LEGISLATIVE COUNCIL

Thursday 1 July 2004

The PRESIDENT (Hon. R.R. Roberts) took the chair at 11 a.m. and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I move:

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

Motion carried.

LAND AGENTS (INDEMNITY FUND—GROWDEN DEFAULT) AMENDMENT BILL

Second reading.

The Hon. T.G. CAMERON: This bill was introduced in another place as a private members' bill by the Hon. Iain Evans on 25 February 2004. It is the culmination of years of work and advocacy on behalf of clients of G.C. Growden Pty Ltd to receive compensation for their losses. Most members who were in this place in 1999 recall that I originally took up this matter for the clients of G.C. Growden and we tried to have a select committee established to look at this issue. A few years have passed since then. I was unable to achieve a satisfactory outcome for these people, and I think it appropriate to congratulate the Hon. Iain Evans for the magnificent job he has done in taking up the cudgels for the investors of G.C. Growden, who lost somewhere in the vicinity of $17 million.

For the information of new members, who perhaps do not know what I am talking about, I will give a brief history of the Growden affair. Five or six years ago, Graham Growden and his company featured in *BRW*'s list of Australia's 100 fastest growing companies. It averaged 30 per cent growth for many years and was handling almost $60 million a year in funds throughout 15 years in the industry. It was a conveyancer and mortgage broker. Growden had been known for his ethical zeal, and he attracted thousands of people looking for a safe investment with better than bank interest. He offered returns as high as 12.5 per cent on first mortgage investments, even when mortgage lending rates across the country had fallen below 8 per cent.

The company put the funds of many of its investors into syndicates to lend on large commercial developments, such as hotels, retirement villages and factories. Growden's reputation was solid—friends told friends, and he continued to grow. He was a popular Adelaide identity, and his company achieved similar status. Each of the estimated 3 500 investors in mortgages brokered by Growden provided money to be loaned for about 450 projects—mainly housing and other construction developments. Depending upon the value of the project, Growden would then recommend how much his investors should provide, with the average amount being in the vicinity of $15 000 to $25 000. In that way, each of the loans issued comprised funds provided by numerous people. For example, a $100 000 loan could involve 10 people, each of whom provided $10 000. Many investors had money tied up in several loans and, in some cases, made a tidy return.

However, what went horribly wrong was the nature of the projects for which money was lent in the company's final months. Companies or individuals who sought loans from the mortgage broker were often high risk people to whom the traditional financier generally would not lend. By the middle of 1996, some investors found their monthly interest payments from Growden were becoming sporadic. This was a big problem for many of them, as the cheques were often their main source of retirement income. They say that they were continually assured by Growden and his staff that it was only a hiccup and that everything would be fine. In February 1997, a receiver manager was appointed to the main company, G.C. Growden.

At the time, Growden fronted a public meeting of investors to deliver an angry statement denying his company had major problems. He said it could trade out of difficulties, but history now shows that that was not possible. They went into receivership, the matter was investigated and there are a whole series of problems going on at Growdens, including what I suspect is the main one of the valuations of properties being too high.

I was approached by a number of people from Growdens, but there is one to whom I would like to give some credit and who probably deserves as much credit as the Hon. Iain Evans. That was a man by the name of Mr Alan Samm. I also had discussions with others, including a Mr Brian Dixon. I would just like to quote from a letter. Mr Samm became an agitator. He was an investor, and he campaigned and went everywhere lobbying to try and get some recompense for these people. I quote from Mr Samm's letter as follows:

> We and I speak for very many, as investors in this state are very deeply concerned. We are being systematically robbed by Growden. I speak of land valued at $50 000 and sold for $15 000. I speak of unit building with a loan of $186 000 and sold for $83 000.

Mr Samm went on to say:

> I have widows who ring me in tears. Not rich people, just people who have always known that an investment and first mortgage helps South Australia grow and should be extremely secure.

There has been a long history with this matter, resulting in family breakdowns, marital breakdowns, nervous breakdowns, and I understand that it has even triggered suicides. This entire matter had broken the spirit of many of these investors. At the end of the day, I guess that what Mr Alan Samm was saying was correct. The investors in Growden have been on their own, and their treatment has been shabby and shameful. What has occurred is an utter disgrace.

To give a full history of all the events that created the confusion in the minds of investors would take up too much time. I could suggest that, if any of the newer members wish to familiarise themselves with how these people were let down by what I believe to be governments of both persuasions, one only has to go back and either look at the speech I made back on 7 November 1999 or look at the contribution made by the Hon. Iain Evans in another place, when he detailed at some length the sequence of events that led to these people believing that they were making investments that were backed up by a government indemnity fund. When Growden collapsed, all these people then discovered that they had no protection, and many of them were looking at severe losses on the capital that they had invested.

Mr Iain Evans took up the case for these people in another place, and this has resulted in the Land Agents (Indemnity Fund—Growden Default) Amendment Bill 2004. This will see some $13.5 million returned out of the government indemnity funds to these people. As I understand it, most

people will receive most of their capital back, but they will not be receiving any interest. These people are going to be so delighted after all these years finally to get some satisfaction in relation to these matters. In the second reading speech I do not intend to outline all of the provisions of the bill. I will table an explanation of clauses. If these people are going to get any satisfaction quickly, then this matter will need to be dealt with on 21 July, otherwise the matter will have to be resubmitted and it could take up to six months for these people to get their money. I understand that the opposition, that is, the Liberal Party, and the Australian Labor Party have come to an agreement and that this bill will be supported by both the Liberal Party and the Australian Labor Party. As far as the investors in Growdens are concerned, Christmas is coming very early.

The Hon. R.D. LAWSON: I rise to indicate the support of the Liberal opposition for this bill. I will not speak at any length upon the bill; however, it is appropriate at this juncture to commend the Hon. Terry Cameron, who has been an assiduous campaigner for this result. Also, I commend the Hon. Iain Evans, who introduced the bill in another place and who has succeeded in ensuring that the investors in Growden will receive some compensation. This is an exceptional case with exceptional circumstances. It is for that reason that the Liberal Party is supporting this bill, which will ensure that funds are made available from the agents' indemnity fund to reimburse the investors. Not only should the promoters of the motion be commended but also we commend those campaigners in the community who have fought long and hard for this result. We look forward to the passage of this bill.

The Hon. IAN GILFILLAN: I indicate the Democrats' support for the bill. I also add my appreciation on behalf of the Democrats to the Hon. Terry Cameron for his consistent efforts, and the Hon. Iain Evans in another place for their persistence to see that justice with compassion was shown to the people whose lives were so dreadfully affected by this default. My one regret is that it has taken so long and that the human suffering was extended to the point where, as the Hon. Terry Cameron outlined, in some cases, lives were completely destroyed. However, the picture will be brighter when this measure, at long last, comes into effect. Again, I agree with the Hon. Terry Cameron that the sooner it does become effective legislation the better, and it sounds as if there is no obstacle in the debate in this chamber. I wish it expeditious fulfilment, and may the relief and pleasure that does flow to these people so belatedly offer some compensation for the suffering that they had in the past.

The Hon. NICK XENOPHON: I, too, support this bill. I share the sentiments of the Hon. Ian Gilfillan and I congratulate the Hon. Terry Cameron for his persistent efforts in relation to this issue over a number of years; he was initially a voice in the wilderness. I also commend the Hon. Iain Evans for introducing the bill in another place and for getting it through that chamber. I remember that years ago, when I first discussed this issue with the Hon. Mr Cameron, he was very much a lone voice who advocated fearlessly for those people who had lost their money through the collapse of the Growden group. This is certainly a good result. I am pleased that the Attorney-General has finally come on side after taking what I thought initially was an unduly conservative approach to this issue.

Notwithstanding that, I think that the Attorney-General was convinced by the sheer force of numbers on the cross-benches in another place that the inevitable was going to happen; so it is a good thing that this bill has bipartisan support. I look forward to the victims of the Growden collapse at least getting some justice. I think that the Hon. Terry Cameron was being unduly modest earlier when he said that he did not have too much to do with this in its later stages in terms of the Hon. Iain Evans' bill. I think that, if it were not for the Hon. Mr Cameron pushing this forward a number of years ago, we would not see the result that we have today, together with the hard work of others such as the Hon. Mr Evans.

The Hon. R.K. SNEATH secured the adjournment of the debate.

NATURAL RESOURCES MANAGEMENT BILL

In committee.

(Continued from 25 June. Page 1863.)

Clause 146.

THE CHAIRMAN: When the committee last met it made some progress and was discussing clause 146. The Hon. Mrs Schaefer had moved her amendment to delete some words. The minister had moved his amendment to insert some words in the same clause. There was significant debate. I assume that members have discussed their situations.

The Hon. CAROLINE SCHAEFER: There has been a great deal of discussion since the last time we debated this bill. I very much appreciate the efforts of the minister's staff, in particular departmental officers, in trying to come to some consensus on this clause. However, try as I might, I cannot find a middle ground on this clause. The minister's amendment seeks to insert the phrase 'including a purpose that relates to the use of water for a particular crop'. I said I would agree to that if it said 'excluding'. I have had explained to me by various officers that there are two meanings to the word 'purpose' in this debate. There is the purpose of allocating water for irrigation crops, industrial use or recreational stock and domestic. They are three separate purposes. As well as that, there is the definition of the purpose as it applies to designating a particular crop that is being grown.

I have had explained to me, also, that the amount of water to be allocated varies. For example, the amount of water used for growing grapes is almost half that which would be required to be allocated to grow lucerne. In a hypothetical case where we had two new applicants for an allocation who wanted to grow lucerne, there may not be sufficient water but there would be sufficient water over the same area to grow grapes, apples or pears. I understand all that. I understand that apparently it is complex and difficult to convert from an allocation over a specific area for a specific crop to volumetric. The member for MacKillop and I have just been discussing this particular amendment in the passage, and we were both able to convert our own water allocations. In my case in the Clare Valley, my water allocation is 100 millilitres per hectare. I can convert that in my head.

As much as I have tried to reach a consensus on this, I cannot see how we can move forward. I think we should vote and, if my amendment is not successful, well, then I will support the minister's amendments Nos. 2 and 3 on this page, but I will not support his amendment No. 1, unless I can be

convinced it is necessary to have it there for drafting purposes.

The Hon. T.G. ROBERTS: The government recognises the concerns raised by the Hon. Caroline Schaefer and appreciates the dilemma that she has in reaching a conclusion in relation to the matter before us. It is a complicated matter. In her proposed amendments Nos. 93 and 94, which are intended to remove the minister's ability to specify in a licence the type of crop a person may irrigate, the government proposes a set of alternative amendments that aim to address these concerns. The Hon. Caroline Schaefer is relating specifically to measures currently used to issue water licences in the Clare Valley and part of the Barossa Valley which specify crop type and the area to be irrigated as a surrogate for the amount of water that will be used.

The Hon. Caroline Schaefer: And the South-East.

The Hon. T.G. ROBERTS: It does not apply to the South-East. Both the crop type and the area proposed to be irrigated are proposed by the applicant; that is, they are not determined by the government. There are about 100 licences in the Barossa Valley and about 300 in the Clare Valley that are affected. I understand it is all volumetric in the South-East. The licensee is required to apply to vary the licence should he or she wish to change the type of crop that will be irrigated. This is because different crops require different volumes of water. A new licence may support an increased or decreased area to be irrigated, depending on whether the new crop type requires less or more water. Should the provision to allow crop type and area be specifically deleted during this interim period, it would be necessary to allocate new licences and any variations on existing licences by volume, ahead of preparing the water allocation plan. This is because the volume that would be set would not be based on good science or have a community involvement in the determination, as occurs through the water allocation plan.

The government recognises that the arrangement is complex and does little to support or encourage water use efficiencies. However, the arrangements are an interim measure, preparatory to the introduction of volumetric measuring for licences. Once such a system is in place the government will not wish to specify on an irrigation licence the type of crop that may be grown. The intent of the government's amendment is to ensure that volumetric measuring must be in place by 1 July 2006; and this is done by providing that the 'purpose of use' conditions on existing licences, which restrict use of water allocation to a specific crop, will no longer apply after 1 July 2006. The water allocation plan is required to make a conversion to volumetric licences, and the amendment will ensure that occurs in the next two years. It will take 18 months to prepare the necessary water allocation plan, which involves an extensive consultation process.

The Hon. NICK XENOPHON: I have questions for both the Hon. Caroline Schaefer and the minister. First, to the minister: my understanding is that the government intends to go to a volumetric system of allocation by July 2006, and that in a sense these are transitional provisions. The minister nods in agreement. From a policy point of view, if the government acknowledges that a volumetric system is the way to go—it will not be specifying what crops you can grow (although, of course, the amount of water allocated will dictate what you can do in a commercial sense in respect of crop management)—why include these provisions now which are directive? In other words, if these transitional provisions are not in place, what does the minister say will be the practical difficulties?

In terms of what currently occurs, is the government proposing a continuation of sorts of the status quo in respect of water allocation until the volumetric system comes into place in July 2006? Is the government proposing transitional provisions which, essentially, are a continuation of what currently occurs? I would be grateful if both the Hon. Caroline Schaefer and the minister could elaborate on that issue, because I want to get a feel for what sort of disruption it would cause, or, if the Hon. Caroline Schaefer's amendment is passed, whether what the government is proposing is a continuation of the same, pending a change to the volumetric system in July 2006.

The Hon. T.G. ROBERTS: The honourable member is right; it is an interim policy. As I have read out, if this section was deleted in relation to crop type, it would be necessary to allocate new licences and any variations on existing licences by volume ahead of preparing the water allocation plan. The type of crop allocation would have to be calculated on best scientific evidence, which would be time consuming and the two year interim period might be soaked up by a whole range of evidence gathering.

The Hon. CAROLINE SCHAEFER: The minister has done it again. I was sitting here nodding, but essentially what he has said is that water allocations are currently not calculated on best scientific evidence, which is a bit of a worry in itself. If my amendment is successful, as I understand it, what it will do is leave those bridging allocations in place until the new regional plans are developed, and then they will be converted to volumetric, but any new allocations that are allowed in a particular region—in this case apparently the Barossa Valley and the Clare Valley, and I still think there are some bridging allocations in the South-East—will have to be made volumetrically.

The Hon. NICK XENOPHON: In terms of the way in which water is allocated now, is it that much different from what is proposed in the government's bill in terms of subclause (2) (which the Hon. Caroline Schaefer is seeking to exclude) that an endorsement must set out the quantity of water allocated by the component and the purpose for which the water can be used. I think what has offended the Hon. Caroline Schaefer the most is 'the purpose for which it can be used'. We have already established in terms of cotton and rice, those water guzzling crops, that they cannot be grown in this state, in any event. I do not think there is any debate that you cannot grow cotton and rice in this state. We are not talking about that.

The Hon. CAROLINE SCHAEFER: Basically the only difference, as I see it, is that, in most areas (possibly not some areas of the South-East), there is a finite amount of water which is why most areas are now prescribed. A volumetric allocation allows some flexibility and gives some encouragement to those people who use their water judiciously to perhaps plant some extra crops or some different crops, or to decide that growing almonds is no longer as viable as growing citrus, for instance, or vice versa. There is evidence of that all along the River Murray, where, over the past 20 or 30 years, they have purchased their water by volume and we have seen crops being planted. Almonds are probably one of the great examples. There were almond trees in the Riverland. They were pulled out and replaced by either citrus or grapes, and now there are again huge plantings of almond trees because they have been able to use dripper technology to water them.

The Hon. A.J. REDFORD: I will make a quick general comment about the amendment which the government proposes. This amendment is seeking to insert the words 'including a purpose that relates to the use of water from a particular crop'. Maybe I am not very smart about these things, but my understanding is that we introduced these systems based upon a COAG agreement to encourage the best and most efficient use of water for agricultural production, and I think that most people—with the odd exception—support that principle.

In the South-East, which is the area that I understand, water was allocated (and I make no criticism in this respect) on the basis of what is known as an irrigation equivalent. In other words, someone like a Fred Stadter would assess what the irrigation equivalent was in relation to the particular crop that the licence holder might want to have planted. The licence holder, in seeking the allocation, would nominate the crop for which the licensee was going to use the water, and then that information was used by the department to determine roughly what the volumetric allocation would be, or what the equivalent was, so that they could then incorporate that into determining whether or not the allocation was sustainable.

I am sure that the minister will interject if I have any of this wrong so far. A purpose was looked at in terms of determining what volume of water was to be allocated. Given that there were no meters in the South-East and other parts of the state, that is probably a reasonable way of going about it. I know that the member for MacKillop (Mitch Williams) and I have been strong in our belief (and, in some respects, I have been criticised for it) that volumetric allocation is a very crude way of determining exactly what volume of water you will get. It might be adjusted upwards or downwards depending on the environmental conditions and the availability of water, but that was where we were headed. I hope that what I have said so far is basic commonsense and unarguable. I think that the difficulty we have on this side of the chamber in relation to the way in which this clause is expressed is that we do not want the government to suggest that if you are given a water licence you should have the use of that water controlled. It is for you to make the economic decision about how you are to use the water, and that is entirely consistent with COAG principles.

I am not sure whether, in relation to that assertion, the government at this juncture parts company with the opposition. If it does not part company with the opposition, we might be able to deal with this (we might have to come back later, but we can continue through the bill) by coming up with an alternative set of words. I think the nub of the issue is that, yes, you use the purpose of the water to determine the allocation, but we do not permit people to determine how they can or cannot use the water. It may well be able to be fixed if we are ad idem about that principle. I will just pick up what the Hon. Caroline Schaefer said about this a moment ago.

Currently, in terms of the way in which that water is allocated in the South-East on the basis of an irrigation equivalent, you are given a licence that says that you can irrigate 40 hectares of potatoes, and you are confined by that policy to irrigating 40 hectares of potatoes. If you are innovative or careful with the use of your water you do not get any benefit. You cannot plant more than 40 hectares of potatoes. You might be prepared to spend significant sums of money with drip systems or change your practice and use exactly the same amount of water but attempt to grow 60 hectares of potatoes. We are concerned because we want the policies to be consistent with the COAG principles to encourage efficient use of water. We may not be all that far apart, but I would be very interested to hear the minister's response to that; and I might just have a look at a couple of things that my boss is telling me to look at.

The Hon. NICK XENOPHON: I have just had an opportunity to consider this amendment further, as well as the government's amendments. Unless I am persuaded otherwise, I will not support the amendment of the Hon. Caroline Schaefer that would knock out subparagraph (ii) of clause 146(6)(c) on the basis that it provides for the existence of the status quo. That system has been tried and tested over the years. The government is going towards a volumetric system of allocation by 2006. Also, I cannot support the minister's amendment No. 1 on his amendment sheet numbered seven on the basis that it is simply too prescriptive. However, amendments Nos 2, 3 and 4 describe the new system that will be in place for volumetric measurement which, I would have thought from a water resources management point of view, would fulfil the policy intent of the government in terms of the responsible allocation of water. Just in case the minister was bored—

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: The Hon. Mr Redford obviously expects his response prior to mine, and I respect that. The Hon. Mr Redford made reference, I think, to the COAG agreement and the landmark—or watermark—agreement of last Friday. In the context of this bill, how does that fit in? Will we be facing further amendments to this bill once the COAG agreement is bedded down? I think that is one of the things to which the Hon. Mr Redford was alluding.

The Hon. T.G. ROBERTS: We appear to be heading towards consensus between the contributors. Certainly, the Hon. Angus Redford's explanation is acceptable in terms of how we try to reach the position at the end; and the honourable member's contribution in relation to the clauses which we support and those which we remove to get there is the critical question now. To clarify the government's position, we are moving towards a volumetric position in 2006, which I think is agreed by everyone: it is how you do it in the interim stages in the Clare Valley, in particular, and the Barossa. The government's view is that we must have an orderly process to get there, and that is where the areas of difference have emerged. I am not sure whether they are major or minor points of difference in relation to achieving consensus regarding the wording of a consensus amendment so that we can move on. With the approval of the drafting people and my advisers, we might be able to do so.

The Hon. A.J. REDFORD: I am pleased to hear what the minister said because I think that we are nearly ad idem; it is just a question of how we get there. I would like a direct answer to this question. The government is not seeking to do this for any purpose aligned to directing farmers or water licence holders as to what crops they can or cannot use. The government's intention is to protect the integrity of the measurement of water by an interim use of irrigation equivalents. Is that a correct understanding?

The Hon. T.G. ROBERTS: The first part of the explanation directly aligns with the government's intention. The second is that we want the water equivalents to line up with a process so that, when we come out of it and use a volumetric system, it is not that much different on a sustainable basis, so that the best scientific evidence is able to work that out and

agreements can be reached before the new regime is put in place.

The Hon. A.J. REDFORD: With respect to the minister's package of amendments, I have a couple of concerns. I am happy to move on, but we might need to tease this out a bit more. These meters are not all that cheap. I have had some people come up and say, 'I don't want this volumetric stuff. I don't want to buy a meter because they cost too much money.' If you are going to manage a water resource consistent with COAG principles, unfortunately, as hard as that might be, that is a cost that you will have to bear; otherwise you are going to lock farmers or water licence holders into particular crops and particular uses of water. You will lock the water down: you will not have a water market, and the admirable principles of COAG—consistent with environmental outcomes, I might add—will not be achieved. I can understand that.

My concern is what happens if meters are not introduced, or volumetric is not introduced on 1 July 2006? We will be left with this provision. It might not happen with this minister or this government, but I have seen it happen in the time I have been in this parliament where some people have said, 'If you are watering pasture that's inefficient; that's a bad use of the water. You should not use the water for that purpose. But, if you are going to grow grapes, that's terrific, and you will get a licence.' There is no better example of a government picking winners than to convey a policy in those terms. On occasions that is the way it has been conveyed to me, even when we were in government. It might not be certain people within the department, but I can assure the minister that there are some who do think that way.

We do not want the clause to be used in that way. What we would like to see (and I am sure the minister can talk to his advisers) if we have to go with irrigation equivalents or a purposive measurement of water is that, first, it be transparent (and I am sure the government would acknowledge that). Secondly, if I go for a licence, I might get a water licence that enables me to wild flood 40 hectares—this is not a direct interest, but that is the nature of the licence that my brother has. If he wants to turn around and say, 'I want to transfer that into growing an orchard or grapes or a yabbie farm,' which is what he is looking at, we want there to be a transparent way in which that irrigation equivalent can be transferred into the alternate enterprise and that, if a bureaucrat is unreasonable, there is some means by which he can go to a third party and say, 'Hang on, he is trying to confine me to this use. My business decision is that I want to use the water for a different purpose.'

The Hon. T.G. ROBERTS: From the contributions, I think we are moving towards a clearer position in relation to post 2005-06. We are talking about only the interim period.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: We would not want the Clare Valley or the Barossa Valley to stand out as having a different regime from the rest of the state. Clearly, the government's intention is to move to volumetric status, and it will move as rapidly as it can to bring that about. In relation to the question asked at the previous sitting, the appeal would have to go to the ERD Court. I know the honourable member is not particularly happy about that, but—

The Hon. A.J. Redford: It is expensive, but as long as it is transparent and you can give us an undertaking that there will be transparency. The minister does not have to do that now, but if he could do so before the bill is passed.

The Hon. T.G. ROBERTS: The explanation given to me is that we can give a guarantee that it will be a transparent process. We can withdraw altogether amendment No. 1, relating to clause 146, page 121 at line 29, which is in line with the Hon. Nick Xenophon's preferred position. If we withdraw that amendment, that may be of assistance to the position of both the shadow minister and the Hon. Nick Xenophon. If there are any other recommendations on achieving consensus, please put those forward.

The Hon. CAROLINE SCHAEFER: This debate is a moving feast, as has been demonstrated. Consensus has been reached that, if the government is prepared to withdraw its amendment No. 1—that is, relating to page 121 at line 29—and removes the words 'including a purpose that relates to the use of water for a particular crop', the opposition will agree to the government's second and third amendments, which set out a sunset clause that compels the government to convert all water licences to volumetric by 1 July 2006. If the minister varies an allocation after that date, it also compels the minister not to take into account the use of water for a crop.

However, my colleague the Hon. Angus Redford has asked to be consulted (and I request that that be during the luncheon adjournment, or as soon as possible) as to what form the transparency will take with regard to conversions and volumetric allocations. I can see Julie Cann (who is responsible for allocations) in the chamber. Having consulted with her on a number of occasions before, I am sure that she will be able to provide my colleague with that detail. We would like that information as to what form that will take on the record . If we can get that assurance, I think we can move forward a tiny step.

