at the more serious end of the scale with regard to offences committed. The opposition have consistently said that we believe that all fines should be increased by 10 per cent from what they were previously. We believe that is a sufficient incremental increase in one hit. I note that the government has on file compromise amendments which halve the fine under the bill. Their current fine is $20 000 and the government's amended amount would be $10 000, which I admit is a considerable concession. However, we feel that 10 per cent across the board is a sufficient increase. We believe that a number of the fines in this bill are at the upper end of a fine that one would receive for something as serious as manslaughter. An amount of $10 000 is still a very large fine. We will be proceeding with this amendment and it will be a test clause.

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

Page 39, line 38—Delete '$20 000' and substitute '$10 000'.

This amendment reduces the penalty from $20 000 to $10 000 for obstructing the NRM board, or a person authorised by an NRM board, who may be seen to enter private land to carry out survey or engineering works. A $10 000 penalty is consistent with those provided for comparable offences elsewhere in the bill.

The Hon. Sandra Kanck interjecting:

The Hon. T.G. ROBERTS: Reducing it from $20 000 to $10 000.

The Hon. Sandra Kanck interjecting:

The Hon. T.G. ROBERTS: It is consistent with those penalties provided for comparable offences elsewhere in this bill.

The Hon. SANDRA KANCK: Will the minister give some examples of what obstructing or hindering might involve so that I can get a sense of how bad the behaviour might be?

The Hon. T.G. ROBERTS: Penalties were reviewed between the houses and agreed by the minister. The power to enter private land for the purposes of investigating, surveying or undertaking emergency work is provided to regional NRM boards because they have responsibilities for water resource management, including flooding and stormwater management. Catchment boards currently have the same powers under the Water Resources Act. Obstructing an NRM board, in certain circumstances, could, for instance, result in the flooding of a large number of properties if a board was prevented from removing a blockage from a water course on private land or from carrying out surveys or investigations to determine infrastructure needs.

The Hon. SANDRA KANCK: Having heard that, I can see that these could be actions of quite considerable import, so I will be supporting the government's amendment and not the opposition's.

The Hon. NICK XENOPHON: I support the government's amendment for the reasons set out. They are maximum fines, as I understand it, so it is not as though people have a mandatory $10 000 fine, and I think it puts it in perspective and in context.

The Hon. A.L. EVANS: I support the government's amendment.

The Hon. CAROLINE SCHAEFER: The minister has said that these offences are in the current Water Resources Act. What is the maximum fine under such hindering offences in the Water Resources Act?

The Hon. T.G. ROBERTS: The information provided to me is that the Water Resources Act has been around for quite a long time and the fines are subject to a review. At the moment, they are set at $5 000, but a magistrate has recommended that they be generally raised.

The Hon. Caroline Schaefer's amendment negatived; the Hon. T.G. Roberts' amendment carried; clause as amended passed.

Clauses 33 to 37 passed.

Clause 38.

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

Page 42, line 30—

Delete paragraph (c) and substitute:

(c) be accompanied by the annual reports of the NRM groups within its region;

This amendment requires regional NRM boards to forward the annual reports of NRM groups to the NRM Council at the same time as it forwards the board's own report.

The Hon. CAROLINE SCHAEFER: We support it.

Amendment carried; clause as amended passed.

Clauses 39 to 42 passed.

Clause 43.

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

Page 45, lines 8 to 10—Delete subclause (2) and substitute:

(2) A regional NRM board must, before seeking the approval of the minister under subsection (1)(c), give notice of the proposed assignment to any owner or occupier of the land and give consideration to any submission that he or she may make within a period (of at least 21 days) specified by the board, and then prepare a report on the matter (including details of any submission that has been made) for submission to the minister.

This amendment requires a regional NRM board to notify a land owner and give consideration to any submission a land owner may make when the NRM board is assigning responsibility for the maintenance of an NRM board owned infrastructure to a third party: for example, contracting out the maintenance of trash racks owned by a board but built on council land. The minister agreed to provide more certainty in relation to consultation with owners and/or occupiers of the land on which infrastructure may be situated when a regional NRM board is assigning responsibility for care, control and management of that infrastructure to a third party.

It should be noted that this clause does not allow a regional NRM board to build infrastructure on land it does not own without permission of the land owner. However, a regional NRM board may recommend in its regional NRM plan that particular land should be acquired by the minister if the board considers that ownership of that land is necessary to ensure proper natural resource management of, for example, watercourses.

The Hon. CAROLINE SCHAEFER: My explanation simply says that this amendment ensures that a regional board must consult the owner of the land rather than take reasonable steps before assigning responsibility for infrastructure. It gives more transparency, and we support the amendment.

Amendment carried; clause as amended passed.

Clause 44 passed.