The Hon. T.G. ROBERTS: I can give the honourable member the undertaking that there will be a briefing on transparency in relation to process. I can give an undertaking in relation to a sunset clause in respect of 2006, and I can also give an undertaking that we will not move amendment No. 1 relating to clause 146, page 121 at line 29. To facilitate movement in the bill, we can accommodate the three requests and, therefore, move forward. I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The Hon. CAROLINE SCHAEFER: I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

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

Page 121, after line 36—Insert:

(6a) If a condition of a licence restricts the purpose for the use of water to a particular crop, that restriction will cease to apply on 1 July 2006.

Amendment carried; clause as amended passed.

Clause 147.

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

Page 123, after line 7—Insert:

(ca) on or after 1 July 2006, insofar as the variation is being made on account of the operation of section 146(6a) in order to provide for the allocation of water under the licence on a basis that does not relate to the use of water for a crop; or

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 123, lines 23 and 24—Delete subclause (4)

Clause 147 relates to the variation of water licences. We seek to remove subclause (4), which removes any right of appeal to the ERD Court in respect of licences relating to water

resources within the Murray-Darling Basin. We believe it is a matter of principle that a right of appeal should always exist.

The Hon. T.G. ROBERTS: We oppose the amendment. This provision provides a means of varying conditions applying to water licences in the Murray- Darling Basin. It should be managed under other provisions according to a scheme which could be applied consistently to all licences. Because regulations could be made to prevent individual appeals under this provision, it is more likely that this scheme could be applied consistently and equitably to all River Murray licence holders.

It is anticipated that this head power to make regulations would apply only if difficult decisions need to be made to address the conditions of the River Murray water resources in the future. Circumstances in which regulations to exclude a right of appeal in relation to conditions applying to River Murray water licences would be subject to scrutiny as parliament has the opportunity to disallow regulations. It is the same discussion we had previously. This provision provides flexibility and strength should difficult circumstances relating to River Murray water resources need to be managed by a government of the day in the future.

The Hon. SANDRA KANCK: I have to say that I am with the government on this one. I will keep reminding members over and over again, one way or another, that this government has an aim to increase South Australia's population by more than 30 per cent in the next 45 years. The minister said that they need this provision, should there be difficult circumstances in the future. Let me promise you, if we have a population increase like that in the next 45 years, we are going to have difficult circumstances when it comes to water. So, I am staying with the government on this. I am opposing the opposition on this, because the government will clearly need these sorts of powers.

The Hon. NICK XENOPHON: I support the government's position for these reasons. The clause in its current form does provide that no right of appeal will arise under subsection (3) if the regulations so provide. So there is a mechanism there for scrutiny and for disallowance of regulations, and the fact that there is that level of parliamentary oversight satisfies me that this clause in its current form is appropriate.

Amendment negatived; clause as amended passed.

Clauses 148 to 150 passed.

Clause 151.

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

Page 124—
Line 34—After 'SA Water' insert:
to
Line 34—Delete 'the Corporation' and substitute:
SA Water

Amendments carried; clause as amended passed.

Clauses 152 to 169 passed.

Clause 170.

The Hon. CAROLINE SCHAEFER: The opposition opposes this clause. This clause contains some degree of retrospectivity. An example is that within the Development Act an application is assessed according to the plan at the time of the application. Under this clause in the NRM bill, applications for water licences or holding allocations could be assessed as they apply at the time. This could mean that an application prepared in good faith and which would have complied at the time of the application could be rejected because the goal posts have changed in the interim. We believe this to be retrospective. We believe that such matters should be determined by the courts. I have been given an example where an applicant has spent some six years attempting to comply with required changes, only to now have that licence rejected at considerable expense. Sections 30 and 37 of the previous Water Resources Act still, as I understand it, give the minister the required powers to make changes as necessary for environmental reasons. We do not believe that that retrospectivity should exist.

The minister has another amendment, which would have put a prescribed period of six months for assessing a relevant application, but I understand that is to be withdrawn and we will simply fight the case on the opposition's—

The Hon. T.G. Roberts interjecting:

The Hon. CAROLINE SCHAEFER: No? We will fight the case on the opposition's amendment. If there is to be some change to that, I am happy to debate the minister's second amendment on this matter.

The Hon. T.G. ROBERTS: The government supports the opposition's position. The government will not proceed with its amendment to clause 170.

The Hon. CAROLINE SCHAEFER: I seek clarification, because my amendment opposes the clause. Given that we have agreed on that, does that mean that the clause will be deleted?

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Yes.

Clause negatived.

Clause 171 passed.

Clause 172.

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

Page 141, line 7—
Delete paragraph (a) and substitute:
(a) must consult any council whose area may be directly affected by the operation of the by-law.

This amendment has been included as a result of discussions with the Local Government Association about concerns at the relationship between council and any regional NRM board's by-laws. The purpose of the amendment is to clarify that the regional NRM board is required to consult any council whose area might be directly affected by a by-law that the board is proposing to make. This consultation will provide an opportunity for councils and boards to identify and address any inconsistencies between council and regional NRM board by-laws.

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

Amendment carried.

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

Page 141, after line 22—
Insert:
(8a) The Minister must not give an approval under subsection (8)(b) unless the Minister has given any council whose area may be directly affected by the operation of the by-law notice of his or her proposal to give the approval and given consideration to any submission made by the council within a period (of at least 21 days) specified by the Minister.

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

The Hon. NICK XENOPHON: I support this amendment.

Amendment carried; clause as amended passed.

Clauses 173 to 183 passed.

Clause 184.

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

Page 150, line 21—Delete '$20 000' and substitute:
$10 000

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

Amendment carried; clause as amended passed.

Clauses 185 to 193 passed.

Clause 194.

The ACTING CHAIRMAN: We have amendments from both the government and the opposition to clause 194.

The Hon. CAROLINE SCHAEFER: My amendment seeks to insert 'and in any event within 24 hours'. I have been persuaded by the diligent efforts of the government to allow two business days, which I think is the government's amendment; so I will not proceed with my amendment.

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

Page 158, line 2—After 'at the earliest opportunity' insert:
(and in any event within two business days)

The opposition is supporting the amendment, so I will not go into a long explanation.

Amendment carried.

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

Page 158, line 26—Delete '$20 000' and substitute:
$10 000

The effect of this amendment is to reduce the penalty. I think it is an agreed position between the government and the opposition.

The Hon. CAROLINE SCHAEFER: I will therefore not proceed with my amendment and concede to the government's amendment.

Amendment carried; clause as amended passed.

Clauses 195 to 201 passed.

Clause 202.

The Hon. CAROLINE SCHAEFER: I move:

Page 165, line 30—Delete (d) or (e)

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 166—
Line 1—Delete paragraph (d)
Lines 2 to 8—Delete subclause (6)

We oppose the ability of a third party to bring actions in the ERD Court. We believe that disputes such as this should be between the government and the person who is in dispute with the government, and we are vehemently opposed to any third party being able to bring actions into the ERD Court.

The Hon. T.G. ROBERTS: The government's position is that we do not support the removal of the potential for third parties to seek leave to apply to the ERD Court for an order to be issued in relation to non-compliance with the requirements of the NRM legislation. The subclause provides for application to the ERD Court to be made by third parties, that is, persons whose interests are not directly affected by an alleged non-compliance if the ERD Court grants them leave, and there are certain prescriptive reasons why leave may or may not be granted.

This provision has been directly transferred from the Water Resources Act, and it is also in the Environment Protection Act and the Development Act. A third party needs to meet three strict criteria to satisfy the ERD Court before they may be granted leave to make an application for an order. These include that granting leave would not be an abuse of the process that is likely to result in an order being issued, that is, there is a substantive case to answer and it is in the public interest for the application to be heard. There is also significant potential for the apportionment of costs and damages to the third party applicant if they lose the application.

Advice received from the ERD Court has indicated that, under the Environment Protection Act, only four such applications have been made by third parties since 1995, and only three applications were granted leave by the court. So it does not appear to be a clause that has been abused in any of the other acts.

The Hon. CAROLINE SCHAEFER: Will the minister tell me about those three occasions?

The Hon. T.G. ROBERTS: Only one has reached the court, on my understanding, and the others were settled out of court. This is a short version. Of the three applications to the court, only one proceeded to trial. This was a case brought by a family who was concerned about noise from a childcare centre. While the court found in favour of the family, no court order was made as the childcare centre had built a wall to reduce the noise problem. It was not a major applicant.

The Hon. CAROLINE SCHAEFER: Surely there were other ways that that family—and we are not talking about noise pollution on this occasion—could have dealt with that. It could have complained to the EPA and had action taken by the government, and so again—

The Hon. Sandra Kanck: You have to be joking—getting the EPA to act!

The Hon. CAROLINE SCHAEFER: The Hon. Sandra Kanck interjects that no-one can get the EPA to act. In fact, I have many examples of its acting with considerable vigour, not necessarily with any great discretion. However, there is the facility within the law now for a complaint to be made to the EPA, and the government of the day, through the EPA, to act, or for the EPA to act as an at arm's length body. I refer to a third party who might be driving past, for instance, an irrigation block in the Riverland. They might decide, without knowing what they are talking about, that those blockers are irrigating at the wrong time, indiscriminately, or outside their allocation and as a result subject those growers who may well be innocent of any breach—and this is not an example; it is purely hypothetical—to a whole series of inquiries. I think it is tantamount to a third party being able to complain about many things.

When we are asked, virtually, to enter into a contract with the government with regard to natural resource management and when we are setting up a new layer of, if you like, bureaucracy to guard natural resource management throughout the state I see absolutely no cause to involve third and possibly malicious parties.

The Hon. SANDRA KANCK: I indicate that the Democrats will not be supporting this amendment. Given that the system is already in place in the Water Resources Act and there is no evidence of its having been abused, I think that an amendment such as this to remove that power on the basis that it might be abused is simply not strong enough. The minister has clearly set out the three parts of the test that are required in order for it to occur. I just remind the honourable member that applicants must show that there would not be an abuse of process, that there is a substantive case and that it includes a public interest aspect. Taking into account those three parts, the chances of abuse would be fairly small. The Hon. Caroline Schaefer talked about noise and said that they could have gone to the EPA, which, obviously, is true. I think that most people would go down that path as opposed to going to court as a third party for what could be a costly course of action if they fail. I simply do not see that the

arguments put by the Hon. Caroline Schaefer really have any substance.

The Hon. CAROLINE SCHAEFER: Similarly, I do not think that the arguments put by the Hon. Sandra Kanck have much substance. The honourable member's argument is that because this particular line in the law has not been used we should leave it there. In fact, this state has introduced a law that we are not allowed to eat dogs, not because there has been a great outbreak of people eating dogs. If the law is an ass it should be changed.

The Hon. SANDRA KANCK: There is no evidence that the law is an ass in this case. There has been no evidence of its being abused. The fact that a law might be abused is no good reason for our parliament not to deal with something like this. Our tax laws get abused over and again, and the federal parliament does not decide not to pass them because they might be abused.

The Hon. NICK XENOPHON: I cannot support this amendment, and I will state my reasons. It is a transfer of current provisions. By no means should that be the be all and end all, but safeguards are within the existing legislation. Also, a third party cannot bring an application without the leave of the court. A number of criteria must be fulfilled, as set out by the government. Costs cannot be awarded. As I understand it, costs are not automatically awarded in favour of a third party: it is at the discretion of the court. If an application was frivolous, vexatious or malicious, as the Hon. Caroline Schaefer has said, it would be an abuse of process.

The Hon. Sandra Kanck interjecting:

The Hon. NICK XENOPHON: In response to the Hon. Sandra Kanck, it would not necessarily be an abuse of process, but I would have thought that it would play heavily on the mind of the court in terms of making a determination of costs. It is the discretion of the court not to award costs in favour of a third party. Obviously, we would need to look at the circumstances of each case, but if a case was malicious, vexatious or frivolous, I could not imagine that costs would be awarded. I ask the government whether costs can be awarded against a third party; what are the provisions in respect of other parties? That is my only query. If an application was deemed to be frivolous or vexatious (the terminology used in legislation in the Industrial Relations Commission and other jurisdictions), does the court have the discretion to award costs against a third party in circumstances where that third party was dragged into the proceedings? That is the one issue about which I have a query.

The Hon. T.G. ROBERTS: All members have been in this council for a considerable period of time, and the Hon. Caroline Schaefer and I have been members of the committee. It is one of those issues that, over time, has moved. It started off that third party appeals or interference (as seen by some) was not an issue; the broad parliament did not accept the principle. The Democrats always had third party appeals built into a range of legislation. I believe that the compromise is included in the formation of the clause that is in front of us. In relation to the specific question asked by the honourable member, the ERD court may order an applicant in proceeding under this section to provide security for the payment of costs that may be awarded against the applicant if the application is subsequently dismissed. That is another discipline to prevent people using the court in a vexatious way. They have ways of working things out. Over time and with the number of applications, I think that, as it is structured, the clause serves two purposes. I know that people who want open access to third party appeals are disappointed that the legislation is framed in this way, but then those who do not want third party appeals, full stop, must accept that some disciplines are contained in the application, which is built into the legislation.

The Hon. NICK XENOPHON: I apologise for not reading subclause (13). I was focusing on the clause before us. It does, indeed, provide for security for the payment of costs and for undertakings to be made. On that basis, I support the government's position, because I believe that there are safeguards in place.

The Hon. CAROLINE SCHAEFER: I place on the record that I do not think I have the numbers but I will be seeking to divide on these amendments, because I believe that there will be times in the future where there will be malicious and vexatious actions by third parties, and I want it on the record that the opposition does not support this clause.

The committee divided on the amendments:

AYES (8)

Cameron, T. G.	Dawkins, J. S. L.
Lawson, R. D.	Lensink, J. M. A.
Redford, A. J.	Schaefer, C. V. (teller)
Stefani, J. F.	Stephens, T. J.

NOES (9)

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

PAIR(S)

Lucas, R. I.	Evans, A. L.
Ridgway, D. W.	Gago, G. E.

Majority of 1 for the noes.

Amendments thus negatived; clause as amended passed.

Clause 203.

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

Page 168—
Line 1—Delete '123(3) or (8)' and substitute 123(4) or (10).
Line 32—Delete '184(3)' and substitute 184(4).

These are technical amendments that I suspect have the agreement of all members.

Amendments carried; clause as amended passed.

Clauses 204 and 205 passed.

Clause 206.

The Hon. CAROLINE SCHAEFER: I move:

Page 170, line 31—After 'remission of' insert:
or an exemption from

This amendment allows for the provision of remission or exemption from rates in respect of levies, as is consistent with the remainder of this clause. I am aware that the LGA is opposed to this amendment—for obvious reasons. I do not know of any tier of government that ever willingly gives up access to income. Perhaps this is an appropriate time for me to express my disappointment with the LGA on this matter. I recognise that it has an officer in the chamber (one has been present for the entire debate), and I respect the association for that. But, other than two rather curt faxes received from the LGA, I have had no personal approach whatsoever. That disappoints me, because I certainly have had that courtesy from the government and the various other players in this bill.

I recognise that the LGA dealt with the Hon. Iain Evans in another place at some length, but I think everyone would agree that this bill has moved on quite considerably since

then. So, in the absence of any personal contact from the LGA, I move my amendment.

The Hon. T.G. ROBERTS: The government does not support this amendment, nor is it acceptable to local government, from the messages we have received. For consistency with like arrangements in other legislation, it is not appropriate to provide for exemptions from rates. For example, heritage agreements for native vegetation under the Native Vegetation Act, which are similar to the management agreements being proposed under this bill, do not provide for exemptions but only remissions. The government's aim is to maintain that consistency.

The Hon. SANDRA KANCK: The LGA provided the following information to me in relation to this clause:

> No exemption of council rates should apply as, in terms of equity, all members of the community should make some contribution to the local community, as they all enjoy the benefits of council services and infrastructure, such as roads.

That is a persuasive argument to me, and I see no reason to support the opposition's amendment. However, I would be interested to hear from the Hon. Caroline Schaefer on what grounds she believes that there should be exemptions.

The Hon. CAROLINE SCHAEFER: I think this is the clause that refers to the fact that levies are currently collected by the Local Government Association on behalf of the Animal and Pest Plant Control Commission and the soil boards. Those levies are inserted into the rates that we commonly pay now. When a separate levy is struck, unless that remission, or the right to that remission, is in place, the local government area of the NRM board will have the ability to leave that line in its rates notice when it no longer actually applies to those boards, thereby receiving, ostensibly, a bonus.

The Hon. NICK XENOPHON: I support the government's position in relation to this amendment, unless there are instances where the Hon. Caroline Schaefer is concerned that there will be an abuse or unfairness if the amendment is not carried. However, I would have thought that this clause allows for some uniformity in the scheme and some consistency of approach.

The Hon. T.G. ROBERTS: It is for remissions for management agreements. It is to be consistent with the remissions that are already paid.

The Hon. CAROLINE SCHAEFER: What remissions?

The Hon. T.G. ROBERTS: For example, for management agreements that are struck with land-holders in relation to heritage and native vegetation.

The Hon. CAROLINE SCHAEFER: That is my mistake. In fact, this clause is about remitting people who have entered into a heritage agreement from a certain amount of their levy. I would have thought that they had given up quite some income when entering into such a management agreement in the first place. I suppose this is the carrot and the stick. It seeks to allow people to enter into an agreement and receive appropriate remission from their levy for doing so. I apologise for speaking about the wrong amendment. That is the purpose of these amendments: to encourage people to enter into agreements which will be for the betterment of the management of the whole of the resource but will possibly cost the land-holder quite some potential income.

The Hon. T.G. ROBERTS: The government's position is the same as described. This clause refers to general council rates and remissions on management plans.

The Hon. CAROLINE SCHAEFER: I thought the headache that I have was from an impending cold, but I think it is actually from beating my head against a brick wall.

The Hon. T.G. Roberts: You know how to cure it.

The Hon. CAROLINE SCHAEFER: I do not think that alters the fact that, if someone enters into, for instance, a heritage agreement or a land management plan—there are a number of quite sensible compromises being reached between land-holders and, I am reluctant to say, the department because it may revert to its previous practices if I do—land-holders and people who are in the position of having native vegetation or endangered species on their properties can reach a sensible agreement allowing people to look after that land while accessing it.

However, there is a cost to the land-holder, and rates are usually set on the assumption that that land is being used for primary production, as is the main case with this bill. Our party simply thought that the ability to give remissions, not compulsorily, from rates may be some way of compensating those people for that loss.

The Hon. T.G. ROBERTS: In some cases that relief could be as high as 100 per cent of the council rate. The LGA's explanation states:

> The principle is that no exemption of council rates should apply as in terms of equity. All members of the community should make some contribution to the local communities. They all enjoy benefits of council services and infrastructures such as roads. . . The LGA supports provision for remission of council rates, but not exemptions. The remissions can be as high as. . .

So if there are expenses that landowners have to take into account, there is discretion for that remission to be applied and you would expect it to be applied sensibly.

The Hon. Caroline Schaefer: I wouldn't.

The Hon. T.G. ROBERTS: I said you 'could' expect it to apply evenhandedly and without prejudice or favour.

Amendment negatived.

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

> Page 170, lines 34 to 36—
>
> Delete subclause (3) and substitute:
>
> (3) The minister must not enter into a management agreement that provides for the remission of any council rates under subsection (2)(j) unless the minister has given the relevant council notice of the proposal to provide for the remission and given consideration to any submission made by the council within a period (of at least 21 days) specified by the minister.

There is general agreement across the board, so I will not explain it.

Amendment carried; clause as amended passed.

Progress reported; committee to sit again.

[Sitting suspended from 1 to 2.15 p.m.]

ASSENT TO BILLS

Her Excellency the Governor's Deputy, by message, intimated the Governor's assent to the following bills:

Supply Bill,

Dog and Cat Management (Miscellaneous) Amendment,

Freedom of Information (Miscellaneous) Amendment,

Gas (Temporary Rationing) Amendment.

PAPERS TABLED

The following papers were laid on the table:

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

Section 10 of the Emergency Services Funding Act 1998—Notice declaring the levy, the area factors, the land use factors and the relevant day for the 2004-05 financial year

Section 24 of the Emergency Services Funding Act 1998—Notice declaring the levy in respect of vehicles and vessels for 2004-05 financial year

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

Ministerial Response to the Social Development Committee Inquiry into Supported Accommodation.

AUSTRALIAN NATIONAL CHILD OFFENDER REGISTER

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Reginal Development): I lay on the table a copy of a ministerial statement relating to the Australian National Child Offender Register made earlier today in another place by my colleague the Minister for Police.

QUESTION TIME

GARRAND, Mr R.

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the Leader of the Government a question about Mr Ray Garrand.

Leave granted.

The Hon. R.I. LUCAS: Yesterday, the minister advised the council that the executive search firm Hudson Global Resources had conducted a substantial screening, interviewing and reviewing process of applicants from Australia and overseas and that some 60 people from Australia and overseas applied for the job as Chief Executive of the minister's department. The minister subsequently advised the council that Mr Ray Garrand was not one of the 60 applicants from Australia or overseas who originally applied for the position as Chief Executive of the minister's department. My questions are:

1. Will the minister assure this council that no ministers of the government, or an officer working for a minister of the government, suggested to Mr Ray Garrand that he should apply for the position of Chief Executive of the Department of Trade and Economic Development?

2. On what date did Mr Garrand actually lodge an application for this position?

3. Was he interviewed by Hudson for the position?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): As I indicated yesterday, a process was undertaken where some 60 applicants from across the country applied for the position and were considered as part of that process. Two names came out of it, but, as I indicated yesterday, neither of those two persons for various reasons took the position.

The Hon. R.I. Lucas: Did you tell Mr Garrand to apply?

The Hon. P. HOLLOWAY: No, I did not do that.

The Hon. R.I. Lucas: Who did?

The Hon. P. HOLLOWAY: I am not aware of anyone directing Mr Garrand to apply but, as I indicated yesterday, following the inability of either of the two candidates that came out of the original process to take up the position, the matter was referred back to Hudson. This process was undertaken through the Office for the Commissioner for Public Employment. I will take those parts of the question on notice to which I have not provided an answer.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Certainly, I can assure the honourable member it did not come from me, and I am not aware of that taking place.

The Hon. R.I. LUCAS: I have a supplementary question. When was the minister first aware that Mr Garrand would be an applicant for the position; and who advised him?

The Hon. P. HOLLOWAY: As I said, after the two candidates from the original process were not available the matter was referred through the Office for the Commissioner for Public Employment. My advice—and I read it to the council yesterday—was that Hudson was re-engaged in relation to that matter.

The Hon. R.I. Lucas: When were you first aware that he was an applicant?

The Hon. P. HOLLOWAY: As I said, the Office of the Commissioner for Public Employment notified me at the end of the process.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The matter was undertaken by the Office of the Commissioner for Public Employment and it used Hudson. I am not sure how Hudson undertook its task, or whether or not it came through the Office of the Commissioner for Public Employment. I will see whether I can provide information in relation to that matter.

The Hon. R.I. LUCAS: I have another supplementary question. Is the minister indicating that, for the position of the chief executive of his own department, he was not consulted by Hudson in relation to potential applicants; and is he also indicating that he does not know when he was first advised as to whether Mr Garrand would be an applicant for the position?

The Hon. P. HOLLOWAY: Hudson did not contact me, but I was certainly in communication for some time obviously with the Commissioner for Public Employment.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I do not know the exact date of it—I would have to look at the diary—but I had significant—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: There is nothing smelly with it at all. This is nonsense. I do not know what the date was; I really did not keep track of it, but I will find out for the honourable member.

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 the Anangu Pitjantjatjara lands.

Leave granted.

The Hon. R.D. LAWSON: On 7 April this year, the government, amidst much fanfare, appointed former federal Labor minister the Hon. Bob Collins to coordinate the provision of government services to the APY lands. By letter dated 23 April this year, Mr Collins provided the government with an excellent initial report, which contained a number of concerning conclusions but also a number of excellent recommendations. More recently, there was news that

Mr Collins had been critically injured in a motor vehicle accident. Given Mr Collins' indisposition, what steps is the government taking to ensure that the coordinator's job for state government services on the lands is being adequately fulfilled?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): The coordinator, Mr Bob Collins, has had a serious road accident and is recovering in the Royal Adelaide Hospital. I have no information as to his condition, but I do know that the government is considering options in relation to how to move the coordinator of the services on the lands into a position that can facilitate the roll out of the spending that has been promised within the lands in a coordinated way between the AP communities and the APY executive. Mr Collins had support staff from DAARE, Mr Liddy, and we hope that there would be cooperation between the AP and the government to allow Mr Liddy to carry out some of that role and responsibility. It is pretty obvious that, regardless of the health of Mr Collins, he will not be on deck for some considerable time. However, the government is considering options on how to move the matter forward, and I will keep the honourable member informed.

PIRSA CUSTOMER SERVICE

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, I think, Agriculture, Food and Fisheries but it could be Water, Land and Biodiversity and Conservation, a question about the PIRSA customer service centre.

Leave granted.

The Hon. CAROLINE SCHAEFER: In last year's budget, questions were asked with regard to the retention of the ground water information service, which has always been offered by PIRSA's customer service section. This free service was offered to people who wished to drill bores throughout the state, giving information with regard to the salinity, etc., of water available in a region. It is mandatory to provide that information, as I understand it, via a compulsory form to be filled out by all drillers across the state whenever they sink a bore in the state.

That information is there and it is available. On 1 December last year a constituent received a letter from the then minister Paul Holloway which, in part, states:

> I would like to assure you that the PIRSA customer service section will not be closed and will continue to operate.

I have since received information that this service centre, which provides ground water information to the public, was closed yesterday (30 June). I am assured that the information provided on the Department of Water, Land and Biodiversity Conservation's web site is in summary form only and of no practical use to the people who seek to drill bores, or for more general purposes in terms of the knowledge of ground waters in any particular subregion. Given that we are currently debating a bill that is supposed to give us greater security of access to such knowledge, my questions to whichever minister they apply are:

1. Why has this customer service been closed and how much funding is perceived to have been saved by closing this service?

2. Will it still be necessary now for the drillers of bores to provide this information to the department if it is not going to be disseminated to the public?

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

REGIONAL DEVELOPMENT BOARDS

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 regional development board projects.

Leave granted.

The Hon. R.K. SNEATH: While the government provides ongoing funding to regional development boards to undertake their work, I understand that it is often necessary to fund special projects in regional areas. Will the minister provide the council with any further information on these projects?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I am pleased to be able to do that, because these additional projects over and above the core funding provided to regional development boards are very important. Funding for the second and final year of a pilot program in conjunction with PIRSA for seven regional development boards to establish regional food networks and to encourage expansion within the state's regional food industry to increase the future potential for exports was one of those projects. This amount was $125 000. I have previously mentioned to the council that $25 000 was provided for an investigation into the feasibility of establishing an oyster hatchery on Eyre Peninsula to provide the local oyster industry with spat and to reduce dependency on product from Tasmania. Independent consultants were engaged to investigate alternative models for services delivery on Kangaroo Island across a range of state and local government bodies. The outcome of this was a recommendation for a more focused response from state agencies. The cost of this project was just under $9 000.

EPA and other approvals for the proposed Bower intensive animal precinct is being hampered by the lack of reliable data regarding prevailing wind speed and direction, rainfall and monitoring of other environmental conditions. The Bower precinct offers a strategic location, coupled with otherwise low-value land not subjected to water catchment or other issues for intensive animal production. Pork and chicken are the most likely animals to be bred there; $15 000 has been provided for a weather monitoring station at the precinct. At the request of the Northern Regional Development Board, the Office of Regional Affairs funded an independent consultant to undertake a review of some of that board's processes and procedures. The total cost of that project is expected to be less than $7 000. The state contributed towards the cost of a national expert to run a corporate governance workshop session in conjunction with the RDSA's annual conference. That contribution was $5 500.

In the Upper Spencer Gulf, Outlook Research was engaged to undertake a study into regional research and development at a cost of $2 000. Some $6 000 also was provided to undertake a risk analysis of a proposal to establish a small business incubator in the Upper Spencer Gulf region. Both the Murraylands Regional Development Board and the Fleurieu Regional Development Board have been supported to establish export development and export promotion programs. These amounts are $25 000 and $20 000 respectively. This expenditure is additional to the sum of

$80 000 provided from other funding sources to part fund full-time specialist export development officers located with regional development boards in the Eyre, Riverland, Limestone Coast and Upper Spencer Gulf regions.

During estimates I also announced that, in the 2003-04 financial year, the government made an ex gratia payment of $50 000 to each of the regional development boards—and there are 13 of them, so $650 000 was provided. Ideally, the government would like to see this money used for projects that will assist the state to reach its strategic plan targets and, of course, in particular, the export targets. This funding, which I indicate is over and above the core funding provided to the regional development boards, has enabled some very important studies to be undertaken and, we believe, will lead to the further success of the regional development boards in attracting additional development to this state.

The Hon. R.I. LUCAS: Sir, I have a supplementary question. Can the minister indicate in which month the decision was taken and when the money was transferred to the regional development boards, when he indicated that $50 000 was provided in 2003-04?

The Hon. P. HOLLOWAY: That was something that I announced during the estimates committee last month.

The Hon. R.I. LUCAS: I have a further supplementary question. I appreciate that. My question is: when was the decision taken and when was the money transferred to the regional development boards?

The Hon. P. HOLLOWAY: I believe the money was transferred several weeks ago.

HOME INSPECTIONS

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for Consumer Affairs and/or the Minister for Housing, a question about home inspections.

Leave granted.

The Hon. IAN GILFILLAN: On 2 May this year in *The Sunday Mail* there was a story entitled 'Inspections reveal sorry state of homes for sale in Adelaide. Not all they're cracked up to be', by David Nankervis. The article stated:

> Almost 60 per cent of homes in up-market Walkerville have damp, roofing or electrical problems. Latest building inspection figures also show that in Unley 70 per cent of houses are cracking, while wobbly timber frames are a worry in Norwood.

These figures are based on 2 672 pre-purchase inspections carried out over the past five years by Archicentre, the building advisory service of the Royal Australian Institute of Architects. It says that only 15 per cent of buyers have a pre-purchase inspection. The centre inspector, David Bodycomb, stated:

> I have seen some building shockers that would cost tens of thousands to fix. In one house, I found the timber floor joists were so weak the whole floor could have collapsed if they had a party with a room full of people.

The cost of the inspection for an average metropolitan house is put at $425, according to Archicentre. In the article there was a table listing the common faults and the percentages in descending order. It is interesting to see that there was cracking in 70 per cent of Unley; electrical in Walkerville was 49 per cent; roofing in Walkerville was 57 per cent; plumbing in Mount Barker was 15 per cent; damp in Walkerville was 72 per cent; illegal building in Adelaide was 52 per cent; foundations in Unley was 13 per cent; and timber rot in Port Adelaide was 45 per cent—and they are just the top of the league. It reflects quite a worrying disclosure of faulty buildings that the unsuspecting buyer may very well get trapped into.

I am also aware of a survey conducted earlier this year by the Consumers Association of South Australia, which found that people were having considerable trouble with real estate agents in this respect. There were even reports of prospective home buyers being actively discouraged from having property inspections. My questions are:

1. Is the minister concerned about the number of first home buyers and home buyers who are purchasing properties without having them inspected beforehand?

2. Does the minister recognise that $425 per average property inspection is prohibitive to many home buyers, particularly when they may be looking at a number of different properties?

3. Will the minister establish a system of compulsory inspections for all houses on the market paid for by the vendor and of these reports being available at minimal cost (say, 5 per cent of inspection cost) to those prospective buyers who will purchase one?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I assume that the Minister for Consumer Affairs will consider those matters. I will refer those questions to the minister and bring back a reply.

TABCORP

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Gambling, a question about a practice of TABCORP Holdings Limited.

Leave granted.

The Hon. NICK XENOPHON: A constituent, who is a TAB wagering account holder (part of TABCORP Holdings Limited, based in Victoria), contacted my office yesterday about a letter he received from TABCORP about his TAB wagering account. The letter commenced as follows:

> Our records show that you haven't placed a bet with us for a while.

It goes on to spruik various types of TAB bets that can be made, including those on the internet. Under the heading, 'Avoid the fee', it continues:

> Another reason to fire up your account is the new Account Keeping Fee that will be charged to racing accounts that remain inactive for 6 months or more. Our records indicate that you haven't placed a bet in almost five months; so to avoid being charged the fee, simply place a bet by 31 July 2004.
>
> If you do not place a bet before your account reaches 6 months of betting inactivity, your account will be subject to the Account Keeping Fee of $5.50 per month (including GST). Your account will be debited the fee each month for a period of 18 months unless the account is reactivated by placing a bet or reaches a zero balance.

Two days ago the Victorian Premier is reported as saying that he will seek further advice about TABCORP's move to penalise account holders for not betting and that he considered the proposal would disadvantage the occasional punter. My questions to the minister are:

1. Does he consider TABCORP's new fee to be unfair and anathema to responsible practice for a gambling provider?

2. Will the minister refer this practice to the Independent Gambling Authority for investigation, in the context of the authority's statutory responsibilities to reduce the harm caused by gambling, into any breach of the current responsible gambling code and, indeed, whether this should apply across the board for other gambling providers?

3. Does the minister consider such a practice should, in any event, be outlawed?

4. What are the odds that I will receive an answer to these questions before the winter recess?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I understand South Australia operates under UNiTAB. I undertake to refer those questions to the minister in another place and bring back a reply.

HINDMARSH SOCCER STADIUM

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Recreation, Sport and Racing, questions about Hindmarsh stadium.

Leave granted.

The Hon. J.F. STEFANI: I refer to a deed of agreement dated 29 March 2001 and signed by the Treasurer, the Minister for Recreation, Sport and Racing, the Minister for Government Enterprises and the South Australian Soccer Federation Incorporated. Item (m) of the recitals provides:

> The Government and the Federation have agreed that, in the event that the Government makes a management profit when managing the Stadium, that the government shall retain that profit in the event that the Federation terminates the Government's management of the Stadium.

My questions are:

1. Will the minister advise the parliament whether the government has made a profit for the financial year 2003-04?

2. If so, what was the amount of profit made by the government?

3. If no profit was made, what steps has the government taken to achieve a profitable result for the future use of the Hindmarsh stadium?

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

EXPORT COUNCIL

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about the Export Council.

Leave granted.

The Hon. J.S.L. DAWKINS: I understand the time for submissions to the Export Council's discussion paper closed yesterday. My questions are:

1. When does the minister expect to receive the discussion paper from the Export Council?

2. Will the minister indicate which groups and organisations were invited to make submissions?

3. When will the export strategy be released?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): We are certainly hoping that there will be a paper released from the Export Council fairly shortly. We obviously need to get the export strategy up and running as quickly as we can, of course. Within some industry sectors there are already detailed export plans. Obviously they exist in relation to the food industry and the various components of that, and the mining industry and certain other industries.

The Export Council has divided up the economy into I think about 17 different sectors, which they have graded as tier 1, tier 2, tier 3, depending on how prepared those industry sectors are in relation to export. Tier 1 includes those industries such as the food industry which is already well and truly into export and have their plans. The tier 3 will be those industries such as, for example, the health industry which are obviously not so advanced in relation to those plans. Clearly, there is a lot of work that needs to be done at the sectoral level. Of course, the whole purpose of the export strategy is ensure that industry takes the lead.

The honourable member was talking about submissions closing. I am not sure whether he is actually referring to various rounds of export grants or whether he is talking about submissions in relation to the discussion paper. I will take that part of the question on notice and get back to the honourable member.

ABORIGINES, ACTION ZONES

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about action zones.

Leave granted.

The Hon. J. GAZZOLA: The government's 'Doing It Right' policy states:

> The circumstances of Aboriginal people can differ significantly between regions and localities. Regional and local approaches are required on issues that impact on indigenous communities, families and individuals. In South Australia, policy cooperation and responses will target action zones within three clusters: metropolitan, rural and remote areas. The government's way of doing business is to encourage broad-based participation on a locally driven agenda.

Given this, my questions are:

1. Will the minister inform the council of what progress has been made on the establishment of action zones?

2. What future plans does the government have for the initiative and how are action zones benefiting Aboriginal communities?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question, and I recognise that the member has drawn on an important aspect of how this government recognises the need to work in partnership with Aboriginal communities to develop regional and local approaches to issues that will improve people's lives, if partnerships can be drawn together so that community and government are able to partnership these programs. Action zones are being identified where there are significant issues impacting on Aboriginal communities or groups of Aboriginal families. The purpose is to engage with communities and service providers in developing local solutions.

I have committed to the implementation of the West Coast action zone on the Eyre Peninsula to deal with issues which impact upon Aboriginal people in areas such as Yalata and Ceduna, Koonibba and Penong. Specific attention is being given to issues that arise there as a result of many circumstances, in particular substance use. Similar work is being conducted in the Riverland where consultation demonstrated the need to ensure that priority was given to significant matters relating to family well-being.

While not yet formally established as an action zone, the northern region in metropolitan Adelaide is currently the

focus of consultation between DAARE staff and the service providers, including Muna Paiendi Aboriginal Health Service at the Lyell McEwin hospital and the Aboriginal leadership group for the northern metropolitan area. This particular site includes project work currently being deployed by the Office of the North to regenerate the Playford North area including Smithfield Plains.

Action zones are the focus for building community capacity and cross-agency action. They support Aboriginal people in communities to build on the strengths, previous successes, increased levels of community participation and information-sharing in relation to decision-making and knowledge; to identify issues within their communities to improve the safety and well-being of individuals, families and communities; to develop a strategic vision through improved local and regional planning; and to engage with government to identify priorities.

I thank the Port Adelaide Enfield Council and the Salisbury Council for some of the work that they are engaging in to work in partnership. In fact, in the case of the Salisbury Council, it has implemented and designed programs that are quite separate from the state government's 'Doing It Right' framework. Whilst it is working in conjunction with DAARE, it has made some initiatives of its own to improve the lives of Aboriginal people within the northern region. I thank them for that. Their core principles and action zones foster community consultation, the development of a community profile, and the identification of community priorities by facilitating local and regional planning. That is exactly what those two councils are doing—Salisbury, in particular—in the development of strategic vision. If it can be included in discussions and consultation with Aboriginal people within metropolitan Adelaide, we can get greater improvement in preventing truancy, and getting better records in education, health and housing issues.

ATSIC AND ATSIS STAFF

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation questions about the future of ATSIC and ATSIS staff in South Australia.

Leave granted.

The Hon. KATE REYNOLDS: Last Friday I attended the launch of the Patpa Warra Yunti Regional Council's regional plan for 2004-05. At that launch the Patpa Warra Yunti chairperson, Tauto Sansbury, raised the issue of redundancies as a result of the demise of ATSIC and the mainstreaming of the functions of ATSIS. As honourable members would know, there are a number of employees of both ATSIC and ATSIS who are living and working in South Australia. Numerous reports in this state have highlighted the need to recruit more indigenous people to work in both specialist indigenous programs and services and mainstream programs and services in South Australia. Those members who take an interest in indigenous affairs will remember that in May 2003 this government launched the Indigenous Employment Strategy for the Public Sector 2003. The key outcomes of the strategy over the next five years were to be:

- that the South Australian public sector be an employer of choice for indigenous South Australians;
- that there be increased employment of indigenous South Australians in all agencies and levels within the South Australian public sector;
- that all identified indigenous public sector employees will be actively supported and encouraged to develop to the fullest potential;
- the development of effective evaluation and reporting systems to assist in the implementation and continuous improvement of the strategy.

My questions are:

1. Has the minister or his department sought to determine how many indigenous employees of ATSIC or ATSIS in South Australia may have lost their jobs as of yesterday without being able to secure other employment?

2. What action is the minister or his department taking to ensure that the skills and experiences of these people are not lost to either the indigenous services sector or the state of South Australia?

3. In relation to the Public Sector Indigenous Employment Strategy, what progress has been made on achieving these outcomes?

4. Given that I have been unable to find any information on this, what level of funding has been provided to implement this strategy in the 2003-04 and the 2004-05 financial years, and for the following three years of the strategy?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her question and her concern for the future of employees within ATSIC and ATSIS. The government, in particular my department, share those concerns. We have benefited greatly from the contact and the respect we were able to develop through the partnering agreement which we signed with ATSIC and which is still in place. We have had regular meetings. One of the suggestions I have made with Tauto Sansbury, who is one of the key elected leaders in this state, is that, where we do have problems within those action zones, in particular the Riverland which has been identified as an area that needs special attention in relation to a range of matters, while ATSIC itself is still funding their offices, we are able to share resources, in particular transport. I could visit some of these action zones with the ATSIC members to work with the state elected leaders and the regional elected leaders to find solutions to some of the problems that exist.

As far as funding goes within our own departments, we have those programs running. I will find out the number of traineeships and the number of public servants who have been taken on under the current government's programs. I may be able to make a projection for one financial year, but I suspect that I will not be able to get projections for three years; but I take the point that we should be moving towards three-year planning programs.

In relation to ATSIS, I do not have any solution for that. Most of them were commonwealth employees, although some of those people who are attached to ATSIS resided in the state as part of their employment. Many key officials of ATSIS were actually moved about from state to state. Some of those people will return to their own states to pick up employment opportunities that may exist when ATSIS funding is transferred back into the mainstream. I expect there would be some opportunities in some states for those members to be picked up.

Because a new structure has been developed by the commonwealth in relation to ATSIS and ATSIC, there will be some downside. I understand that some ATSIS employees have been picked up at a commonwealth level as commonwealth public servants, but I have no verification of that.

The Hon. Kate Reynolds interjecting:

The Hon. T.G. ROBERTS: Into the mainstream departments, yes. It is a matter of engagement. We are doing that with our ATSIC representatives. I will pursue the issues the honourable member has raised and bring back an answer to the balance of the questions for which I do not have the figures.

PAEDOPHILE OFFENDER

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the release of convicted paedophiles.

Leave granted.

The Hon. T.J. STEPHENS: It has been brought to my attention that a serial paedophile was released from prison recently. I have been told that this particular offender was transferred from Mount Gambier to a prison in Adelaide, and released in Adelaide due to the understandable public concern regarding his release in the community of Mount Gambier. Upon his release, the convicted paedophile was provided at taxpayer expense with a bus fare to return to Mount Gambier. Local police were not informed by anyone from corrections that he had been released or that he would be returning to Mount Gambier. I am told this practice is quite common. My questions are:

1. Is the minister aware that this practice has been occurring?

2. Why were Mount Gambier police not advised of the prisoner's release and return to the regional city?

The Hon. T.G. ROBERTS (Minister for Correctional Services): The tracking of paedophiles who have served sentences is a vexed question throughout Australia. I understand from a ministerial statement given today that there is to be commonwealth cooperation in putting together a history of information that would follow offenders. Perhaps I should read the ministerial statement. The Australian National Child Offender Register—

The Hon. T.G. Cameron: What are you reading?

The Hon. T.G. ROBERTS: This is a ministerial statement made by the—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: It is a difficult and vexed question, which is being dealt with by a whole range of government departments, including the police. A register is being built. Sometimes the offenders are released after availing themselves of a child sex offenders program within prisons, and declarations are made about the suitability of a prisoner to be released into the community without notification. In other cases, the parole conditions would state certain conditions that an individual would have to meet. I am not familiar with the case raised by the honourable member, but if he provides me with the information about the case, I can pick up the issue.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Some people may not have read today's paper. I have read *The Age* but I have not yet read *The Advertiser*.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I have it here and, in a quiet moment, I might be able to read it. Perhaps during one of the honourable member's contributions, I might be able to catch up on *The Advertiser*. Certain conditions are put on prisoners on their release. I will ask the departmental officers concerned about that case and obtain the details for the honourable member.

The Hon. IAN GILFILLAN: I have a supplementary question. Can the minister indicate when the sex offenders program to which he referred was introduced; and was he aware of any reluctance by the previous government to institute that program?

The Hon. T.G. ROBERTS: That is a very good question. There was a reluctance by the previous government to introduce a sexual offenders program within the gaols, full stop. As for the development of a national register, I was on a committee in 1991 which made that recommendation. The committee included members of the opposition and perhaps one Democrat, and it made a recommendation that a national register be set up in 1993. It has taken some 11 years to put that in place. It has been a long time—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Discussions started during that period. The situation—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: No, I am not; I am not blushing at all, Mr President. It might be frustration that is making me change colour. The previous government's history in relation to offenders is not a good one but, as I said, it is a difficult question to deal with and there are different views and opinions within and across parties. I do not say that it is an easy question to deal with, but we must have a more enlightened approach concerning how we deal with child sex offenders inside prisons in relation to psychiatric support, help and treatment; and, upon their release, we certainly have a community responsibility to provide support and assistance to those who may not have availed themselves of the programs.

The Hon. T.J. STEPHENS: I have a supplementary question. Will the minister give me an assurance that he will instruct his correctional officers to alert the police upon release of any paedophile into the community, given that the community has a right to know where they are?

The Hon. T.G. ROBERTS: As I explained, certain categories, priorities and protocols need to be examined in each individual case. I do not think that we would issue a blanket statement. However, I will provide a list of the protocols for the honourable member, and I will seek the case management program for that individual prisoner.

The Hon. NICK XENOPHON: As a supplementary question, what are the protocols to which the minister refers, have they been applied in this case and can he provide an answer now?

The Hon. T.G. ROBERTS: Again, as the minister, I am not notified. One of the protocols is not to provide a minister with a list of people who are released from gaol. However, I will provide the same material for the Hon. Mr Xenophon.

The Hon. J.F. STEFANI: As a supplementary question, will the minister advise the council how many sex offenders are participating in the rehabilitation program set up by the government?

The Hon. T.G. ROBERTS: As I have reported to this council, the programs have just been put in place. I will inquire about the number of participants and bring back a reply.

ELECTRICITY, BILLING SYSTEM

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for Energy, a question about special treatment for certain electricity consumers.

Leave granted.

The Hon. SANDRA KANCK: Earlier this year the electricity account sent to my home address included two other bills, one for my parliamentary colleague the Hon. Ian Gilfillan and one for a residence near Renmark in the Riverland. At the time I had a suspicion that this mix-up pointed to a systematic withdrawal of politicians' electricity bills from the mainstream billing system to diminish the possibility of a billing error being made on a politician's account. My suspicions have proved correct.

At my request the Electricity Ombudsman and ESCoSA conducted an investigation into the billing error. The investigation discovered that some 2 000 bills per day are, for various reasons, manually processed. It was also revealed that about 600 bills per quarter are manually reviewed as part of a quality assurance process to verify the integrity of the billing process. The bills of a majority of members of parliament are included in this quality assurance process. As the chair of ESCoSA notes, 'Such a practice is not considered to be in breach of any regulatory obligations on AGL (South Australia), although it might be considered to raise some interesting questions.' Indeed! My questions to the minister are:

1. Are any other groups of movers and shakers included in AGL's quality assurance practice and, in particular, does AGL(SA)'s quality assurance billing policy also include extracting and manually reviewing the bills of selected members of the media?

2. How does having a selected number of bills included in the quality assurance program impact upon the efficacy of that program, and will the minister require AGL and other electricity retailers to cease the practice of specifically including politicians or any other vocational groups in its quality assurance programs?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will refer those questions to the Minister for Energy and bring back a reply. I would remind the honourable member that we do now have a privatised electricity system; therefore, what role the government plays is somewhat limited compared to what it would have been had that system been under the direct ownership of the state as it was with the old Electricity Trust.

WATER RESTRICTIONS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment and Heritage, questions about South Australia's water restrictions.

Leave granted.

The Hon. T.G. CAMERON: Over the past five years, water restrictions have had a massive impact on garden-based industries right across Australia. According to Mr Richard de Vos, Chief Executive Officer of the Nursery and Garden Industry of Australia, the $5.5 billion industry has been hit by a 40 per cent reduction in business, and 6 000 jobs have been lost in the past eight months. Nationwide, the number of garden businesses has fallen from 2 000 to about 1 500. Mr de Vos argues that most state governments focus on household gardens for water restrictions because they are an easy target. However, the Western Australian government has taken a different approach—one that could have valuable lessons for South Australia.

As well as telling people when they can water, the Western Australian Water Corporation has spent time and effort in giving people information on how to cut back water use and still maintain their gardens. The corporation, in association with the garden nursery industry, has set up a network of water-wise garden centres where nurseries can send their staff for water-wise training and the stocking of appropriate plants and equipment. It is all part of a successful government program to educate people about how to use water irrigation systems correctly and the water requirements of their plants. My questions to the minister are:

1. Since the introduction of the new water restrictions in July last year, how many garden centres have closed, and how many jobs are estimated to have been lost in South Australia?

2. Did the government consult the South Australian garden nursery industry about the possible impact that water restrictions may have on them before introducing them?

3. Will the minister investigate the Western Australian model of water-wise garden centres to see whether a similar scheme is suitable for application in South Australia?

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

PRODUCTIVITY COMMISSION REPORT

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Productivity Commission report.

Leave granted.

The Hon. A.J. REDFORD: The Productivity Commission recently released a report on corrective services in Australia. The report covered present custody and community corrections orders and adult offenders programs. The report disclosed that the total expenditure in Australia was $1.7 billion and showed that the South Australian expenditure was consistent with the national average. It also showed that the rate of imprisonment in South Australia was below the national average—less than in New South Wales, Queensland and Western Australia, and a little more than in Victoria. South Australia had the highest rate of serious assaults by prisoners on officers per 100 prisoners and the highest rate of deaths from unnatural causes, the second highest rate of prisoner escapes or absconding and the second worst rate of prisoner employment in the country.