Clause 45.

The Hon. CAROLINE SCHAEFER: I move:

Page 46, lines 21 and 22—delete subclause (1) and substitute:

(1) A regional NRM board may, by notice in the Gazette, designate an area within its region as an area within which an NRM group will operate.

This amendment seeks to give the power to boards to set up their own regions in consultation with the minister rather than the minister having the ultimate power. Again, it is consistent with our stated aim of putting the power of governance of natural resource management in the hands of local operators.

The Hon. T.G. ROBERTS: The government opposes this proposition as it goes against the whole tenure of the bill. It allows the local boards to make designations without the minister's approval. There is some contact to be given consideration. If all local boards were able to act like that, we would end up with anything. There has to be some consistency and the minister must have some idea of how to proceed so that a plan can be put in place.

The Hon. SANDRA KANCK: As I understand what the Hon. Caroline Schaefer has said, they would do this in consultation with the minister. Obviously they would be guided, I would imagine. Given the issues raised earlier by the Hon. Caroline Schaefer in relation to the size of a particular region being too large—and I also recall the Hon. John Dawkins backing that up—I feel that this amendment might be a solution to that particular problem. My understanding—and the Hon. Caroline Schaefer can confirm this for me—is that it would be done in consultation with the minister.

The Hon. CAROLINE SCHAEFER: Yes, I do confirm that. I remind members that the minister has the power to appoint the NRM boards that would be doing the designating. Clearly, his advice would have to be sought—

The Hon. Sandra Kanck: He can sack the board!

The Hon. CAROLINE SCHAEFER: And he has the power to sack the board.

The Hon. NICK XENOPHON: In terms of the requirement for consultation with the minister, could the Hon. Caroline Schaefer clarify whether that is specified or implied in the context of this amendment?

The Hon. CAROLINE SCHAEFER: Without spending some time reading this, I assure the Hon. Nick Xenophon that it is the intention of the opposition, if this amendment is successful, for such areas to be designated, with the advice of the minister having been sought, or in consultation with the minister. My understanding is that there are sufficient powers in this clause for that to happen. Certainly, that was the aim when setting up this amendment, but I would have to sit down and read the whole clause to be able to point that out to the honourable member—unless he wants to seek clarification from parliamentary counsel.

The Hon. T.G. ROBERTS: My advice is that the explanation given to the clause does not match the intention of the clause. The clause allows for gazettal within a designated area within a region. I mean, you can consult but you do not necessarily have to listen to the minister's argument. There is nothing in the clause that prescriptively sets that out. It allows the regional NRM board to make its own designations. That would not be consistent with what the bill is trying to achieve, that is, to have the boards working with the minister, but in relation to the overall plan setting, particularly in the early stages of the draft when it is being implemented, the minister would have to play a very strong role in setting up those designated areas.

The Hon. CAROLINE SCHAEFER: If there is some sympathy for my amendment, I am prepared to recommit the clause at the end of the debate, if necessary, to accommodate consultation with the minister. If there is not, then I will not proceed with this amendment.

The Hon. T.G. ROBERTS: The last thing the minister wants to be doing in the early stages of the formation is to be directing people. If the information that has been given to the minister does not line up with the ministerial plan, or the plan that has been sought during discussions, negotiations and compromises, the last thing the minister wants to be doing is directing people in any particular way because he would want consensus to prevail.

The Hon. NICK XENOPHON: As I understand the Hon. Caroline Schaefer's amendment, the intent is to give some power to a board to have an NRM group within that region assist the board with its work. I would be more comfortable with an amendment that provided for consultation with the minister, and that is my position. I would be interested to further hear the Hon. Sandra Kanck's views on this.

I think we ought to give a level of autonomy to boards to appoint groups in order that they can do their work, but I query the extent to which the minister should be involved. I do not think it is unreasonable that there ought to be a process of consultation with the minister, but whether the minister should have the right to veto that or there should be a mechanism to deal with that is something I have not formed a final view on.

I can see that the Hon. Caroline Schaefer's amendment has some merit, but I do not know whether the government is prepared at least to consider the principles set out in the

amendment to the extent that there ought to be some flexibility on the part of boards to appoint groups. There also ought to be a countervailing mechanism to ensure that there is consultation with the minister. I think there are some important principles at stake here, and in order that we can consider them I suggest that the committee report progress.

Progress reported; committee to sit again.

JOINT PARLIAMENTARY SERVICE COMMITTEE

The House of Assembly informed the Legislative Council that it had appointed Mr Venning to the committee in place of Mr Williams, resigned, and appointed the Hon. G.M. Gunn to be the alternative member to Mr Venning.

ADJOURNMENT

At 10.34 p.m. the council adjourned until Wednesday 2 June at 2.15 p.m.