That is a damning indictment of this administration. We have the lowest proportion of prisoners undertaking accredited education or employment in this country. Even worse is the state of community corrections in South Australia, that is, the management of people who are on bonds or out on parole. The offender to staff ratio for community corrections was 29.7 offenders per staff member in South Australia, the worst in the country. With respect to the operational staff—that is, the people who actually do the work—South Australia had the highest ratio, with 42.5 offenders per staff member compared with Victoria's 22. How you can supervise 42.5 people is beyond my understanding.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: You are equally well funded; you cannot blame funding. This is management; this is down to you. In the comment section, the South Australian government proclaimed that all would be fixed by the new 120-bed prison (which was stomped on in the budget), acknowledged that a low percentage was engaged in education and said nothing about the improvement of community corrections. My questions are:

1. Has the minister read the Productivity Commission report?

2. Is the minister aware that we have the worst community corrections ratio of staff to people in the country?

3. What is the government doing about improving supervision of people on bonds?

4. Are South Australians at greater risk because people on bonds and on parole are largely unsupervised in this state?

5. Given that the funding is the same as the national average, why do we have such appalling figures regarding supervision of offenders on community correction orders?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his well-researched and well-documented question. I have read relevant passages from the Productivity Commission's report to get a picture of many areas of comparison between South Australia and the other states. Some of the figures stand out in stark comparison with the funding regimes of other states. We do not have the budgets of other states, particularly Queensland, which has spent quite a lot of money on new buildings and infrastructure. We certainly do not have the type of prisoners that New South Wales and Victorian prisons have to look after. Although we have a number of maximum security prisoners, as I have stated in the council on other occasions, thankfully we do not have many in this state. I am not saying that we will not in the future, nor that the profile of prisoners in this state will not change to reflect the criminal actions and activities of other states and that levels of violence and the problems that they have—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Western Australia is probably a better state to use as a comparison, inasmuch as the correctional services system is able to be compared, because it is very difficult to compare apples with apples, given the infrastructure of each state. As to the way in which a program is measured (and the honourable member may want to include education in that), much depends on the length of time prisoners are in our system. We have a lot of 'churn' with many of our remandees. Probably the most telling factor that needs to be dealt with (and we are dealing with it) is the fact that we have just over 200 remandees in our prisons. In some cases, many are there for less than 15 days, being held over to be either charged or set free. Many of those prisoners do not avail themselves of any programs, whether they be work, rehabilitation or educational programs. When you look at comparisons within particular fields, you have to look at exactly what it is you are comparing.

In relation to community corrections, there are employment opportunities through rehabilitation programs, and certainly funding is made available to every aspect of corrections that can be, and there is no doubt about that. However, governments have to set priorities in relation to how they spend funding, not only within corrections but also across government. This government has made its priorities health, education and now child protection. Certainly, we have allocated more funds to the system than were regarded as reasonable by the previous government. In many cases, we are coming off a low base, but we are piloting and trialing programs within the prison system that have not existed before. I think the honourable member is visiting the Women's Prison next week.

The Hon. A.J. Redford: Monday afternoon.

The Hon. T.G. ROBERTS: Yes—Monday. I am sure that he will not be very pleased with some of the aspects of that prison. We have inherited that problem, but we will try to deal with it. In some cases those problems associated with underspending in previous years have to be dealt with over many budgets. That is something we are trying to deal with. I visited the Risdon Prison in Hobart just recently. I am sure that the South Australian situation is not as good as we would like in some categories but, in relation to some of the other prisons, if the honourable member spoke to people—and he is taking a good interest in the portfolio—he will see that in South Australia, although we are underfunded in terms of some comparisons, our record is as good as any other state's and probably better than some.

We have a long way to go in relation to a whole range of issues, particularly jobs being provided, education and training. We are developing new programs but, as for jobs within prisons and outside for community corrections, you have to get the support of the private sector to enable you to provide jobs for exiting prisoners and you must have the types and categories of employment that do not compete with the private sector outside. That is not an easy task.

SCHRAMM REPORT

The Hon. P. HOLLOWAY: I table a ministerial statement made by the Minister for Police in another place today in relation to the Schramm Report.

NATURAL RESOURCES MANAGEMENT BILL

In committee (resumed on motion).

(Continued from page 1941.)

Clauses 207 and 208 passed.

Clause 209.

The Hon. CAROLINE SCHAEFER: I move:

Page 173, lines 31 and 32—Delete paragraph (d)

This has to do with the issuing of notices, and we seek to delete paragraph (d) which provides that the notice or document may—if the notice or document is to be served on the owner of land and the land is unoccupied—be served by fixing it to some conspicuous part of the land. Mr Chairman, you, the Hon. Bob Sneath and I have been to some of these places. Why nail a notice to a post in this day of electronic media? Most people have telephones and post boxes; in fact, I think the email uptake in rural Australia is over 80 per cent. If it has not been possible to serve a notice in any other fashion, it is highly likely that those people are not there and, as I say, nailing a notice to a post appears to me to be completely inadequate in this day and age, if it were ever adequate.

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

Page 173, lines 31 and 32—

> Delete 'and the land is unoccupied' and substitute ', the land is unoccupied, and the person seeking to serve the notice or documents has taken reasonable steps to effect service under the other paragraphs of this subsection but has been unsuccessful.'

It may be more than banging a sign on a post. This amendment provides that a notice cannot be served by fixing it to some conspicuous part of the land unless reasonable steps to effect service under other paragraphs of this subclause have been taken and are unsuccessful. Rather than being a first resort, it is a last resort after other methods of contact have been tried.

The Hon. CAROLINE SCHAEFER: I am sorry that I could not speak to this earlier. I recognise that this is an effort on behalf of the government to reach a compromise and, under this amendment, a notice being nailed to a post would be as a last resort only. If I am defeated, I will obviously support this amendment because it is better than what currently stands. My concern with that is that, if the land is genuinely unoccupied and if all these other methods of contacting the people have been tried unsuccessfully, there is a very good chance that fixing a notice to a post, the limb of a tree or a dropper is also not going to be successful in contacting those landowners. As I understand it, once the notice is served, they can begin accruing fines which they may know absolutely nothing about. I would prefer that whoever is serving the notice uses other methods than something as antiquated as this. Perhaps we could also send a message stick, smoke signal or carrier pigeon, because they are methods of communication that are about as up to date as nailing a notice to a post.

The Hon. T.G. ROBERTS: The situation in relation to the banging of the message on the post was that it was an extreme situation where rabbits were required to be eradicated from that property to satisfy the requirements of neighbours who were doing the right thing by their eradication program. As a last resort, just to cover the situation, a message was nailed to a post, but it was only a one-off. As the honourable member has pointed out, more traditional methods of tracking down absentee owners were used. In that case, all those methods had been tried but, unfortunately, they were not successful.

The Hon. J.S.L. DAWKINS: In relation to the posting of a notice, I understand it would be done as a last resort. Obviously, in the 19th century or in earlier times that was the way in which things were advertised in the community. As the Hon. Caroline Schaefer has indicated, today we have greater technology. We also have the ability to make a notice last longer than perhaps a pure piece of paper. What measures would be taken to laminate it or protect it from the weather so it lasted longer? I understand it would be used only as a last resort.

The Hon. T.G. ROBERTS: A star dropper and a painted notice with a waterproof plastic covering can be provided if that satisfies the requirements of the members to progress this item.

The Hon. NICK XENOPHON: Further to the very good point raised by Hon. Mr Dawkins about the weather, having been camping in the Riverland not so long ago, I know it can get a bit wild. I suggest an amendment for consideration by members.

The Hon. Caroline Schaefer interjecting:

The Hon. NICK XENOPHON: Well, to insert the words 'in a clear protective seal'.

The Hon. T.G. Roberts: We will put that in the regulations.

The Hon. Caroline Schaefer: The regulations will do.

The Hon. NICK XENOPHON: I offered, but I understand my colleagues are happy to have it in the regulations. Perhaps the minister can give an undertaking that the regulations will refer to a clear protective seal, which could include laminate.

The Hon. CAROLINE SCHAEFER: While this is serving to bring some frivolity to the debate, I would like the assurance of the minister that, whether this notice is in the post box, sent by email or nailed to a convenient post, if the landowner or lessee is genuinely unable to be contacted, do they then incur a rolling fine? Under the court system, are they able to be exempted from those fines if they can genuinely prove they were unaware they were served with this notice? That is what we are trying to establish. If we cannot contact someone by a more recent method of communication than nailing a notice to a post, in all fairness we probably will not be able to contact them. They may be overseas for six months. They are served with a notice. Are they then in breach of that notice if they are unaware that they have been served with it?

The Hon. T.G. ROBERTS: I am advised that the notice would be placed to do certain work and then, if it was clearing weeds, burning off, or whatever, and there was a charge prescribed to that, they would incur the cost. Whether they had been notified at a personal level or whether they had been absent, they would pay the cost for whatever it was that was carried out on their behalf for good land management and if the work had been completed in a satisfactory manner.

The Hon. CAROLINE SCHAEFER: I will be sticking to my amendment because basically what that means is that it is entirely possible that, under those circumstances, someone could incur that cost without knowing that they were in breach of the act.

The Hon. T.G. Robert's amendment carried; clause as amended passed.

Clauses 210 to 221 passed.

Clause 222.

The Hon. CAROLINE SCHAEFER: I move:

> Leave out this clause.

I seek some indication from the Independents on how they will vote. I think this is a very important provision in principle because, as this clause currently stands, someone could be convicted of an offence and continue to accumulate fines even though they may not have had time to make reparation. For example, someone who has been served with a notice and told that they must clear weeds, make good some soil erosion, or whatever, and they may have a seasonal occupational constraint to doing that—it may be harvest time, seeding time, shearing time, or there may be heavy rains, for instance, which might make roads impassable or it may require earthworks which would do more damage than good during certain times when perhaps it is either very dry or very wet—yet under this provision that person could continue to accumulate fines, even though it was untimely and impractical for them to carry out the order under these provisions.

The Hon. SANDRA KANCK: I indicate that my immediate response is to oppose the amendment because, as things stand, I could imagine that there might be some who would quite deliberately ignore what the court has ordered them to do and, without this penalty in the bill as it is currently, would be able to get away with it. However, I have

a slight sympathy for the sort of situation described by the Hon. Caroline Schaefer. The bill provides:

> . . . for each day during which the act or omission continued of not more than one-tenth of the maximum penalty prescribed for that offence;

I would like to know the procedure by which that amount is determined. Do departmental officers go back to the court and ask for this penalty to be imposed at a particular level, and would it be possible for the departmental officers to ask that the amount be nil?

The Hon. T.G. ROBERTS: The government opposes this amendment. This clause provides that a person convicted of an offence will be liable to a penalty with respect to any continuing act or omission. Generally, subclause (1)(a) would operate only where a person has been issued with a statutory notice and then continues to disregard that notice prior to any court proceedings. Subclause (1)(b) would operate only where a person has already been convicted of an offence and then continues to commit the same act following the conviction.

For example, a person may take water in contravention of the act and following the issuing of a legal notice to cease taking that water illegally; or following a conviction in court for that offence continues to take water illegally. In these sorts of circumstances, strong powers are needed to cater for deliberate and continuing offences. Continued and deliberate unauthorised taking of water, for example, requires appropriate deterrence provisions which are included in this clause. Similar provisions are in the Development Act, amongst others, and provide for the ability to deter significantly ongoing offences. In relation to the question posed, the magistrate will determine the amount based on the breach and the evidence placed before the court.

The Hon. SANDRA KANCK: Presumably, as a defence, the landowner would be able to explain that, because of unseasonal rains, or whatever, it became impossible to follow through with the order that was given. They could put their own case to the court that there should be no penalty.

The Hon. T.G. ROBERTS: I am advised that it is purely at the discretion of the court. If the person had a legitimate case to plead, that would be taken into account. If someone was deliberately flouting a regulation or law, I assume that the magistrate would handle that in a different way.

The Hon. SANDRA KANCK: The minister is talking discretion. Would departmental officers have the discretion of not drawing the attention of the court to that continuing offence?

The Hon. T.G. ROBERTS: Yes.

The Hon. NICK XENOPHON: I have a number of concerns about this clause and the amendment, and I would appreciate the views of the minister, as well as those of the Hon. Caroline Schaefer and the Hon. Sandra Kanck. As I see it, this clause ensures that if someone is continuing to offend and has a wilful and almost contemptuous disregard for the act that a penalty can be imposed on them. I am talking about a wilful disregard or a deliberate course of action. It could fall short of being a wilful disregard, but it could almost be a reckless disregard in terms of applying some concepts of other parts of the law, or even almost a gross negligence. But then on the other hand we have the scenario put by the Hon. Caroline Schaefer that, for instance, because of factors beyond their control a farmer could face this penalty.

So my questions and observations are as follows. In terms of the person being liable for this continuing offence of up to one-tenth of the maximum penalty prescribed for that offence on a daily basis, how is that triggered? How would a person who is liable for that penalty be aware that they face that? Let us say that it is a borderline case, someone who is being pretty cavalier here in their attitude towards their responsibilities to the act: how will that person know that, by the way, not only have you been done for this offence but because you have not sorted it out or complied you are liable for a continuing offence. That is the first thing. I think that is important in terms of letting people be aware of their ongoing obligation to the fact that they are subject to another penalty because of the nature of this provision.

The other issue that I float for honourable members, as I think the minister and the Hon. Sandra Kanck have pointed out, is that, notwithstanding there is an issue of discretion here, could the discretion be prescribed to some extent to make it clear in terms of the guidelines that would apply so that, in the sorts of instances that the Hon. Caroline Schaefer was talking about, it would give some comfort for those farmers who would fear being subject to a continuing offence in circumstances where it is clearly beyond their control to ensure compliance. They are the issues that I am concerned about. In the absence of any alternatives put to me by the opposition, I will support the government, but if there is something down the track I would be more than happy to look at it on a recommittal basis.

The Hon. CAROLINE SCHAEFER: That being the case, I will distribute a second set of amendments to this clause which I have had drawn up, which would make the actions under subclause (1) subject to the decision of the court. In other words, it will formalise what we have as an assurance from the government at the moment, namely, that this series of fines will be acted upon only on the decision of a court. I seek leave to withdraw my first amendment.

Leave granted; amendment withdrawn.

The Hon. CAROLINE SCHAEFER: I move:

Page 179, line 4—After 'is liable' insert:
, subject to any determination of a court.

The Hon. T.G. ROBERTS: In the spirit of consensus, and to assist Mr Xenophon in his decision, the government supports the compromise put forward by the Hon. Caroline Schaefer.

The Hon. NICK XENOPHON: I go with plan B, Mr Chairman.

The Hon. SANDRA KANCK: I indicate that in many ways this reflects the answer that the minister gave to my question, so it seems quite sensible.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 179, line 7—After 'the conviction' insert:
, subject to any determination of a court.

This is consequential.

Amendment carried; clause as amended passed.

Clauses 223 to 225 passed.

Clause 226.

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

Page 181, after line 23—Insert:
(3) This section only applies with respect to a matter that relates to the River Murray.

This amendment provides for the minister to make regulations to prevent appeals being made against decisions based on assumptions, information or criteria by the minister and under this clause in relation to the River Murray only. The amendment will therefore provide that regulations can be made only to prevent appeals and determinations in relation

to the River Murray. This power is included in the current Water Resources Act and was introduced last year as a consequential amendment from the River Murray Act. As regulations need to be tabled in parliament, there will be scrutiny of the circumstances in which a minister of the day may propose making such regulations.

The Hon. CAROLINE SCHAEFER: I do not agree with the minister having such powers. I did not agree when our minister introduced them under the Water Resources Act; I did not agree with them last year when they were introduced under the River Murray Act; and I still do not agree with them. However, this amendment is a compromise and restricts the minister's ability to make assumptions to the powers that he already has under the River Murray Act. As such, reluctant as I am, I know that I can argue for the rest of the afternoon and not get my amendment up, and I do appreciate that there has been some compromise made, so I will not proceed with my amendment and reluctantly concede to the government.

Amendment carried; clause as amended passed.

Remaining clauses (227 to 235) passed.

Schedule 1.

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

Clause 5, page 188—
Line 3—Delete '$20 000' and substitute:
$10 000
Line 20—Delete '$20 000' and substitute:
$10 000

These two amendments should be considered together. These amendments reduce the penalty from $20 000 to $10 000 in consistency with other like offences. Local Government Association submitted that $20 000 maximum penalty for a breach of the conflict of interest provisions by members of the NRM board, especially NRM groups, might deter persons from being members. These reductions in the penalties are proposed to ensure that the maximum penalty is less likely to be perceived as a deterrent by potential members of the NRM bodies. However, an appropriate maximum penalty is required to indicate that significant penalties could apply in relation to repeated or serious offences.

Amendments carried.

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

Clause 5, page 188—After line 28—
Insert:
(7a) If the minister acts under subclause (7), the minister must furnish a report on the matter to the Natural Resources Committee of the parliament.

This amendment requires the minister to report to the Natural Resources Committee of parliament. If the minister requires an NRM body member to divest himself or herself of an interest that is inconsistent with the duties of office, they ought to resign their office to avoid a significant conflict of interest. The Local Government Association recommended that the accountability of the minister should be increased in respect to taking actions against members of NRM bodies for breaches of the conflict of interest provisions. This amendment is proposed as a suitable mechanism for achieving improved accountability.

Amendment carried.

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

Clause 5, page 188—
Line 40—After 'member' insert:
or officer
Line 42—After 'member' insert:
or officer

These amendments ensure that council officers have no conflict of interest in the undertaking of their employment in local government. The LGA recommended that reference to council officers be included in both these subclauses as council officers may be members of regional NRM boards or NRM groups and should be protected from having a conflict of interest by virtue merely of being a local government employee.

Amendments carried.

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

Clause 5, page 189, line 3—
After 'community' insert:
within which the prescribed body operates

This amendment clarifies the meaning of 'community' in relation to these conflicts of interest provisions for members of NRM bodies. The Local Government Association recommended clarification of the meaning of the term 'community' in the context of the conflict of interest provisions. The amendment clarifies that the relevant community is the community in which the particular NRM body operates.

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

Amendment carried; schedule as amended passed.

Schedules 2 and 3 passed.

Schedule 4.

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

Clause 18, page 194, after line 13—Insert:
(1a) Section 67(1)—delete 'an application'
(1b) Section 67(1)(a)—before 'for an increase' insert:
an application
(1c) Section 67(1)(b)—before 'to transfer' insert:
an application
(1d) Section 67(1)—after paragraph (b) insert:
or
(ba) the use of water under a water allocation,
(1e) Section 67(1)(c)—after 'additional water allocation' insert:
is or
(1f) Section 67(1)(e)—delete 'will authorise' and substitute:
authorises, or will authorise,

This amendment explicitly establishes that salinity management obligations for the use of water allocations and the Ground Water (Qualco-Sunlands) Control Scheme area are met on land that has waterlogging and salinity risk management allocations attached to it and that lower levies will continue to apply for members of the scheme. The government's position remains that all irrigators contributing to the scheme—that is, the Ground Water (Qualco-Sunlands) Control Scheme—will achieve a zero salinity impact on the River Murray. Trust members assume, as is the government's intent, that their salinity obligations are therefore met if they are members of the scheme and hold risk management allocations for the land being irrigated.

At the request of the member for Chaffey, the minister agreed to look at this issue between the houses to ensure that the intent of the minister's statement was covered by the bill. To provide surety to this intent, the proposed amendments have been developed in consultation with and with the support of the member for Chaffey. The amendment provides that the problem of salinity impact arising from the use of water for irrigation in the scheme area must not be considered by the minister under the Natural Water Resources Management Act when the use of water is on land to which the risk management allocation is attached in accordance with the Ground Water (Qualco-Sunlands) Control Act.

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

Amendment carried.

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

Clause 19, page 194, after line 20—Insert:

(2) Section 68—after 'the operation of the Scheme under this Act' insert:

after taking into account the provisions of the relevant water allocation plan

This is consequential.

Amendment carried.

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

Clause 26, page 195—

After line 26—Insert:

(a1) Section 25(1)—delete subsection (1) and substitute:

(1) The Council must prepare draft guidelines in relation to—

(a) the application of financial and other assistance provided by the Council; and

(b) the management of native vegetation; and

(c) the operation of section 29(4a).

Line 33—Delete:

'the application of financial and other assistance' and substitute:

a matter under subsection (1)(a) or (c)

Clause 27, page 196, after line 1—Insert:

(a1) Section 29(1)—delete 'subsection (4)' and substitute:

this section

(a2) Section 29—after subsection (4) insert:

(4a) The Council may give its consent to the clearance of native vegetation that is in contravention of subsection (1)(b) if—

(a) the Council has adopted guidelines under section 25 that apply in relation to the region where the native vegetation is situated (being guidelines envisaged under subsection (1)(c) of that section); and

(b) the Council is satisfied—

(i) that a significant environmental benefit, which outweighs the value of retaining the vegetation, is to be achieved through the imposition of conditions and the taking of other action by the applicant; and

(ii) that the particular circumstances justify the giving of consent.

These amendments amend the Native Vegetation Act 1991 to allow the Native Vegetation Council to approve the clearance of native vegetation that may be contrary to the principles of clearance in Schedule 1 of the act but that in the opinion of the council the overall environmental benefit resulting from the clearance and conditions attached to the clearance, consent or actions taken by the applicant significantly outweighs the value of retaining the native vegetation. In such circumstances the council must operate in accordance with the guidelines prepared subject to section 25 of the Native Vegetation Act.

Guidelines will be prepared following consultation with key bodies as provided in the act including, among others, the South Australian Farmers Federation and the Conservation Council of South Australia. The amendment was originally proposed by the South Australian Farmers Federation and has the support of the Conservation Council of South Australia. The concept was developed by the working group comprising representatives of the SAFF, the Conservation Council of South Australia, the Nature Conservation Society of South Australia, the Native Vegetation Council and the Department of Water, Land and Biodiversity Conservation.

The Hon. CAROLINE SCHAEFER: I can only say that these amendments show some commonsense creeping in to legislation at last, and I support them very enthusiastically.

Amendments carried.

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

Clause 50, page 204, after line 20—Insert:

(2) The Governor may, on the recommendation of the Minister, appoint some or all of the members of the Interim NRM Council as the first members of the NRM Council under this Act.

(3) An appointment under subclause (2)—

(a) may be made despite the fact that the constitution of the NRM Council under this clause would be inconsistent with Chapter 3, Part 2, Division 2; and

(b) may be made without the need to follow any process set out in Chapter 3; and

(c) will have effect for a term not exceeding 12 months, as specified by the Governor at the time of appointment; and

(d) will be made on any conditions specified by the Governor in the instrument of appointment.

(4) The Governor may appoint a person appointed under subclause (2) as the presiding member of the NRM Council.

(5) In the event of a casual vacancy in the office of a person appointed under subclause (2), the Governor may, on the recommendation of the Minister, appoint a person to the vacant office for the balance of the initial term of appointment.

(6) A person holding office under this clause is eligible for reappointment to the NRM Council at the end of the term specified under subclause (3)(c).

(7) A reference in this Act to the NRM Council will be taken to include a reference to the NRM Council as constituted under this clause.

(8) In this clause—

Interim NRM Council means that the Natural Resources Management Council established by the Minister in June 2002.

This amendment allows the Governor to appoint the existing Interim NRM Council as the first NRM Council for up to 12 months to facilitate the initial appointment of regional NRM board members. Without this amendment the appointment of regional NRM board members will be delayed by the requirement that the NRM Council be established first. It will be a five to six month process, as under the legislation the council is required to make recommendations about regional NRM board membership. The amendment will facilitate the transition between the existing and the new NRM arrangements allowing the members to be appointed to the new integrated regional NRM board with minimal delay after the legislation is assented to.

The Hon. CAROLINE SCHAEFER: Again, I support this as a commonsense amendment. We think that the implementation of this bill is the hard bit. In fact, once it is proclaimed and has to apply across the state, that will be the hard bit, and there does need to be some continuity.

Amendment carried.

Progress reported; committee to sit again.

AUSTRALIAN ENERGY MARKET COMMISSION ESTABLISHMENT BILL

Adjourned debate on second reading.

(Continued from 30 June. Page 1929.)

The Hon. NICK XENOPHON: I indicate my support for the second reading of this bill but, in some respects, I reflect the concerns of the Leader of the Opposition in this place with respect to the process of this bill's being essentially

rushed through. I acknowledge that we have been given notice; and I acknowledge that the Minister for Energy and his officers offered and provided briefings to me some time ago. In fact, I had a briefing last week in relation to this bill. While I am concerned about the speed at which the bill is to be passed, to be fair to the government there has been some notice with respect to the bill and briefings were provided.

My initial concern with respect to this bill was that it would further take away any powers at a state level of the commissioner to regulate the industry; to fix pricing orders; and to look out for the interests of consumers. I think the Hon. Mr Lucas referred to something along the lines of faceless bureaucrats in Melbourne making decisions that impacted directly on South Australian consumers. My understanding is that that will not be the case. I am sure the minister will be able to assure us that that is not the case. I am quite satisfied with what was put to me by officers of the Minister for Energy's department with respect to that. It would be good to have it confirmed on the record that, in relation to the Essential Services Commission's pricing powers and various other powers under existing legislation, in order for those powers to be taken away at a local level here in South Australia there would need to be further legislative amendment for that to take place.

The bill does beg the question about the national market and whether it has existed for the benefit of consumers. I think it would be fair to say that many in the community believe that the market has not served South Australians well for a number of reasons. That is why I am an enthusiastic supporter of the South Australian Energy Cooperative, which was launched last week in order to assist consumers to claw back some direct say in the market with respect to getting a better deal. I do understand that there were some difficulties in getting all the states to agree on this, and one state was more recalcitrant than others; and I appreciate that was beyond the control of our government.

I look forward to the committee stage for assurances for the people of this state that we still have some degree of control with respect to pricing orders and all those matters, which were raised quite legitimately by the Leader of the Opposition; with respect to there being at least some element of control, however difficult that may be in a privatised market; with respect to issues such as regulation of the industry here and pricing orders; and for the Essential Services Commission, and the Electricity Ombudsman for that matter, to have a robust and effective role in order to look after the interests of electricity consumers and energy users in this state.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank members for their contribution to the debate. The Australian Energy Market Commission is to be established in South Australian legislation as a separate statutory commission. This follows the decision of the commonwealth and the states to sign the intergovernmental agreement on energy (copies of which I believe have been circulated to members) and to introduce reforms to the national electricity market and the gas industry. As such, the package of legislation has been negotiated and agreed to by all the state, territory and commonwealth governments. I am advised that this process has been an interesting one. The difficulty posed by accepting any amendment to this legislation is the need to renegotiate with the other parties to ensure that any change is acceptable to them.

This bill creates the Australian Energy Market Commission and enables it to commence operations and advise the Ministerial Council on Energy. The substantive powers to be exercised by the organisation will be conferred when each government amends their National Electricity Law Application Act. Amending the establishment bill to give the Australian Energy Market Commissioner additional roles will create powers that the new body can use only in this state: it does not affect the legal powers that the AEMC can exercise in each of the jurisdictions following the changes to the national electricity laws. This results in an inconsistent approach to the operation of the organisation and reduces the effectiveness of the reforms of which this body is a major part.

I now turn to some of the issues that were raised in the debate, particularly by the Leader of the Opposition, who asked a number of questions. In regard to when will the National Electricity Coordinating Authority (NECA), which is stationed in South Australia, be abolished, I can advise the council that the National Electricity Code Administrator (NECA) will continue to perform its core functions in respect of the National Electricity Code (the code) changes, code monitoring and enforcement, until the AER and the AEMC are fully operational. NECA will be wound up once all existing functions are transferred to both the AER and the AEMC. The role of the Australian Energy Market Commission and the AER between now and September will be: in regard to the AEMC, to locate and establish offices, employ staff and provide advice to the Ministerial Council on Energy as requested by the MCE. The AER will not have a role in the NEM until its functions and powers are conferred upon it by the amendments to the national electricity law.

In regard to the question on the code change process, I can advise the council that the MCE is currently developing a revised code change process that will aim to avoid the duplication of consultation and analysis by NECA and the ACCC experienced under the current National Electricity Code process. As part of this development, a discussion paper was released in late March 2004 that detailed a proposed code change model, with this paper available on the MCE web site, www.mce.gov.au.

This proposed code change process is currently being further refined in response to submissions received from interested parties in response to the paper. The key features of the proposed change process are: AEMC will not be able to propose code changes; code changes will be required to pass a net public benefit test; other than for code changes of a minor nature, code changes will follow a comprehensive consultation process, including a request for submissions, a draft determination and an opportunity for further input prior to making a final determination; and rejected code changes will require the AEMC to publish a full statement of reasons.

In relation to the role of the ACCC reserving the right to make changes to the National Electricity Code, I advise the council that it is currently the subject of advice. In regard to the issue of a body to develop interconnectors, I advise members that one of the key recommendations was the establishment of a NEM transmission planning process to improve consistency, transparency and economic efficiency particularly for interconnector development. The planning process comprises the development of an annual national transmission statement (ANTS) which will detail the major national transmission flow pass, forecast interconnector constraints and identify options to relieve constraints. The ANTS will be developed by NEMMCO in conjunction with

market participants, with the first statement to be released this year and the development of a last resort planning power to be exercised by the AEMC to direct that interconnection projects be subjected to the regulatory test.

The roles for the AEMC will be in relation to rule making in terms of the National Electricity Code and the National Third Party Access Code for natural gas pipeline systems. Further roles may be conferred by the MCE. In regard to the role of the Australia Energy Regulator, I advise the council that, by July 2005, the AER will have the role in the NEM of enforcing the National Electricity Code and determining transmission revenues. Later, it will have the role of access regulator for gas transmission pipeline access regulator.

In response to the question on the role of NEMMCO, I can confirm that no changes are proposed to the core functions or structure of NEMMCO. NEMMCO's role will remain unchanged in the lead-up to and following the changes to the NEM. It is not intended to transfer assets or liabilities from NEMMCO to the Australian Energy Market Commission, and the proposed schedule is only included as a safeguard for unexpected events.

The role of the MCE has been queried by members and I can advise that it will have the following roles: the power to issue policy directions to the AEMC in respect of rule making or electricity or gas market reviews; the power to approve arrangements for the funding of the AEMC and the AER; the power to recommend appointments of commissioners to the AEMC and members to the AER; and any other energy related power conferred on it by agreement between the parties or by legislation.

In relation to the three questions that related to the role of the minister in directing the AEMC, I am advised that clause 9 of the bill clearly provides that the minister (the relevant minister is the Minister for Energy) may not direct the AEMC in the performance of its functions. However, subclause (2) of clause 9 contemplates that the Ministerial Council on Energy may direct the AEMC in the performance of its functions, one of which is rule making. The Ministerial Council on Energy means the body established on 8 June 2001, being the council of ministers with primary carriage of energy matters at national level comprising ministers representing the commonwealth and each of the states and territories. The voting rules are determined by the council, but each jurisdiction has one vote. Currently, all decisions except those provided for in the Australian Energy Market Agreement and various other arrangements, such as the Trans-Tasman Mutual Recognition Agreement, are decided on a unanimous basis. Each jurisdiction which has or will enact legislation conferring powers on the Australian Energy Market Commission has a veto right in relation to that legislation.

In regard to the issues on the relationship between the ACCC and the AER, I can advise the council that the Australian Energy Regulator will initially take over the role currently performed by the ACCC in terms of electricity and gas transmission. This will be done in accordance with the relevant national statutory instruments in the same way as it is currently performed by the ACCC. The other functions to be provided to the Australian Energy Regulator are NECA's monitoring and enforcement functions under the National Electricity Code. Once these functions are conferred these will be done according to the National Electricity Code.

The national framework for distribution and retail functions is yet to be agreed and, as such, no position is available concerning how these functions will be progressed. The history of this bill is interesting, as it has been negotiated with the other states, territories and the commonwealth government. The opposition has questioned the speed with which it has been dealt. The bill was introduced into the house on 2 June and briefings were offered to both lower house and Legislative Council members. A number of members availed themselves of these briefings, including the shadow minister.

The bill was debated in the lower house on 29 June and passed. It is worth noting that the commitment from the MCE to introduce the reforms as of 1 July was made in December and reaffirmed on 2 April 2004 at the meeting in Canberra. Since that time there has been a number of out-of-session decisions to finalise the IGA. The amendment that has been moved in the House of Assembly is the only amendment that has been put to a vote of the MCE. Two typing errors have been corrected in the bill. I am advised that the commonwealth yesterday signed the IGA, and a copy has been forwarded to the Premier. Just after lunch, copies if the IGA were distributed. In regard to the location of the AEMC, I can advise the council that the issue of the location of the AEMC was hotly debated. In fact, an AER office will be located in Adelaide and will take over the market enforcement and market monitoring roles of NECA. Whilst at the same time the government has ensured that the reforms are being implemented, the IGA could only be achieved if all parties agreed and the commonwealth was insistent that that process of a national regulator, including distribution retail rules, be considered.

In regard to the issue of the terms of the IGA and the decisions of the MCE, is there a preferred position that the South Australian government has had to vary? The answer is yes. The government would have preferred to keep the AMC in South Australia, but there were no trade-offs as suggested by the honourable member. I am advised that the matter of regulating distribution and retail has been discussed a number of times at the MCE, and the Minister of Energy has made the point at those meetings that it will work only if local offices are established. Any change to the roles of ESCoSA will require further legislation to be agreed to by this house. The government's position is that for retail and distribution to be moved to the AER would require local management of these functions.

I now turn to the amendments proposed by the Hon. Sandra Kanck. The electricity code change role of the National Electricity Code Administrator will be transferred to the Australian Energy Market Commission. The Australian Energy Market Commission will ultimately have responsibility for rule making and market development for both gas and electricity markets. The Australian Energy Market Commission, as a South Australian body, will be subject to South Australian laws in relation to financial management and accountability, FOI and annual reporting. The Australian Energy Market Commission will take powers and functions under South Australian energy laws, which will be applied by each jurisdiction. Each of the participating jurisdictions at the National Electricity Market will amend its National Electricity Law Application Act to confer functions and duties on the Australian Energy Market Commission.

Subsequently, each party to the COAG Gas Pipelines Access Agreement (excluding Western Australia), will make amendments to its gas pipelines access law application laws to confer gas functions and duties on the Australian Energy Market Commission. Western Australia will make amendments to its own gas pipelines access law to confer gas

functions and powers on the Australian Energy Market Commission. It is through this conferral of powers and functions that the more specific functions will be applied as these will have effect across all jurisdictions, not just South Australia as provided for under this bill.

The appropriate place to consider such specific functions is in the amendments to the national electricity law and the gas pipelines access law. Each of the participating jurisdictions in the National Electricity Market will make amendments to its National Electricity Law Application Acts in the latter half of 2004. It is for this reason that the amendments to clause 6 regarding the functions of the Australian Energy Market Commission are inappropriate. The MCE will have the power to issue policy directions to the Australian Energy Market Commission with respect to rule making for electricity or gas market reviews.

This power of direction will be exercised by the MCE in relation to its national energy policy role rather than the day-to-day operational functions of the Australian Energy Market Commission. Again, the provision for such powers will be provided in the amendments to the national energy laws and not within this bill. Similarly, to the issue of amending the functions of the Australian Energy Market Commission, the amendments proposed in relation to inquiries by the Australian Energy Market Commission through an insertion of clause 24A is inappropriate.

In effect, these amendments will not be able to be considered by the Australian Energy Market Commission when exercising its functions and powers outside South Australia. All jurisdictions have agreed to the wording of clause 12 concerning the membership of the Australian Energy Market Commission, with the states and territories required to agree to two of the commissioners. All jurisdictions have agreed on the need to establish a separate body, the Australian Energy Market Commission, to improve the governance of the national energy market. It seems extremely unlikely that commissioners without the necessary skills will be appointed to run the Australian Energy Market Commission. The addition of proposed clause 12(2) is unnecessary and will not add to the appointment of the best people for the tasks at hand.

I turn finally to the proposal to delete clause 24(9), which provides for the Australian Energy Market Commission to classify a document as confidential and thus not make it liable for disclosure under FOI. This is similar to the current provision in respect of the Essential Services Commission of South Australia. As mentioned already, the Australian Energy Market Commission is to take over the rule changing and market development roles of the National Electricity Code Administrator, which is exempt from FOI legislation. The government sees this as an improvement in the level of disclosure currently permitted, and it fought hard to ensure such a result, rather than the current situation with the National Electricity Code Administrator. This clause should be retained as it continues the current regime that operates within South Australia in regard to such regulatory matters.

I believe that addresses the amendments and all the issues that have been raised during the debate. I again thank members for their cooperation in handling this bill in a speedy manner and I look forward to its passage through the council.

Bill read a second time.

NATURAL RESOURCES MANAGEMENT BILL

In committee (resumed on motion).

(Continued from page 1953.)

Schedule 4.

The Hon. CAROLINE SCHAEFER: I move:

Clause 55, page 208, line 36—Delete 'and 2005/2006 financial years' and substitute:
financial year

This is a test clause. There is a series of amendments which relate to this. They all relate to the timing of levy arrangements. We seek to make it specific to any financial year, as opposed to the first financial year.

The Hon. T.G. ROBERTS: The government opposes this amendment. Clearly, there are benefits in having a consolidated NRM levy established quickly. However, some practical considerations make the proposed time line impossible to achieve. The implementation of an NRM levy in 2005-06 will mean that no community consultation can be undertaken in respect of regions regarding the amount of the levy. To raise a levy in 2005-06, councils will need to be advised of the amounts they are required to raise by May 2005. Once the regional NRM boards are established (probably not before December 2004), an initial NRM plan must be prepared that outlines the proposed levy.

The preparation and adoption of an initial plan, with very basic levels of community consultation, will take a minimum of six months after the regional NRM boards have been established. The date when this can be accomplished will be beyond the critical date by which councils need to be informed of their levy amounts. Traditional provisions provide that the catchment water management plans, as they apply to water resources, will become the regional NRM plan until the regional NRM board prepares a plan, as required by the NRM Act. With this traditional transitional provision in place, the financial provisions under the Water Resources Act can be superseded by the financial provisions under the NRM Act for the 2005-06 year. The financial provisions under the Animal and Plant Control Act cannot be superseded until the equivalent contributions are identified in the regional NRM plan to allow the application of the final provisions under the NRM Act.

The Hon. SANDRA KANCK: I indicate that the Democrats do not support this amendment. I think it is a very clever one on the part of the opposition, because it causes people to be subjected to a levy just prior to a state election to make them very much aware that they will have to pay a levy. Of course, with the timing the opposition is proposing here, it is the sort of thing that it would love to have in place so that the electorate becomes agitated. It may or may not be a good thing that the electorate becomes agitated, but I cannot see that all that is required to be done in setting up the various bodies and drawing up the necessary plans can possibly be achieved in the time line called for by the opposition. If there were some sense that it could be, I might take a stab and say that it is all right to make the electorate hostile. However, this is really setting an impossible time line.

The Hon. NICK XENOPHON: I do not really give two hoots about the timing of the election. I would have thought that the primary consideration should be—

The Hon. R.I. Lucas: Good public policy.

The Hon. NICK XENOPHON: —good public policy. I am very grateful to the Hon. Mr Lucas for being psychic and saying what I was about to say. My understanding is that

there needs to be a process of public consultation. I would appreciate a comprehensive response from the government as to how long it will take, working expeditiously and without any undue delay, to have all this and the process in place. In relation to the Hon. Caroline Schaefer's amendment, I am sure that the Liberal Party advertising agency will think of a few things to put out, such as the dummy notices that people will be expecting in the next few months in the lead-up to the next election.

The Hon. Caroline Schaefer: They are your specialty.

The Hon. NICK XENOPHON: They are my specialty.

The CHAIRMAN: I think the honourable member would be well advised to confine his remarks to the debate.

The Hon. NICK XENOPHON: I am wounded, Mr Chairman. I would be grateful if the government responded to those issues.

The Hon. T.G. ROBERTS: I am grateful for the members' contributions and, at the same time, their highlighting the coincidences between good administrative government and the fact that an election is on the horizon. We are an efficient government, and we can put in place the necessary requirements to run a good election. However, as I will point out, it will be more difficult in the case of the administrative sections of this act and the levy in terms of the time frames required for the setting up of the boards.

I am sure that all members are aware of the introduction of the catchment management boards and the management plans that had to be drawn up. If all goes well, it is envisaged that the boards should be in place by January 2005, although that could be drawn out a little. The boards will have to set about organising their regional boards, and that will take some considerable time. Each board will have to establish its plan, which will take about nine to 12 months, but that time frame could possibly increase. Although councils are faced with ever increasing administrative burdens placed upon them by the state, they have agreed to be cooperative (and we thank them for that), and they must put their administrative programs in place. It is not an easy process, and it is the government's view that it would be very difficult to establish them in the time frames that the opposition believes they would be set up by.

Amendment negatived.

The Hon. CAROLINE SCHAEFER: My remaining amendments are consequential, so I will not proceed with them.

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

Clause 55, page 209, line 14—After 'the minister' insert:
(in accordance with those sections)

This amendment is a clarifying amendment and has been proposed by the LGA. The amendment seeks to make clear that the minister, when making any determination of the animal and plant control contribution from councils for 2005, can only do so in accordance with the relevant provisions under the Animal and Plant Control Act.

Amendment carried; schedule as amended passed.

Title passed.

Bill recommitted.

Clause 26.

The Hon. CAROLINE SCHAEFER: I do not fully understand what it is about, but I think this is an amendment of the Minister for Aboriginal Affairs, but as I am on my feet I will speak to it. When this amendment left the House of Assembly, it provided that a member of a regional NRM board could not serve for more than six years in total. It has been put to me, and I have been back to my colleagues in another place, that in some of our more isolated areas it will be very difficult after one or two turns to get people to stand if they can stand for only six years in total. However, the opposition did not want to have people making a lifetime career of being on these boards. I believe we have reached consensus on this. The minister previously moved an amendment, to which we agreed, that it be six consecutive years for the NRM council and nine consecutive years for the NRM groups. I think those two have previously passed. I would seek some clarification on that. So, this is simply the one that fits in the middle of the NRM board, and we would agree that the amendment allow for no more than six consecutive years and then, I guess, a rest before someone could come back on again is a reasonable compromise that should suit the needs of this new bill.

The Hon. T.G. ROBERTS: 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 consecutive years

The amendment made in this place provided that a member of the Regional NRM board cannot serve for more than six years in total. I move that this be amended to six consecutive years.

The Hon. CAROLINE SCHAEFER: I would just like the clarification that it is also six consecutive years for the council and nine consecutive years for the groups.

The Hon. T.G. ROBERTS: Yes.

Amendment carried; clause as amended passed.

Bill reported with amendments; 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.

I want to make a statement in response to the request by the Hon. Angus Redford during the debate on Clause 146. The honourable member asked for an assurance from the government that it will undertake the administration of the act on a transparent basis. I assure the honourable member that the government will continue to administer its water resources management legislation, be it the current Water Resources Act or the Natural Resources Management Bill (when enacted) in a totally transparent manner. It is not the intention when looking at the use of water to determine what a licence can or cannot do in terms of a crop type. It is merely a device of the management of water allocation until volumetric allocations are determined. For example, if someone wants to change their crop type, that will be dealt with in a timely and transparent manner.

Policy documentation that sets out the basis on which water allocations and their management are determined are freely available in hard copy from both departmental offices and the relevant catchment water management boards. In recent times this has been further facilitated by publishing the policy documents on the internet. The register of licences, including information about the allocations and conditions of those licences as well as the transfer history associated with the licences, is currently available from departmental offices. This information will also be available on the internet later this year.

The preparation of water allocation plans is itself an open, transparent and consultative process in which the community

has extensive opportunity to contribute to the development of allocation policies. The South-East Catchment Water Management Board has initiated the process to amend the existing water allocation plans. Among other things, these proposed amendments will deal with the conversion of the irrigation equivalent allocation system to the volumetric system. The government and the board welcome input from the community.

I thank all members for participating in the debate, particularly the Hon. Caroline Schaefer, who provided a considered analysis of the bill. A number of changes have been made to the bill, which will now be returned to another place where I hope it will be accepted. Care of our natural resources is vital for the economic, environmental and social well-being of South Australia. Community interest in natural resource management and protection is growing, as is shown by the increasing number of debates on issues such as the future of the arid zone, a greater interest in land care, the proper management of our water resources, pollution control, biodiversity, management of native vegetation and lands set aside for conservation and related matters.

The Natural Resources Management Bill will provide for the integrated management and protection of the state's natural resources. I take this opportunity to sincerely thank the officers of the Department of Water, Land and Biodiversity Conservation, who have assisted me in this process, principally Roger Wickes who has been working on this beside me while I go through the bill with all members, but he has also been working on the principles of it for some 15 years. I do not think he would mind me saying that. He has also been working with others over a long period of time who we must thank. Those people in the community will now be partners in the whole principles of the legislation

The other officers who worked on this process over the past couple of weeks are: Tim Dendy, Kevin Gogler, Christina Shepherd, Andrew Emmett, Julie Cann and Claus Schonfeldt, plus other members of the department. If I have left anyone out, I apologise. I also thank the other agencies including the Department of Environment and Heritage, Primary Industries and Resources SA, and Planning SA for their valuable input. I thank from parliamentary counsel Richard Dennis, who does a lot of work behind the scenes to try to draw consensus, and Mark Herbst who has supported the processes in here. The Local Government Association, the South Australian Farmers Federation, the Conservation Council of South Australia, the Interim Natural Resources Management Council, and members of the existing boards and the community who have already played significant roles in developing the legislation.

Finally, I thank all members of the council for their diligent contributions to the debate and the staff who have helped us through this process. I first came across the Natural Resource Management Bill when I was sitting on the Environment, Resources and Development Committee. We were informally asked whether we would like to take on the bill as a project, but circumstances changed and we did not take it on. Congratulations to all for their hard work. I thank the opposition for its cooperation. I forgot the Hon. Angus Redford, but I thank him for the role that he played.

The Hon. CAROLINE SCHAEFER: My contribution will be brief. I described this bill earlier as a dog's breakfast. With a lot of hard work between the two houses, and a lot of goodwill, now at least it resembles something like a sausage, I think. I believe that a number of improvements have been made to this bill. As I said earlier today, this is not the hard part: the hard part is the implementation of this plan across the state. That will not be easy. It is still my personal view that the region encompassing the greater metropolitan area is too large, and I fully expect to still be here when an amendment has to be made to make that workable for the regions. It is my personal view that this bill would have been passed some time ago and probably would be more effective if water resources had, in fact, been laid aside until a later date. The Water Resources Act is a relatively new act. Many of the regional water resource plans are under review and have yet to be finalised.

I believe that it would have been a simpler and more transparent structure at this time to leave that bill out. However, that was not the case. As I did in my second reading contribution, I wish to acknowledge the hard work done by the Hon. Iain Evans and his staff on this issue and, in particular, the sense of cooperation and consensus that has worked between the minister's office and mine, particularly with the departmental officers who have been very willing to help me try to work through clauses in a fashion which, hopefully, will mean better legislation and which has certainly formed some consensus in this chamber. I thank them for their efforts. We now must move forward with goodwill and wish those who have the unenviable task of implementing this new system of natural resource management across the state all the best.

Bill read a third time and passed.

PARLIAMENTARY REMUNERATION (NON-MONETARY BENEFITS) AMENDMENT BILL

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

The Hon. R.K. SNEATH: I move:

That this bill be now read a second time.

This bill was introduced by the Hon. Bob Such in the other place. There was an earlier bill introduced in this place, and since then an amendment was made to the bill to allow a member of parliament who elects not to be provided with a motor vehicle to be instead provided with a conveyance allowance or some other form of monetary reimbursement with respect to motor vehicle expenses. This amendment to the bill provides additional clarity for the Remuneration Tribunal to consider. Further, it provides for alternatives in the non-monetary benefits sense raised by honourable members last time the bill was debated. There is some argument, of course, that we will hear for and against, but I must say first that I have sympathy for country members, members such as those in the north of the state who have large country areas, who would wear out their own vehicles at least every 12 months. I imagine that the Hon. Mr Gunn's vehicle might not last that long.

It is not only for those members but also for other members in the metropolitan area who have country responsibilities for their parties. As we know, upper house members have coverage and responsibility for all the state. Therefore, in order to run one's own vehicle and to be away from home, if it is a one-vehicle family, and leave your family, partner or wife without a vehicle is certainly not a safe practice. If you live in the country, in particular, or even in metropolitan Adelaide, it is always handy to know that your spouse or family has a vehicle at home they can use. That second vehicle is an added expense. This bill (if passed) would bring

us in line with the commonwealth provisions for commonwealth members of parliament. Therefore, I commend the bill to the council.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I move:

That standing orders be so far suspended as to enable the bill to pass through the remaining stages without delay.

Motion carried.

The Hon. P. HOLLOWAY: I will make some brief comments in relation to the bill, and explain why I have moved contingent notice of motion No. 1.

The PRESIDENT: Order! Unfortunately, I have been advised that I should not have put the question as no member rose to their feet. Normally, when a motion is proposed and seconded and there are no indications from anyone—

The Hon. P. HOLLOWAY: It is all right; I can speak to the second reading, so that is fine; let us just proceed. I think members of this council already know that the Australian Democrats have put out a press release in relation to this bill, and the leader of the Democrats has already appeared on radio—

The Hon. R.I. Lucas: We adjourned the debate so that she could.

The Hon. P. HOLLOWAY: As a matter of fact, we actually adjourned debate during the NRM bill so that she could do a radio interview in relation to the matter. I am sure we will hear soon from the Democrats that, given their previous holier than thou attitude, they have not had time to the consider this bill; because that is exactly what the press release states. I make the point that, if people have time to write a press release and have time to do radio interviews and make comments on the bill, if they can comment on the bill by way of press release and on radio, why have they not had time to understand this bill? In fact, it is an extremely simple bill. It is simply to clarify a bill which was passed by this parliament some 12 months ago and which amended the Parliamentary Remuneration Act in relation to the issue of motor vehicles for members of parliament. That matter has already been the subject of debate in this parliament and outside it.

I think it is a bit rich for those who will no doubt criticise the fact that we are continuing debate on this bill, that they should see fit to comment publicly and criticise other members of this council in relation to that matter, when clearly they have had time to make those comments. As far as I am concerned, there is no reason why we should not deal with this bill now. As has been pointed out by the Hon. Bob Sneath, it is simply clarification of matters for the parliamentary tribunal. All members would be aware that when the bill was passed 12 months ago the matter went to the remuneration tribunal, and the tribunal made comments in relation to its application. This bill seeks to provide clarification in relation to that. I believe it is a fairly simple clarification.

I believe the council should deal with the matter now and resolve it. I do not think we should listen to what, undoubtedly, we will be getting soon about people seeking the high moral ground in relation to getting this bill through quickly. Those people who make those comments have certainly had plenty of time to understand this bill well enough to comment in the media about it. If they can do that, they should be able to comment on it within the council, as well.

The Hon. NICK XENOPHON: One of my concerns is in relation to the whole issue of process. I note that the Leader of the Opposition made some comments—I thought they were valid points—in relation to the electricity regulators bill to the effect that it was rushed through within 24 hours. I acknowledged during debate on that bill that, notwithstanding that briefings were given to members of this chamber, it was introduced in the other place on 2 June, so there was a period of four weeks between the two, but only effectively 24 hours for this chamber to consider it.

So, if some honourable members in this place were concerned about the speed of that, they should be doubly concerned about the process adopted with this particular bill, because I think the principles are the same. What normally occurs is that a bill is introduced, it sits on the table and it could be brought on on the next sitting day or during the following week of sitting, and I think that would have been a much fairer process. I note that, earlier today, the Hon. Terry Cameron adjourned the bill introduced by the Hon. Iain Evans in the other place with respect to compensation for the victims of the Growdens collapse—as is normally the case in this place, so that it can be dealt with in due course on the next day of sitting. I would have thought a bill such as that would have had a much higher priority given what those people have gone through with respect to the collapse of Growdens. Of course, there are other bills which others would say ought to have a higher priority.

If we look at the history of this matter, the remuneration tribunal, in accordance with the directive given in clause 4(a) that was passed last year, was required to advertise and make a determination, and it did so. I have a copy of the determination of the tribunal of 11 December 2003 where the tribunal considered various submissions. I think I would be fairly summarising it by saying that the tribunal considered what ought to be looked at, and I acknowledge at the outset that those members who have significant responsibilities in the country travel a significant number of kilometres each year, and I have said that previously and will say it again.

But, as I understand it, the tribunal was looking at a formula to determine whether there was double dipping, in a sense, with electorate expenses and looking at individual members' expenses with respect to what they need in terms of reasonable vehicle expenses to service their electorate. Of course, for upper house members, that is the whole state, and I acknowledge that a number of honourable members in this chamber travel much more than others.

My understanding was that they were going to request that members at the end of this financial year give details of their expenses. I know that my office was compiling a list to be checked off by my accountant to give a breakdown of my expenses, which I was more than happy to do, so that the tribunal could get a breakdown of electorate expenses from as many MPs as possible in order to adopt a formula and consider the matter further.

Let us not try to beat about the bush with respect to these amendments. These amendments are much more prescriptive. I will have some questions to ask in the committee stage in case I am mistaken, but this amendment is saying that the tribunal must consider that there be the same terms and conditions as are applicable to the same or a similar non-monetary benefit provided under the law of the commonwealth to senators and members of the House of Representatives of the parliament of the commonwealth. So, as I understand it, this is different to the previous amendment that was passed, which essentially said that the tribunal must consider what commonwealth MPs get but it did not go any further. This amendment goes further and is much more

prescriptive. So, effectively, you are telling the independent umpire that this is the step you need to take: you need to implement this. That is as I understand it and, of course, I will stand to be corrected.

Of course, there are some other provisions in clause 3(3), so it is a question of process. I would have thought this could have waited until parliament resumed in three weeks. I thought that would not have been unreasonable. I thought that would have been the fair thing to do, particularly given the fact that we have a number of other bills and the pressing business of this place. I believe that there is a perception that, by dealing with this bill on the same day it was passed by the House of Assembly, that sends a wrong message to the community; that is, that we are putting our interests ahead of broader interests. I think that is not an unfair comment to make in the circumstances.

I thought the process the tribunal adopted in its ruling of 11 December 2003 was a reasonable one. It asked for further information and it would have taken into account the particular needs of country MPs, or MPs who have to travel considerable distances. Instead, we have this one size fits all approach, which I think is unfair. It would be equivalent to approximately $750 for a fully maintained and fuelled car. That is quite different from what the tribunal was attempting to do in respect of its approach.

I oppose this bill. I oppose the process because I do not think it is a robust one. In relation to the fact that the Hon. Sandra Kanck put out a media release, I think she is entitled to do that. She spoke to the media. I did not put out a media release; I was happy to speak to the media. I was contacted by journalists—

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: The Hon. Mr Redford makes a very good point about the BMW. That BMW was donated to the Women's and Children's Hospital on the day on which I spoke to the media last year about this and they auctioned it off. I hope they received a good price for it. Obviously the money went to a worthy cause—the Women's and Children's Hospital.

The Hon. A.J. Redford: You are a saint, an absolute saint!

The Hon. NICK XENOPHON: No. Unfortunately I do not have a toy BMW to use. I urge members at least to defer consideration of this bill, as we do other bills, until the next day of sitting. I think that would be the more appropriate course to take. The fact remains that almost all bills are dealt with by a certain process. The upper house very rarely considers a bill within 24 hours.

An honourable member interjecting:

The Hon. NICK XENOPHON: My understanding is that last year a similar bill was dealt with within 24 hours, but not on the same day. I believe the process is wrong. I oppose this bill.

The Hon. SANDRA KANCK: If this bill is indeed justified, the haste with which it is being dealt is certainly not justified. If the reason is that I put out a media release, I am just flummoxed. Please, sir, can I have permission to put out a media release about proceedings of this parliament? The commissar is alive and well it seems! The Hon. Nick Xenophon referred to the comments by the opposition in this chamber last night. Let me read them. This is what the Hon. Mr Lucas had to say:

> As I said, the original message was (the bill having arrived in this place at 5 o'clock) that they wanted the bill passed tonight. I indicated my concern at that, even the notion of having to have this bill passed within 24 hours, which is by tomorrow, is extremely unusual. It generally only occurs when matters of urgency arise and, as I indicated at the outset, it is very hard to mount a case that this is a matter of urgency.

QED! I do not know about the Hon. Mr Lucas, but in relation to the energy bill, I had a briefing a fortnight ago on 16 June. My briefing on the bill with which we are dealing now occurred at 1 o'clock this afternoon at the back of this chamber when the Hon. Mr Such came in and gave me a briefing, which I hardly consider to be a briefing. I have had no time to consult. I am sorry, Mr Holloway, I have had no time to consult. One way or the other, I have been dealing with at least four pieces of legislation today. I have had no time to consult. I have had no time to compare this bill with the bill that went through last year to see whether it does, in fact, tighten things up. I have had no time to read the *Hansard*, because I have been in this chamber doing my job as a politician.

I want to refer members to the letter we received yesterday with our pay advice. I assume that most members received something similar. For ministers and leaders of the opposition and whips, we would obviously be talking about larger amounts. The letter states:

> Dear Madam
>
> Enclosed is your pay advice for the month of June 2004.
>
> The Commonwealth Remuneration Tribunal has recently reviewed the rates of remuneration for the classification of Principal Executive Office, as specified in Determination 1999/15 consolidated as at 18th May 2004, which has increased the base salary of Commonwealth Parliamentarians by $4 010 per annum and is effective from 1st July 2004. South Australian Parliamentarians will also receive this increase, pursuant to the Parliamentary Remuneration Act 1990. Consequently, all members now have a base salary of $104 770. The effect of this increase will also flow on to additional salaries and membership of Parliamentary Standing Committees, where applicable.
>
> Your total gross pay from 1st July 2004 will be at the new rate of $127 819 per annum.

So, we have received as of today a $4 000 per annum pay increase. Let me assure some members, if they do not understand this, that there are members of the community who cannot even afford to buy a $4 000 second-hand car, and we think we deserve another handout.

I also put on the record the other allowances we receive, which apparently will go up in accordance with this other increase. We receive an electorate allowance of almost $22 000 per annum. Those members who live more than 75 kilometres outside the metropolitan area get an accommodation allowance when they come in here for sittings of $158 a night, which must surely cover their car expenses. All members in this place, if they are not a minister, whip or leader of the opposition, receive committee payments of at least $10 000 per annum extra for sitting on committees. We get a global allowance of $12 500 per annum to pay for equipment and stationery. On top of that we get the much-vaunted travel allowance.

My understanding of the bill that was passed last year is that the tribunal would be able to offset whatever we get for a car, an office or whatever it is that we ask for against these other allowances. Again, I am talking about my own situation. If I look at the global allowance, and if I take the last statement print-out for me, I have spent, up until the beginning of June, $4 621.93 of that $12 500, leaving me with a balance of $7 878.07. So, presumably, I would be able to trade that $7 500 towards getting a car. When we are making a comparison with federal MPs, we are talking about a car

being made available to us for $750 per annum, all expenses paid.

I am not, as the Hon. Paul Holloway has suggested, seeking the high moral ground. We are, as I have tried to demonstrate, exceedingly well paid. If you add all those things in together, it must come to at least $140 000 per annum. It is simply not justified for us to have a car under these circumstances. As I have mentioned, I need to do much in terms of consulting with people. I do need to be able to check this bill against last year's bill. I do need to check against which of these allowances we would be trading off, and I therefore seek leave to conclude my remarks later.

Leave not granted.

The Hon. SANDRA KANCK: In my media release—the one which somehow angered the Hon. Mr Holloway—I mentioned the tradition that has always applied in the Legislative Council, that is, if a member is not ready to debate it, a bill will not be forced through. That tradition is now being broken so that MPs can have a car. I have to say that if that tradition is being broken for that reason I see no reason to honour it in the future. I will remember the decision that has been made tonight. I hope that members did not seek to enter parliament so that they could earn large amounts of money. I hope that we all entered parliament so that we could produce the best outcomes for the people of South Australia. I do not believe that this bill will produce those best outcomes; and, given the unseemly haste with which this bill is being rushed through, I indicate very strong opposition for the second reading.

The Hon. R.I. LUCAS (Leader of the Opposition): As a former treasurer and now the shadow treasurer, members will be pleased to know that I have been elected unanimously to speak on behalf of Liberal members in this chamber. Indeed, I was elected unanimously when last we debated this matter some 12 months ago. I will address the process issues in a moment, as well as the substantive issue of politicians, their remuneration and their allowances. I indicate that, whilst in government, when there was a public debate about superannuation and the salary and remuneration of members of parliament, I was always prepared to defend members collectively against the populists amongst us, in the community and in the media.

Now, in opposition, I indicate that, on the substantive issue of the position of members of parliament, the work they undertake and the remuneration they attract I have no reservation in standing up and defending my colleagues in this and the other chamber. Also, I will happily and willingly, on behalf of my colleagues, do so publicly with members of the media. In relation to process issues, at the outset I indicate that I am unhappy with the process that the member for Fisher, Dr Bob Such, has adopted in relation to this issue. I believe in what he has done. It is a discourtesy to this chamber and to members of the Legislative Council—

The Hon. R.D. Lawson interjecting:

The Hon. R.I. LUCAS: I will address the issues in a moment. I believe that Dr Such, who, I understand, has been discussing this issue with many people (not including me) and, I presume, all other members of the Legislative Council for some time, did have the opportunity to introduce the bill earlier in the week if he so wished to allow at least the opportunity for those who would wish to publicly oppose it to do so and for those who so wished to support it.

I indicate that, with respect to this issue, I believe that Dr Such could have and should have adopted a different process. In response to the interjection from my colleague the Hon. Robert Lawson, I indicate that this issue, in terms of the matters to be canvassed, is a significantly different issue to what is meant to be ground-breaking and the vision splendid rewriting of national electricity law for the first time, with South Australia as the lead legislator. Whenever one was briefed and whenever one had a discussion about the amendments to the national electricity law, I think that we would all agree that this is the first time that this chamber has been asked to debate the issue.

With the greatest of respect to those who have spoken in opposition to the bill, I indicate that that bill is a matter of much greater moment, in terms of the impact on South Australian consumers and the community in general, than this particular issue. I will concede that, when it comes to issues of remuneration and cars, in particular, it will be a matter of great interest to members of the community—and I am certainly not downplaying the significance of the interest there will be, particularly when there are some in the community and in this parliament who will seek to take the populist line on the issue.

On behalf of Liberal members, I indicate that we supported the legislation some 12 months ago—in July 2003, I think. At the time we were roundly criticised by the Hon. Mr Xenophon in his inimitable fashion, getting maximum publicity for the issue by sitting in a child's car (I am not used to those models of cars, but I am advised that it was a BMW). And there were others—the Hon. Sandra Kanck, for example—who strongly opposed the legislation some 12 months ago (as was their right). There was no confusion as to what was intended by the parliament, and I do not think anyone can argue that, because the Hons Mr Xenophon and Sandra Kanck were public in their criticism at the time. They roundly condemned all of those who voted for it on the basis of, if I can paraphrase (I might not get the exact words), 'the gravy train, the perks and lurks of politicians'—correct me if I am wrong, Mr Xenophon.

The Hon. Nick Xenophon: That was another issue.

The Hon. R.I. LUCAS: That was another one, was it? I am sure he would not disagree that the flavour of the criticisms that came from honourable members was of that nature—that it was an undeserved extra perk or benefit which the Labor and Liberal Parties had sought to heap upon themselves—

The Hon. Sandra Kanck: It is undeserved.

The Hon. R.I. LUCAS: Let me address that in a moment—that is the honourable member's view; it is certainly not my view. That was the criticism at the time, and the criticism was explicit, that is, that the parliament had just passed legislation which would ensure that a fully maintained and fuelled car, or whatever it was, would be provided at something less than $1 000. That was the explicit criticism made by the Hons Mr Xenophon, Sandra Kanck and others, and I do not think that they can resile from the fact that they interpreted the legislation that way, as indeed most other members of parliament had, that is, that the parliament had passed legislation in relation to the tribunal and the provision of benefits and allowances to members which would result in the provision of a car to those members who chose to take up the option at a price of less than $1 000, in accordance with commonwealth guidelines.

Today the Hon. Mr Sneath and other members—a majority in our party room and in the government party room—are asking that this legislation be clarified, because 12 months down the track the intention of the parliament,

with the tribunal, has not translated into the provision of that additional benefit to those members who wished it. I accept that there are some who do not want it and there are some who 12 months ago opposed it, but I do not believe that anyone can argue that the intention of the parliament was not clear. The majority of members supported it in both chambers, yet nothing has happened the 12 months since. So, I do not accept the proposition that this is from left field and an issue that has not been well debated and discussed. The views of the Hons Mr Xenophon and Sandra Kanck are known, and I can assure the Hon. Sandra Kanck (and I believe she is being a little disingenuous in terms of her position in relation to this) that in any consultation she does with talkback radio callers, members of the community, Democrat supporters, fellow travellers or whatever, she will be very lucky to find anyone other a member of parliament, and maybe the nearest and dearest of a member of parliament, who will support the proposition.

I suspect that even some of the nearest and dearest also might not support it, in terms of members of parliament, because of the flak that some of them attract as a result of the debate about entitlements for members of parliament, which is in part generated by stunts and also in part generated by the media and the community. I do not just criticise individual members of this chamber because, whether or not individual members of this chamber criticised it, there would be populist radio show hosts and others who would also lead public opinion against members of parliament. Over the year our partners, our children and others have endured those criticisms by all and sundry in relation to the salary, entitlements and packages for members of parliament.

The Hon. Sandra Kanck takes the position that it is undeserved in relation to the entitlements of members of parliament. I disagree strongly in relation to the package that she outlined for members of parliament—put it to one side that it pales into insignificance when compared with a federal member of parliament; that is a debate for another time.

With the greatest of respect, as a former minister for eight years, I have a good understanding of the knowledge, capabilities and capacities of many who serve us within the public sector. I know that, in the department of trade and economic development (and we are talking about only 100 people, I think it will be, under the new arrangements), there are at least 15 or 20 people (and do not hold me to that exact number, Mr President) collectively across the whole public sector who are at the executive levels of the Public Service. I know of two or three who are wonderful middle level managers in the department of trade and economic development, but their remuneration package—their total employment cost—is $104 000.

The salary package for members of parliament is about $100 000, as the member has outlined. The global allowance that is provided to members is a recharge system—it is not a cash payment paid to members—to pay for stationery and stamps and to undertake our tasks as members. It was misleading for the member today to imply that in some way it is an additional benefit for members, so that the members of the media and others who listen to it would think, 'There is another $12 500 of perks and lurks that the members get'. It is not something given as cash to a member of parliament to spend as they wish. It is something that can be used only as a credit against the stationery, the stamps and the other services that members provide in terms of trying to undertake their tasks.

The electorate allowance of $22 000 is provided to members to undertake their tasks, and I am sure that the Hon. Sandra Kanck and other members will have spent it on car or other expenses in relation to undertaking the tasks that she undertakes (and let me acknowledge assiduously) on behalf of her members and this community. In relation to superannuation, for example, we now have a situation where the new members who come to parliament henceforth will have what is known to be the community standard because of the pressure that has been applied at the national and state levels. That was, indeed, one of the attractions for young, middle aged or old people as they came to parliament: whilst the salary was much lower than that of hundreds of public servants, the superannuation that was provided was more generous, other than the old pension scheme for public servants in South Australia, which was closed in the mid 1980s.

Members of parliament do not receive long service leave or leave loading. We talk about community standards for anything that has to be reduced to the community standard for members of parliament. If it is above the community standard, it needs to be reduced to the community standard, but in relation to other things there is never any debate or discussion. Let me hasten to say I am not suggesting that we should be receiving long service leave or leave loading and those sorts of things. If there is to be a debate, I will leave that to the shop stewards on the other side, who are much better at these sorts of things than am I.

It is just so easy for people to criticise members of parliament about their salaries and allowances and what they receive, because we are such a easy target. Many of us after 20 years have got very thick skins, and we have become inured to a degree to the criticism. However, I know that I speak on behalf of newer members and, in particular, the families of new members. They find it very hard in their workplaces, and amongst their friends, each and every time they see the Hon. Mr Xenophon in his BMW stunt car, or the gravy train running around with the superannuation lurks and perks, the criticisms of travel, and whatever else,—the criticism of us generically as members of parliament. We are such an easy group to attack because everyone loves to hate us.

After 20 years or so, I know that what I am saying here today will fall on deaf ears. No one will agree with it or accept it. No-one in the media who will take up the cudgels in relation to members of parliament. Occasionally, after they have belted us, they say, 'Well, maybe there should be a re-evaluation of the salary because we are going to reduce the other entitlements and we ought to put it all together,' but no-one ever believes that; that is always at the bottom of a column from Dean Jaensch or someone else, but it is an easy throwaway line to salve their conscience on these particular issues. I think it is unfair on our families, our partners, our children, and those few people who might love us, other than that particular group, to forever be subjected to the sorts of criticism that we see not just this issue, because this is just one example of an overall attack on such issues.

That is fine,and we will have to accept the criticism of the Hon. Mr Xenophon and the Hon. Sandra Kanck who will get the publicity and the headlines. We know that in relation to their attitude to these particular issues, and those of us who defend members of parliament and a reasonable package in relation to the work that we undertake on behalf of the community, and I say again, unashamedly, that the overwhelming majority of members, Labor, Liberal, Independent

and third party are here with the public interest in mind. The overwhelming majority work their butts off in the interests of the community. As with any profession or occupation, there are some who may not fit that category, and I acknowledge that, and the media will always be able to find somebody that they might be able to criticise.

In criticising that minority, the rest of us have been, and will continue to be, tarred with the same brush, that we too are rorters, that all we are interested in is perks, we are interested in the gravy train, we are interested in hopping into luxury cars, we are interested in ripping off the taxpayers, we are interested in attempting to steamroll the interests of taxpayers, as the Hon. Sandra Kanck has indicated today. That is all we are interested in according to the Hon. Sandra Kanck.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: The Hon. Sandra Kanck says that that was not the only thing. I accept that it was not the only thing but it was the lead paragraph or the second paragraph of her press release, and I can assure the honourable member that it would have been a matter of interest for the members of the media when they were talking to those who want to criticise this measure. I will defend this and will continue to defend it during the committee stage as well. Whilst I have a lot of criticism of the Hon. Mr Xenophon, I am sure that, if this legislation is passed, he will not avail himself of the opportunities, because there is no compulsion to do so.

There are three options in this: you do not have to do anything at all; you can take the car and the package; or you can take a new element in this which relates to the conveyance allowance, which the Hon. Dr Bob Such indicated that he believed that he had introduced as a result of criticisms made by the Hon. Mr Xenophon last time. As I understand it, the Hon. Mr Xenophon may be disputing that. I do not know. We will hear that in the committee stage of the debate. The member for Fisher suggested, as I understand it, when this bill was last before us here, that the Hon. Mr Xenophon argued that something in terms of a reimbursement of costs, as is envisaged in the conveyance allowance, would be a better way to go. The member for Fisher therefore drafted an amendment to try and meet the criticism of the Hon. Mr Xenophon, and I understand that the Hon. Mr Xenophon, according to the member for Fisher, is critical of that provision as well. However, we can debate that at the committee stage. I accept criticisms from the Hon. Mr Xenophon. I assume that the Hon. Sandra Kanck will give the same commitment in relation to this matter.

The Hon. Sandra Kanck: We'll see.

The Hon. R.I. LUCAS: As I said, I assume that commitment. I also assume that the Hons Kate Reynolds and Ian Gilfillan, as members of the Australian Democrats who oppose this measure, will also give the commitment that, if they oppose the legislation, they will not avail themselves of the opportunity in relation to the issue. The provision is there either to take up or not. Certainly, as a member, I will watch with interest the response of the Australian Democrats. Obviously, if there are questions, we will be able to debate them at the committee stage but, significantly, this bill is as passed 12 months ago. Last time, the intent was clear. This measure is to clarify that intent and ensure that what was intended last time will occur. It provides an additional option in relation to the conveyance allowance, which I have explained was inserted by the member for Fisher as a result of what he saw as being the criticisms from the Hon. Mr Xenophon.

The Hon. R.K. SNEATH: I thank honourable members for their contribution. I particularly thank the Hon. Mr Lucas for his defence of politicians, their payments and allowances. If that message were sent out more often, people might understand that the hourly rate is not very high, when ministers, in particular, work some 14, 16 or 18 hours a day, and I am sure that when the Hon. Mr Lucas was treasurer he did the same. Once again, I thank honourable members for their contribution.

The council divided on the second reading:

AYES (13)

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

NOES (5)

Gilfillan, I.	Kanck, S. M. (teller)
Reynolds, K.	Stefani, J. F.
Xenophon, N.	

Majority of 8 for the ayes.

Second reading thus carried.

In committee.

Clause 1.

The Hon. NICK XENOPHON: I have a photocopy of a bill that says 'draft'. I do not believe the bill has been circulated. I want to make sure that we are talking about the same bill.

The CHAIRMAN: I understand that this is not a unique procedure. This bill was passed in the house today. I am advised that the formal printing has not taken place, but that this form of bill is sufficient for the purposes of the committee.

The Hon. J.F. STEFANI: Mr Chairman, as a procedural matter of the council, is it proper for us to proceed with a bill that has not been circulated? I certainly have not got a copy of it. I think that it would be proper for the chamber at this stage to report progress.

The CHAIRMAN: I have not concluded your debate, the honourable Mr Stefani: I am just trying to pull it all together.

The Hon. IAN GILFILLAN: Mr Chair, I would like to make the observation that I find the timing of this process quite unacceptable, and by far the most overwhelming reason for my opposition to the second reading is that, as we have said before, the measure should have proper and deliberate assessment by more than just the process that we are currently being exposed to. I want to make quite plain that, even were there suddenly to appear from out-field the actual bill that we are supposed to be addressing, the way it has been dealt with is still embarrassingly peremptory and it is an insult to this parliament.

The Hon. J.F. STEFANI: As a matter of procedural justice and proper procedure of this chamber I ask you to consider whether it is appropriate for me to move that this chamber report progress, because I have not got a bill in front of me.

The CHAIRMAN: This is the way I think we should proceed. I understand the concerns of all the members who do not have a copy of the bill in front of them. It is highly unusual in normal circumstances and the everyday running of the council that members are not provided with a copy. I am advised that, because this bill went through the house

today, it has not been printed yet. The normal procedure, from my advice from the Clerk, who is much more experienced in this than all of us present, is that it is the usual procedure in these circumstances for one copy to be sent up here. On the specific point that you make, the Hon. Mr Stefani, I do think it is possible for staff to print copies of this bill that I am provided with. I understand your concern that you do not have a copy of it in front of you. It is very difficult to report on that.

The Hon. P. HOLLOWAY: Mr Chairman, can I assist the chamber, given that it is dinner time? We will adjourn now for a dinner break. I assumed that all members had a copy of the bill but, if that is not the case, we will make sure they have.

[Sitting suspended from 6 to 7.45 p.m.]

Clause 1.

The CHAIRMAN: Honourable members will recall that when we last considered the bill we ran into a technical problem, which I understand has been corrected. All members now have a copy of the bill.

The Hon. NICK XENOPHON: I am grateful that we now have a copy of the bill, although the copy I have has 'dummy' on it: I am not sure whether it is a personal reflection on me or on other members. Apparently we all have 'dummy' on our copies. Mr Chairman, I will be guided by you. I have some questions in respect of clause 3 containing the substantive provisions of the bill. Perhaps we should deal with it at that stage. I understand that the Premier's office has been telling media outlets that he was furious or outraged, or words to that effect, that this bill has gone through. I would be grateful if the Hon. Mr Sneath could let me know whether the Premier has passed on his fury or outrage to him personally, because he has carriage of this bill in this chamber.

The Hon. KATE REYNOLDS: I am having a moment of deja vu. I think it was nearly 12 months ago to the day that we had a similar situation where a bill was introduced and tried to be pushed through both chambers with what I think we described at the time as undue haste. I maintain the position that I had at that time, that it is ridiculous to expect the council to deal responsibly with such a contentious matter in such a brief time frame. The vast majority of citizens in South Australia already hold members of parliament in low esteem. Members might see this as a perfectly reasonable change to the overall remuneration for MPs, but rushing this bill through both houses of the parliament with indecent haste does nothing to improve our reputation in the community.

As the Hon. Rob Lucas said, we are easy targets because everyone loves to hate politicians. I acknowledge and appreciate the Hon. Rob Lucas's comments about the difficulties experienced by new members of parliament in relation to the actual salary we are paid compared to many other occupations, but I will return to his other comments later. However, this should not detract from the fact that by seeking to push this bill through with only brief debate in the other place, and then by seeking to rush, push or shove it through this chamber on the very same day, the government and the opposition must be prepared to acknowledge that, from any angle, this is a very bad look. I note that the voices on the government side in the other place were unusually silent; in fact, not one member of the government spoke in favour of or against the bill. Regardless of any comments that might have been made by you, Mr Chairman, earlier about the appropriateness of us debating this change when we did not even have a copy of the bill—now we have only one labelled 'dummy'—this haste cannot be justified. I cannot think of one good reason why the bill could not have been debated in the next sitting week.

Briefly returning to the contribution made by the Hon. Rob Lucas, whilst I might have appreciated some of his early comments, not surprisingly I do not appreciate his comments about my right, or that of any other Democrat member of this place in the future, to take up the entitlements that may be made available to members if this bill is passed. I make it quite plain that my opposition to the bill is based on the indecent haste shown by members and does not necessarily reflect my views or any views that I might have about the salary and entitlement of members of parliament in South Australia in comparison to people in other occupations, in the judiciary or any other parliament in the country.

The Hon. J.F. STEFANI: I endorse some of the comments made by my colleagues the Hons Nick Xenophon, Sandra Kanck, Kate Reynolds and Ian Gilfillan. When we look at the Parliamentary Remuneration Act 1990, we can clearly see that the Remuneration Tribunal is directed by an act of parliament. It provides that it must—in determining electoral allowances and other allowances, expenses and benefits for members of parliament—have regard, not only to their parliamentary duties but also to their duty to be actively involved in community affairs, and their duty to represent and assist their constituents in dealing with government and other public agencies and authorities.

My interpretation of that is that the tribunal already has that duty, and for people to stand up in this chamber, or in a public forum such as I heard this afternoon on ABC Radio, and claim that the allowances set by the tribunal do not properly cover the expenses of members of parliament is an indictment on the tribunal itself. I find that very offensive, because I think that the tribunal is an independent body of people who are appointed by various governments to do the job that we as members of parliament would require them to do in an independent and proper manner. So, the notion that has been bandied about by some members of parliament who are alleging that the tribunal has not properly considered the requirements of members of parliament is false.

Having said that, I have to say also that, at a time when a lot of the members of our community are finding it very difficult to meet their expenses and charges from the government in relation to their standard of living, particularly those on a fixed income and those who are self-funded retirees—and I have had a good number of calls in the past two days—I find it very difficult to tell them that we as a group of people representing them and their interests and understanding their plight are able to in some way serve ourselves, helping ourselves in indecent haste, for some ulterior reason, to direct the tribunal to give alternative considerations to the allowances and provisions of other allowances, such as motor cars, in discharging our duties.

I have been here for 16 years. We all are volunteers. We come into this place as volunteers. None of us is forced to come here. Some of us lose money in coming here; others are better off. But we choose to come into this place to serve the community to the best of our ability, and we know what the conditions are. I find it very difficult to believe that, as elected representatives of the people, we are able to please ourselves in relation to the conditions on which we direct the tribunal to assist us in serving the people. I cannot condone that not only were we in this chamber treated with some

contempt in relation to the speed and the manner in which this bill was transmitted but also that we are now considering it on almost the last sitting day before the winter break, and we put our staff in a position of having to photocopy, or whatever they have to do, when the procedure is that the bill should be properly presented and dealt with as a process of this parliament.

I have to refer to the Leader of the Opposition when he squirmed yesterday about some bill that was amended, and how inaccurate and incomplete it was, yet here we are and the bill that was dealt with and presented to this place before the dinner break was not even circulated. With those comments, I register my great concern that we are all so quick to put our snouts in the trough when the community will condemn us for the way in which we act.

The Hon. SANDRA KANCK: I want to respond to imputations that were made by the Hon. Rob Lucas when he suggested that what I was doing was populist. It is not populist for me. This is a matter of justice and equity, and I want that to be on the record.

The Hon. NICK XENOPHON: I would be grateful if the Hon. Mr Sneath would indicate whether the Premier had indicated any concern, fury, anger, disdain, contempt or negative sentiment to him in relation to this particular bill?

The Hon. R.K. SNEATH: The other house is not sitting and the Premier is not here.

Members interjecting:

The Hon. R.K. SNEATH: Well, they say the Premier voted for it in the other house, but I have not seen the vote, either, so I cannot speak on behalf of the Premier.

The Hon. R.I. LUCAS: Let me assist the process. Certainly, in the discussions that have occurred I have been advised that this would not have proceeded unless it had the approval of the Premier. So, if there has been any suggestion otherwise, that is contrary to our understanding in relation to this. This has been approved by the Premier, the Treasurer and the government. It has been voted on by government members and opposition members in the House of Assembly and, if there is any scurrilous suggestion being put around by members of staff, I am sure the Premier will immediately call them to task and discipline them for endeavouring to mislead members of the media in relation to his position on this issue.

The CHAIRMAN: I point out that two of the contributions that were made were debating an issue which is not part of the clause. I remind members that standing order 299 is quite specific about sticking to the matter in order. This is a sensitive issue. If someone had called for a point of order, I would have had to uphold it. I ask all members in future to confine their second reading contributions to the second reading stages of the bill. I understand the Hon. Mrs Reynolds was tied up with other business of the day, and it is not unprecedented that some latitude is given to members who are not in the house at the time but, in future, I request that all members observe standing order 299, as against the conventions of the house where there is some flexibility on clause 1.

The Hon. SANDRA KANCK: Could I ask for some further explanation? If a member has made a second reading contribution and someone makes an inference about them, they do not have an opportunity to deal with that during the second reading. I thought the only place I had to put my position clearly on the record in relation to inferences would be at this point in committee.

The CHAIRMAN: I would consider that it was in order when making a contribution on clause 1.

The Hon. J.F. STEFANI: Mr Chairman, I seek your assistance in guiding me for future reference. Does this mean that this chamber is prepared to deal with legislation on a second reading basis without a bill before it? If so, can you please tell me—because I do not know—whether I am expected as a member of this chamber, first, to deal with the legislation and, secondly, to make comment when I have not got the legislation or the bill in front of me?

The CHAIRMAN: I can assist you in this manner: there are quite clear instructions within the standing orders. There is a time in the second reading stage of the bill when any member can make a contribution, their observations and their judgments and, indeed, from time to time accuse one another of having certain motives within the standing orders. When it comes to the committee stage, it is clear also from the standing orders that they are required by the standing orders to debate the clause before us and not divert into other areas. I have acknowledged that this is a sensitive issue, and some people this afternoon did not get an opportunity to make a contribution during the second reading debate. Because it is a sensitive issue I have allowed latitude for people to make contributions. Clearly, the Hon. Kate Reynolds' contribution should have been made during the second reading debate. I note that all members of the committee were aware of the fact and no-one called a point of order.

The point I make is that, if someone had raised a point of order, I would have had no alternative but to uphold it. I think the committee, in the circumstance in which it finds itself, has acted responsibly and given everybody the right to make their contribution in the manner in which they want to make it without resorting to the technical points of the standing orders. I think the committee is to be commended for that. But, as presiding officer, I am saying that I do not want it to be taken as being the standard in future. The standing orders should apply. All members of this place have been able to stand by these standing orders for 150 years, and I think it is not beyond the wit, wisdom and ability of present members to comply with the same rules.

The Hon. J.F. STEFANI: Thank you for clarifying that, Mr Chairman. My question again to you is: if this chamber in the future is faced with the same circumstances, as presiding officer will you please ensure that members are afforded the courtesy, in accordance with the procedural conduct of this parliament, of having a copy of the legislation? If there is a hiccup in terms of the transmission of the document, I respectfully suggest that this chamber should wait until that document is available.

The CHAIRMAN: As I committed to on the day of my election to this position, I see it as my duty to uphold the practices, procedures and protocols of this parliament and to maintain the dignity of the council at all times. I can assure you that, if there is something which is against the conventions, the usual practices and procedures of parliament, we all have to remember that from time to time there are matters of urgency that come up and the council in its wisdom and best judgment will deal with each issue on its merits.

I can assure the Hon. Mr Stefani that the staff are professional and make every endeavour to assist honourable members in making deliberations about bills. I cannot assure the Hon. Mr Stefani that we will always have the bill and the procedures that you request, but I remind you that the council was faced with a dilemma tonight and, in its wisdom, made the decision to overcome it in what I thought was an appropriate manner, and that will be afforded to all members of all committees in the future. I can assure you on behalf of the

loyal staff of our council that we will make every endeavour to provide you with all the materials and documents that are necessary for us to conduct the business of this august chamber.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. NICK XENOPHON: I have some observations and questions of the Hon. Mr Sneath or, indeed, any other member by way of explanation. Clause 3(2) deletes existing section 4A(4) of the act. My first point is: as I understand it, when the remuneration tribunal looked at this issue with the existing act (and I have a copy of its determination of 11 December 2003), it was interpreted by the tribunal as providing that we must have regard to what federal MPs get in terms of their vehicle allowance, but that is as far as it goes.

Is this bill now going the next step in saying that not only must you have regard to it but you must also adopt, as far as is reasonably possible, the same terms and conditions as are applicable to the same or a similar non-monetary benefit provided to commonwealth members of parliament? Is it the case that we are going one step further from the existing bill? That is, rather than the tribunal simply considering it, as a result of this subclause, the tribunal must go down the path of the benefits applicable to commonwealth MPs?

The Hon. R.K. SNEATH: I understand that the tribunal can consider the complete details of the commonwealth provisions that are available. I understand they are available in a document entitled 'Remuneration Tribunal Determination No. 14 of 2003.' I understand that what the honourable member who introduced the bill in the other place had in mind was for the commonwealth provisions be taken into account.

The Hon. R.I. LUCAS: In addressing subclause (2), as has been raised by the Hon. Mr Xenophon, I return to the contribution I made in the second reading; that is, what is intended by this provision is to clarify what I think all members believed to be the intent of the legislation when it was last considered by this house 12 months ago in July. As I said in my second reading contribution, it was clear to the Hons Mr Xenophon and Sandra Kanck that the intent was that the commonwealth scheme would be provided, because the criticism made by those members at that time was that the car was to be provided at a cost of less than $1 000—$750 or $850—which, indeed, was the commonwealth provision. The understanding that the Hon. Mr Xenophon, with his considerable experience now in considering legislation, and the Hon. Sandra Kanck had was that that was the intention of the parliament and they were opposing it.

As I said, that was their position and understanding. In the last 12 months, the intention of parliament and the understanding that the Hon. Mr Xenophon and others had has not transpired, and the intention that has been explained to members is that the member for Fisher and others who have supported it in another place are seeking to make explicit what the intention was 12 months ago in relation to this scheme. The drafting is as the member has indicated, that is, must in determining the terms and conditions adopt, so far as is reasonably possible, the same terms and conditions as are applicable to the commonwealth scheme. It is seeking to confirm in legislation the understanding the Hon. Mr Xenophon had 12 months ago of what the parliament was endeavouring to pass; that is, a car was to be provided to members on approximately the same conditions as commonwealth members had received (or were receiving at that time) and are now receiving.

The Hon. Mr Sneath has referred accurately to the Remuneration Tribunal Determination No. 14 of 2003, which, I might add, makes explicit not only the provisions in relation to this scheme but also the considerable other benefits which commonwealth members receive and which do not apply to state members of parliament.

The Hon. NICK XENOPHON: I think the Hon. Mr Lucas' summary is a fair one. I did get advice from a barrister for whom I have much regard in relation to the bill as it was then passed. He had the same view as I, and I was surprised with the ruling of our tribunal, No. 11 of 2003. My understanding is that the word 'adopt' is in an active sense so that it will be implemented. I suppose this bill makes absolutely crystal clear what I thought was going to happen a number of months ago.

I again refer to the Remuneration Tribunal's determination, which indicated that it was planning to look at this issue again this month (July) after it received information at the end of the financial year. It might have taken a little longer than that, but that is what the tribunal foreshadowed, particularly in paragraph 3.4 of its determination. I want to make this point clear, because I know it was raised during the second reading stage, and it touches on this clause. The Hon. Dr Such indicated to me that he was planning something. In fact, in my mail today was a copy of a draft with a note from the Hon. Dr Such, as often happens with the bills he is working on—and I commend him for that—saying, 'Any comments?' I received that in today's mail, and it was brought to my attention late today. I indicated that I thought there was a mechanism, a way forward, through the tribunal to look at the particular needs of country members for the work they did in determining a balance in their use of the electorate allowance, and I thought that was a fair and appropriate way forward. Unfortunately, however, that does not appear to be the will of the council at this stage.

The Hon. J.F. STEFANI: I seek some clarification in relation to this clause. Is it envisaged that, in the provision of a non-monetary benefit, the tribunal may, in its determination, come to the conclusion that South Australian members of parliament do not require a motor vehicle?

The Hon. R.K. SNEATH: I understand the honourable member is referring to section (b), which allows for the tribunal to come to some other arrangement for a monetary reimbursement in place of a motor vehicle. I understand that gives the member three choices: the member may choose to continue with their present arrangements in relation to their electoral allowance and reap the taxation benefits accruing from that; the tribunal could provide a monetary reimbursement with respect to motor vehicle expenses, which is a determination that would be made by the tribunal; or the member could elect to take a motor vehicle.

The Hon. J.F. STEFANI: Assuming that the tribunal considers the allowances members of parliament now receive under the current act are adequate to perform their duties, does this mean that the tribunal can ignore this clause or, if it does consider it, can it diminish the allowances that are now provided to members of parliament and then provide members of parliament with the option of reducing the current allowance by the amount of a non-monetary provision for the supply of a motor vehicle?

The Hon. R.I. LUCAS: Mr Chairman, if I might assist in relation to that issue. The parent act, under section 4A(3), which was part of the amendments from last time, provides:

Except as provided by subsection (2), a determination of the Remuneration Tribunal must not provide for any reduction in the electorate allowances and other allowances and expenses payable to members of parliament by reason of the provision of any non-monetary benefits to members.

I think the honourable member's question may well go broader than that. I suspect the tribunal may well have an overall power in relation to the electorate allowances provided to members.

As the Hon. Mr Stefani will know, they vary from, I suspect, $15 000 for an inner suburban lower house metropolitan member to about $45 000 for the biggest country electorate. A wide range of electorate allowances are payable to members. I suspect that, in terms of the overall quantum, it may well be—and I am not a lawyer—that the tribunal has the capacity to make its judgments about the appropriate levels of total allowances.

For example, after every election there is a redistribution and, if a seat such as Stuart was to reduce radically in size, in terms of its geographic area, it may well be that the tribunal will make a judgment that the overall allowance for that electorate (and similar electorates that were reduced in size) should be reduced. Correspondingly, the tribunal might make a judgment that the electorate allowance for an electorate such as Giles (which in past incarnations has been a relatively small seat but which recently has grown with the addition of country areas) should be very significantly increased.

I suspect that the overall discretion of the tribunal in relation to total allowances would remain. As I said, I am not a lawyer and, so, in relation to that, I cannot give the Hon. Mr Stefani any legal advice. But, in relation to the specific intention of the parliament as to this non-monetary benefit, when last it considered this the parliament included a clause that said that, as a result of the provision of this non-monetary benefit, the tribunal was not to reduce electorate allowances. Now, whether or not the drafting is sufficiently robust to ensure that that occurs, I guess, would ultimately be a legal judgment for the tribunal and anyone who might have a differing view that the tribunal might come to. That was certainly the intention of the parliament, and that remains within the act as we debate it tonight.

The Hon. A.J. REDFORD: I will just add a couple of comments in relation to the question asked by the Hon. Nick Xenophon, and they relate to the decision of the tribunal. Section 4A(4) of the act provides:

In making a determination. . . the Remuneration Tribunal must have regard to any non-monetary benefits. . .

I would think that by itself that is very clear; and, indeed, that was the way in which the debate took place last time. I remind the Hon. Mr Xenophon that, on the last occasion, I remember a couple of people in the corridors (and I do not know whether it was said publicly) said, 'This will not increase the overall benefits to members of parliament.' I think that the honourable member put that point, and the Hon. Rob Lucas said quite clearly, 'That is not the case. There would be an increase.' The Hon. Nick Xenophon went out with his toy car and made political capital out of it.

It was pretty clear. That is what I walked out of this parliament thinking; it is what the honourable member walked out of this parliament thinking; and I suspect it is what every other member in this place walked out thinking. However, obviously it was not clear enough for the tribunal and, perhaps, some members of parliament. I do not know who these members of parliament are because their submissions are made anonymously to the Remuneration Tribunal. Indeed, the Remuneration Tribunal, on my observation, having read all of its decisions over the past 15 years—except that it lost the most important one (which I find quite strange), the initial one that set our parliamentary allowances—

An honourable member interjecting:

The Hon. A.J. REDFORD: That is lost, yes. What I find interesting is that some members of parliament and some people are allowed to give their submissions to the Remuneration Tribunal in an anonymous fashion and their details are never disclosed, yet the names of others who might be seeking an increase are publicly disclosed. I put aside that rather incongruous decision which, from time to time, the tribunal seems to want to make as to which names of members of parliament will be put out in the media to be held up to ridicule if they should seek some increase and the fact that the details of other members who make submissions remain anonymous.

I will read part of a submission so that the honourable member understands. Under 1.6.2 'Individual submissions made by members of parliament'(and I think that the honourable member has that in front of him) it says:

A number of individual submissions were received by members of parliament—

I assume they mean 'from' members of parliament—

either independently or in addition to the joint submission. Their submissions included the following.

The first one was concerned with the wording of the legislation and the constraints it may have for the tribunal's independence. In fact, that is wholly irrelevant and, as a lawyer, the honourable member would understand that. The tribunal has to deal with the legislation as it is delivered to it—it is not for the tribunal to second-guess what the parliament has decided. Indeed, it is not for members of parliament, when they are making submissions to the tribunal, to second-guess what parliament ultimately decided. I think that was the start of the problem that led to what we are trying to sort out today. The second point then says:

Members of parliament should receive the benefit of a motor vehicle only on the basis of a salary sacrifice equivalent to that applicable to SA public servants electing to have use of a government vehicle.

That may well be a perfectly sensible submission to make in a debate in this place when we were dealing with that clause; or, indeed, if there was a more general provision regarding the provision of motor cars it might well be a very sensible submission to make. That was not the case. What we had in subclause (4) was a quite specific provision about reflecting the law of the commonwealth and what was available there. Rightly or wrongly—and I know that the honourable member criticised it at the time—the discretion of the Remuneration Tribunal was somewhat constrained. Notwithstanding that constraint, the parliament said, in its legislation, that the tribunal did not deal with the issue.

What I find even more concerning—and, as a lawyer, I know that the honourable member would understand this—is that in 3.2 it states:

The tribunal also sought and received advice from the Crown Solicitor in relation to the interpretation of the new legislation and matters that can be referenced and given regard to in its considerations for a determination relating to provision of a motor vehicle to members of parliament.

As a lawyer, what I find really difficult to understand—and I know that the Hon. Nick Xenophon would understand

this—is that no one knows what the advice was from crown law. I know that the Hon. Nick Xenophon would agree with this principal: if I put a submission as to the law to a court or to any other tribunal, that submission is made publicly and openly and people can respond in relation to whether that legal advice is or is not the case.

I suppose the difficulty that we have here is that the crown law advice that was given to the tribunal was not disclosed, and the counsel that was engaged by quite a number of members of parliament did not know what that legal submission was. The way I read this decision, they did not have the opportunity to give any response. I suppose the most polite way I can put that as a lawyer, in relation to the process that the tribunal adopted, is that that is regrettable. Frankly, if it was not such a politically sensitive area I am sure that if the Hon. Nick Xenophon was giving advice he would say that that was immediately appealable, or certainly challengeable, by some form of prerogative writ. It is not the way that things should be done.

Putting that to one side, so that the honourable member understands, what we have done here is add 'must' to the clause about three more times so that the Remuneration Tribunal understands precisely what was intended when the legislation went through last year. One would hope that, when it comes before the Remuneration Tribunal this time, it has a very clear understanding of what this parliament's intention is.

The Hon. J.F. STEFANI: I have some questions in relation to the costs that might be associated with the provision of vehicles to members of parliament. Seeing that the government and the Premier, as has already been said in this chamber, are totally in support of the provision and, as I understand it, this provision will be an additional benefit to members of parliament (by way of the provision of a vehicle), has the government done any sums regarding the cost to the taxpayer if members of parliament took up the option of the provision of a motor vehicle? What would be the impact on the budget, and what provisions have been made in the budget in relation to this cost?

The Hon. P. HOLLOWAY: This is a private member's bill, of course, and I am sure that the honourable member who moved it would have had the capacity to do that sum. I should have thought that the answer to that question would depend, to a large extent, on exactly what the Remuneration Tribunal ultimately decided. There has been some discussion here about how much a vehicle might cost, and there has been some reference, obviously, to the commonwealth scheme. The mover of the bill in the other place was talking about $1 000 a year, and the Hon. Sandra Kanck, in a press release, was talking about $750 a year. Obviously, until that matter was determined, one could not accurately ascertain the cost. In any case, I think it would depend on how many kilometres a member of parliament travelled.

There are, after all, only 69 members of parliament and, given the people who have vehicles provided—such as you, Mr President, the Leader of the Opposition, the Hon. Terry Roberts and I—any estimate of the cost certainly would not be all that significant in the scheme of things, because the government has many vehicles within the Public Service. I am not aware of any costing but, clearly, there is sufficient provision within the budget to cover it.

The Hon. J.F. STEFANI: If the option of a vehicle is taken up by a minister, how will the vehicle be used when the minister has a chauffeur driven car, and in what circumstances will a member of his or her family be permitted to use it? Is it envisaged that restrictions will be placed on the use of a vehicle in relation to someone other than the member driving it?

The Hon. R.K. SNEATH: I am not totally familiar with this, but I understand that the tribunal would certainly look at applying the same sorts of provisions that currently apply with respect to cars that are supplied to senators and House of Representative members of the commonwealth parliament.

The Hon. J.F. STEFANI: Just to clarify that, if a minister has a chauffeur driven car and he or she has chosen to avail themselves of the additional vehicle, that vehicle will be garaged at the minister's home, I take it—or wherever. As the minister is driven around in his chauffeur driven car, that vehicle can be made available to a member of his family and subsidised by the taxpayer.

The Hon. R.K. SNEATH: I think that is an opinion of the honourable member rather than what the tribunal's decision will be at the end of the day. I am sure that the tribunal will look at all those aspects in determining their decision.

The Hon. R.I. LUCAS: I am not an expert on the commonwealth provisions although I have some friends and colleagues who are federal members and have enjoyed the entitlement for a number of years, so I can pass on some anecdotal information. I think it is clear that under the federal arrangements a member can nominate persons from their family to drive the car also. I am not sure what that process is, whether it is a written notification, which it may well be, but the provisions under that remuneration determination indicate that it is not just the member or the senator who can make use of the car. It is also clear that the member or senator can use the car for business, electorate, family or private purposes; the restriction is that it cannot be used for commercial purposes. They are the provisions broadly laid down by the commonwealth tribunal in relation to the entitlement by federal members and senators.

If I can put on my hat as a former treasurer and as shadow treasurer because later this evening we may debate the Appropriation Bill, I indicate that there is some $226 million of unallocated contingency in the 2004-05 state budget brought down by the Treasurer. As the member will know, with his experience of financial matters, the unallocated contingency in the Treasurer's administered lines is a provision for the Treasurer and the government to expend some of that money through 2004-05 on decisions that it might take or choose to support.

The leader and the Hon. Mr Sneath have indicated that, at this stage, until there is a decision from the tribunal and we know how many members will take it up, we do not know what the cost will be. There are a number of members in this chamber who, because of the position that they are adopting on the bill, are not going to take up the provision. That may well be the case in the other place; I do not know. That would obviously impact. I suspect that the Treasurer would have some ballpark idea of what it might cost, but it will certainly be a small pimple on the backside of the $226 million unallocated contingency, if I could use the vernacular.

The Hon. Nick Xenophon: I thought you were talking about us then.

The Hon. R.I. LUCAS: No, I am not referring to the honourable members. I am saying that the potential cost would be a very small percentage of the unallocated contingency within the current 2004-05 budget.

The Hon. J.F. STEFANI: Can the government advise what time frame is envisaged for the changeover of vehicles if members take the option of having a vehicle provided?

The Hon. P. HOLLOWAY: I think that would be a matter set by the Remuneration Tribunal and, presumably, given that we are directing them to adopt as far as is reasonably possible the same terms and conditions that are applicable under the commonwealth law, it would be similar to those measures. I am not that familiar with the commonwealth scheme. I certainly know with government vehicles that it is either 40 000 kilometres, I believe, or a certain maximum time limit.

The Hon. Carmel Zollo: It is about two years.

The Hon. P. HOLLOWAY: About two years is it? I imagine that it would be something like that, but that is a matter to be determined if this bill is passed and if subsequently the Remuneration Tribunal were to make it a determination.

The Hon. J.F. STEFANI: Can the government advise whether in the package of the provision of the vehicle it is envisaged that all insurance covers will be built into the salary sacrifice allowance? Has the government given consideration to what cost that might be?

The Hon. P. HOLLOWAY: Again, I believe that will depend on whatever determination is handed down. But I imagine that standard rules will apply and that whatever happens under commonwealth law is likely to be very similar to, if not the same as, that which applies to vehicles in the state fleet. Obviously, there will need to be some insurance cover.

The Hon. NICK XENOPHON: Looking at proposed new section 4A(5)(b), it provides:

> (b) allow a member of Parliament who elects not to be provided with a motor vehicle to instead be provided with a conveyance allowance or some other form of monetary reimbursement with respect to motor vehicle expenses.

I have not heard the phrase 'conveyance allowance' before. I got excited, because I thought this was the Hon. Mr Such's backdoor way of getting some stamp duty concessions for South Australians. What does a 'a conveyance allowance or some other form of monetary reimbursement' mean? Does it mean that, if you elect not to get a vehicle, you are entitled to some other allowance, and at what rate will that allowance be paid? If it is based on the commonwealth system, how will it work? I am trying to get an idea of how such an allowance will work.

The Hon. A.J. Redford: The same as the commonwealth.

The Hon. NICK XENOPHON: The Hon. Mr Redford interjects that it is the same as the commonwealth. I thought there was a system whereby you got the car and they paid all the expenses.

The Hon. R.K. Sneath interjecting:

The Hon. NICK XENOPHON: I do not know, and that is why I ask: how will the conveyance allowance work?

The Hon. R.K. SNEATH: Apparently, a conveyance allowance, or some similar allowance, is granted to people in the Public Service, magistrates and judges. In answer to the same sort of question, the mover in the other place answered that some elements within the Public Service and magistrates and judges can have a conveyance allowance, and it is expressed in a particular terminology for taxation purposes. If that is the case, I imagine that the tribunal will look at that allowance, and it would be along the lines that would be implemented in this case.

The Hon. J.F. STEFANI: Will the government advise how many judges, magistrates and public servants avail themselves of the conveyance allowance?

The Hon. P. HOLLOWAY: I do not have that information available. As I said, this was a private member's bill.

The Hon. NICK XENOPHON: I have already said publicly that I will be one of the members who will not elect to use the car or other allowance referred to. Does the mover consider it sufficiently clear that it is optional, because it says 'must allow a member of Parliament who elects not to be provided' and so on. Is it clearly optional? Can parliamentary counsel assist us?

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: No; it provides that the tribunal:

> . . . must allow a member of Parliament who elects not to be provided with a motor vehicle to instead be provided with a conveyance allowance. . .

Does the entitlement have any adverse implications in terms of fringe benefits, or whatever?

The Hon. R.K. SNEATH: If the tribunal sees fit, there are three choices: to take the car; to be granted a conveyance allowance, or some sort of allowance; or not to do either of those and stay as you are.

The Hon. J.F. STEFANI: The final comment I wish to put on the public record is that, in my raising the question at the beginning of this committee stage, there is no intention on my part to imply that there was any failure on the part of the staff to proceed with the appropriate procedures.

Clause passed.

Clause 4, schedule and title passed.

The Hon. R.K. SNEATH: I move:

That this bill be now read a third time.

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.	Redford, A. J.
Ridgway, D. W.	Roberts, T. G.
Schaefer, C. V.	Sneath, R. K. (teller)
Stephens, T. J.	Zollo, C.

NOES (5)

Gilfillan, I.	Kanck, S. M. (teller)
Reynolds, K.	Stefani, J. F.
Xenophon, N.	

Majority of 9 for the ayes.

Third reading thus carried.

Bill passed.

TRANS-TASMAN MUTUAL RECOGNITION (SOUTH AUSTRALIA) (REMOVAL OF SUNSET CLAUSE) AMENDMENT BILL

Received from House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I move:

That this bill be now read a second time.

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

Leave granted.

The Mutual Recognition Agreement ("MRA") between the Commonwealth and the States and Territories commenced operation in 1993. The Trans-Tasman Mutual Recognition Arrangement ("TTMRA"), which extends mutual recognition to New Zealand, commenced operation in 1998.

The shared objectives of the MRA and TTMRA are to reduce trade-related restrictions on the sale of goods and the recognition of equivalent occupations between jurisdictions, and thereby facilitate trade. Under the agreements a good which can legally be sold in one jurisdiction can legally be sold in another participating jurisdiction. Similarly, a person who is registered to practise an occupation in one jurisdiction is entitled to practise an equivalent occupation in the other participating jurisdiction.

In South Australia, the enabling legislation for the TTMRA is the *Trans-Tasman Mutual Recognition (South Australia) Act 1999*. This Act adopts the *Trans-Tasman Mutual Recognition Act 1997* (of the Commonwealth) as a law of the State. The Act contains a sunset clause that will cause it to expire in September 2004 if the Act is not extended or the sunset clause removed.

The sunset clause was included in the Act based on an understanding that a review of mutual recognition arrangements would be undertaken and the findings of the review would guide the Government in determining its future approach. A thorough review has occurred through the Productivity Commission Evaluation of the Mutual Recognition Schemes Research Report (October 2003).

The SA Government submission to the Productivity Commission stated that the South Australian Government considered the MRA and TTMRA to be working well and achieving their intended outcomes.

The Productivity Commission's final report reached a similar conclusion. It found that both the MRA and TTMRA have contributed to their objectives to:

- increase trade and workforce mobility across borders
- contribute to the integration of participating economies
- enhance internal and external competitiveness
- increase uniformity of standards
- increase choice and lower prices for consumers
- decrease costs to industry
- increase access to economies of scale.

The findings of the Productivity Commission report are being worked through cooperatively by jurisdictions. There are no major points of disagreement or contention between the ten jurisdictions that would lead the Government to have any concerns about removing the sunset clause from the legislation.

South Australia is the only State with an operative sunset clause in its legislation. Several States have a similar provision as that proposed in the Amendment Bill, which reserves the State's right to opt out of the scheme by proclamation from the Governor. Whilst it is unlikely that this power would ever be used, it is none the less prudent to explicitly include it in the Act.

Given the broad agreement that the TTMRA is working well, I consider the sunset clause to have served its purpose and no longer be necessary. This Bill will remove it from the Act whilst retaining the State's ability to opt out of the arrangement if it ever wish to do so.

I commend this Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Trans-Tasman Mutual Recognition (South Australia) Act 1999*

3—Amendment of section 4—Adoption of Commonwealth Act

This clause amends section 4 of the principal Act by allowing the Governor, by proclamation, to fix a day on which the adoption of the Commonwealth Act will terminate.

The Hon. R.I. LUCAS secured the adjournment of the debate.

PITJANTJATJARA LAND RIGHTS (EXECUTIVE BOARD) AMENDMENT BILL

Consideration in committee of the House of Assembly's message.

(Continued from 30 June. Page 1882.)

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

That the House of Assembly's amendments be agreed to.

The bill which left the house has two amendments to it. The major amendment is to insert:

1A—Commencement

This act will come into operation on a day to be fixed by proclamation.

This relates to a discussion that took place after the bill left the council. There was general agreement amongst the major parties that, rather than have the act come into effect after the assent, the proclamation date would be used, for a number of reasons, as a method of declaring the act fixed. That was done to allow some flexibility in the way in which the timing of the election in the AP lands could be called. We have the remoteness of the region, the uncertainty of the climatic conditions, and the fact that the roads from time to time can be impassable and, if we had set a fixed date at any time during the latter half of the year in particular (and even in the first half of the year the area is subject to thunderstorms and the tail end of Western Australian cyclones), the situation would have been that we would have had a date set that we may not have been able to meet because of some of these uncertainties.

It also gives the government flexibility in dealing with some of the issues that will have to be explained to the AP in relation to how the bill will work and operate in relation to an election, the method for which will be unfamiliar to the Anangu Pitjantjatjara people on the lands who are used to a certain cultural process in relation to how they make their own decisions. Also, it would be a method of voting, based on our own cultural standards in relation to how it would be put into effect. At the moment negotiations are going on to change the traditional way that voting for elections for the land council has been conducted at a general meeting held annually. This method, through negotiations with AP, is being phased out and a different form of elections for a different form of governance is being discussed.

The bill has a form that is as close as possible to the old form, held as an annual general meeting but based on a new negotiated structure which has a PR component through communities electing delegates to the AP executive. They will be having an annual general meeting style vote that will have each major designated community voting for representation on the APY executive in a form that will be determined by the Electoral Commission and in a way that will be supervised by it. That will take some time sitting down with the APY executive, the community representatives and the broad community generally to explain to them the responsibilities they will have in relation to determining democratic outcomes for the next 12 months.

With the cooperation of the AP executive and their representatives and communities we would like to be talking to them about an extension of the time frames from 12 months to three years. That is an issue that is being debated, the principles of which have in part been accepted by AP for future determinations around elections, but also being debated is what form of governance the communities would like to have in dealing with the services that the government, along with AP, have recognised as being inadequately delivered and provided.

In partnership with government, we hope to be able to improve those issues. The goodwill of AP and the representatives is required. Partnership is required. We would like to get off on the right foot by having adequate time frames for consultation and to explain this to a culturally different group of people in this state for whom English is, in the main, their second language. I have asked the opposition to look at a

form of words that we can agree upon to give us a degree of flexibility that will allow for those things to be done, and for a flexible time frame for the elections to be held.

The other provision deletes the clause that relates to the community administrators in each electorate who may provide assistance in relation to such publicity. We are looking at a way in which the community can become involved in providing information to those who would like to vote. However, we certainly do not want to involve people who, at a particular level, might have a vested interest in outcomes themselves and may not be eligible to vote. That is being discussed at the moment and, in the future, those issues will have to be sorted out by agreements with the AP in terms of eligibility, age and a whole range of other issues. We have left that in a situation where, hopefully, there will be no conflict. With those few words, we agree with the amendments put forward by the House of Assembly. We want to finalise this bill to make sure that it becomes an act in a reasonable time frame and that the government gives an undertaking to act on it as soon as practicable after the act has been proclaimed.

The Hon. R.D. LAWSON: We on this side of the chamber are deeply concerned about the amendments that the council is now being called upon to support. I remind the council that the Hon. Bob Collins, in his initial report, recommended:

> That legislation is introduced to provide for an election for the APY Land Council as soon as practicable, but in any case no later than July this year.

Mr Collins, having been appointed amongst great fanfare and supported strongly by this government, visited the land, consulted with the people, and spoke with the chairman of the AP Council for five hours at a meeting on which he duly reported in a report tabled by the Premier. The Premier commended the report and, amongst the dozen or so recommendations, the first was that there shall be an election as soon as practicable and in no case later than July. The government introduced a bill into this place, which the minister moved, and enabled Mr Collins' recommendations to be adopted and honoured. That bill passed this place; indeed, it passed through here in four days. There was a thorough debate; it was not unanimous, but both the government and opposition supported it. The Hon. Kate Reynolds did not.

The bill went to the lower house, where the government suddenly introduced an amendment that would have the effect of delaying the election. It was already difficult for the government to meet the timetable set by Mr Collins, namely, an election by the end of July. The government moved an amendment that had the effect of delaying that. The opposition, in order to assist the passage of the bill, accommodated the government in another place. The Leader of the Opposition wrote to the Premier indicating support, emphasising the need for an election by the end of July. During the estimates hearings, the Electoral Commissioner gave evidence and was specifically asked whether his office was able to proceed with an election, whether it was prepared; and the Electoral Commissioner said yes, the office was ready to proceed with the election and able to do that, admittedly within a tight time frame.

But the government moved an amendment that made the starting date for the eight weeks within which the election has to occur not the date of assent of the bill as originally proposed by the government but the date of proclamation. The government arrogated to itself the right to begin the period of eight weeks within which the election has to happen. The election does not have to happen eight weeks after proclamation but within eight weeks. A shorter time frame was certainly envisaged. But it is clear from the contributions made by government members in another place that there are some government members who are taking sides on the election, who were backsliding from the recommendation of the Hon. Bob Collins that the election take place no later than July of this year; people like the member for Giles, who were saying that they could not see why they were supporting this bill at all.

There were people on the lands who, I might add, are presently hanging on to office as members of the AP executive now seven months after their terms expired, and these are people who, as a result of hanging on to office, have prevented the commonwealth government from applying funds that the commonwealth was prepared to apply to the AP lands but are not prepared to do because of audit requirements. They cannot pass those funds through a body that is not properly constituted, as the Hon. Bob Collins recognised. And when did this change materialise? Bob Collins is on his back in hospital in Adelaide, critically injured, and suddenly the government comes up with the idea. Bob is silent: we will have an amendment; we can delay this. Sure enough, the government manages to pass in another place a bill, the clear purpose of which is to delay this election. The minister said here tonight that the weather, the tail end of the cyclone, might actually affect the date of the election.

The Hon. T.G. Roberts: I said early, the start of the year, they have tail ends of cyclones. I didn't say this election.

The Hon. R.D. LAWSON: This bill deals with an election that has to take place this year. You cannot say in an election for which the date has to be set within eight weeks that you make some accommodation for the weather. You do not know what the weather will be tomorrow or the day after tomorrow, let alone within four weeks. You do not know who is going to die. You do not know when there is going to be a funeral. You cannot set elections on that basis, and the notion that the government is seeking flexibility because of events like the weather or deaths on the lands or other business that might arise is transparent nonsense. Frankly, it is an insult to the council that the government should be bringing forward that sort of reason.

The Hon. T.G. Roberts interjecting:

The Hon. R.D. LAWSON: The minister says that he has not mentioned that. In fact, that was mentioned by his colleague in another place as one of the reasons for flexibility being required. The minister when he began tonight said that there has been general agreement that there should be greater flexibility and there should be delay. There is general agreement amongst whom—the minister, his advisers and those people he is supporting on the lands? Let there be no doubt about it: this minister and the government happen to favour the people who are presently in the saddle on the lands. We do not have any problem with the people in the saddle. Like any other democratic organisation, we believe they should go to their constituents and say, 'We are doing a great job, please vote us in.' They should do it immediately. The minister says that negotiations are underway. Negotiations between whom? Is it the minister, his office and those people in the saddle who want to organise an election to maximise their chance of being returned to the saddle?

The extraordinary thing is that this is not some general election for the state. This is an election for a community of which probably 1 500 people might be eligible to vote. In

2002, the last time an election was conducted under the auspices of the State Electoral Office, the State Electoral Commissioner said—and I think it was six polling places on that occasion—497 people voted. A poll of 497 people to be held on a particular date is not a matter of enormous difficulty. I am not suggesting that it would be easy, but it is not a matter that will involve the experienced officers of the State Electoral Office in a great deal of difficulty.

Let there be no doubt about it: we are concerned that the government is using this amendment as a device to delay the election. The minister talks about goodwill and partnerships and the provision of services to the lands, which we have debated endlessly here and which are extremely important issues. The simple fact is that the government appointed a person of eminence who made recommendations, which the government said it embraced. The government introduced a bill and now the government is backsliding.

I seek assurances from the minister that this election on the lands will occur at the earliest practicable point in time. That is the assurance the council should demand. That is the assurance the people on the lands are entitled to receive. It was interesting in another place where a number of people said, 'We have heard no-one on the lands suggest to us that there is any need for an election at all.' The people who are saying that are deaf to the pleas of those on the lands who do want an election. I read in the *Hansard* that members are saying that they had heard no-one calling for an election. I was present when some of those members were there and people were asking for an election—and demanding an election.

An honourable member interjecting:

The Hon. R.D. LAWSON: The honourable member says, 'Which members?' I was present at a meeting when the minister was there; when the member for Giles was there; and I believe the Hon. Kate Reynolds was there.

The Hon. Kate Reynolds: No.

The Hon. R.D. LAWSON: The Hon. Kate Reynolds says that she was not there. Well, I indicate that I am not suggesting for a moment that she was not listening. There are people on the lands demanding an election. Bob Collins, the government's own eyes and ears, who went to the lands, not for the purpose of a photo opportunity—as it was suggested the Premier went there—said that the people are calling for an election. He also said that the APY executive is dysfunctional and, once again, I remind the house that the Premier said that report was commended. So I seek from the minister an assurance that the election will take place at the earliest opportunity on the lands.

The Hon. KATE REYNOLDS: I have a number of comments to make. First, I put on the record that this bill to force an election on the AP lands is now being pushed through ahead of the other bill that we are considering on regulated substances on the AP lands. Whilst it is unlikely that this bill will make any real difference to the lives of people living on the APY lands, the latter (the bill on regulated substances) has the potential to make a significant difference, particularly in terms of combating substance abuse, petrol sniffing and domestic violence. So, in putting this bill ahead of another bill, the government, in our view, demonstrates its lack of commitment to Anangu and to addressing some of the entrenched social problems.

It has also given credence to comments made in the other place earlier this week which suggest that the real motive for pushing through the bill is to get a change of leadership on the APY lands so that it is easier for the government to establish mining operations there.

Since the bill was first introduced in this council, the minister has tabled the Litster report in which it appears that Mr Litster, unlike Mr Collins, did not support the government's push for an election to be held as soon as possible. Mr Litster said in his report:

> Following the meeting with administration staff, I met with other traditional landowners in the car park. This group proved to be the opposition movement who are lobbying to oust the council and have fresh elections. I passed on the same advice to them as stated above, with the added advice that in my personal opinion I thought the timing was wrong and that things should be allowed to settle down a bit.

I also note for the record that, since the bill was first passed in this council, the report of the Select Committee on Pitjantjatjara Land Rights has been tabled. That report quotes Professor Mick Dodson extensively. On 28 January 2003 Professor Dodson told the select committee:

> You cannot impose amendments on the Anangu. This has to be something worked out with them. I am absolutely convinced of that. I think that they would embrace that opportunity to work as a partnership to bring the act up-to-date and to get it to do what Anangu now want it to do. I would not impose something. That would be absolutely the last resort. You would be just totally frustrated in the process. Anangu people will make the right choices in the end if it is done properly, if they are given time to think about it and there is a consultative and educative process.

During the second reading of the bill on 1 June the minister said:

> 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 minister's comments do not sit comfortably alongside remarks made by the Electoral Commissioner, Mr Steve Tully, in budget estimates in the middle of June. From what Mr Tully said, it can be inferred that the State Electoral Office is only intending to establish and staff 10 booths, one in each of the electorates established under the bill. It is therefore our view that many of the people living in smaller communities and homelands away from the 10 communities in which the booths are located will have to arrange their own transportation to their designated booth or, as is more likely, accept a ride from someone who, later on, may or may not be charged with attempting to affect the outcome of the election, for which, under the bill, there are severe penalties. We are not talking about small numbers of people: we are not talking about just one or two votes.

For example, there are about 30 people who live at Watinuma (one of the communities we visited on our most recent trip) and they will be required to find transportation to Fregon, which is about 30 kilometres away over quite rough roads. The same will occur for more than 20 residents at Kenmore Park. They live about 40 kilometres away from Ernabella, and other examples could be cited as well. Regarding the amendment to remove the reference to community administrators, which members will remember in the absence of any other definition when we debated this bill earlier was taken to mean municipal services officers. There has been some other discussion in the other place in response to a question I asked. On 28 June in the other place, the Minister for Families and Communities said:

The other amendment is of small moment. It concerns the amendments correcting a reference to community administrators in the bill. In another place a question was raised about the accuracy of that title. The minister in the other place undertook to clarify the position. The government has been advised that the title is not one that is currently used to describe the position which is instead known as MSO (municipal services officer). Furthermore, not all electorates have such a position. To avoid any possible confusion, including whether an MSO could assist the returning officer in an election in which the MSO is a candidate, this amendment removes the permissive reference. However, the amendment does not affect the returning officer's ability to be assisted in publicising an election conducted under section 9 of the principle act. However, such assistance may be sought by the returning officer. The returning officer may then turn his mind to whether assistance from an MSO is appropriate in the circumstances.

In budget estimates on 18 June, the State Electoral Commissioner, Mr Steve Tully said:

I have also written to Mr Collins with a suggestion of which officials I might be able to use in the lands and asked for his views and nominations. My proposal is to use the municipal services officers as electoral officials in those communities, but I am seeking his views.

There was an interjection and then Mr Tully said:

Well, that is the other question. I have approached the Deputy Commissioner for Police and he is not happy—sorry, the police department on the ground are not that happy about being electoral officials. That is one issue that I have to resolve very quickly. I overheard the member for Mitchell casting some concerns about municipal services officers not being impartial. If that is in fact the general view, I will be back to the drawing board and maybe need to approach the Commissioner for Police again.

The member for Mitchell asked:

Will you specify in what manner you are intending to engage the municipal services officers in respect of the elections?

Mr Tully said:

For a very straightforward function of receiving nominations and forwarding those nominations to me. As I explained in answer to a question from the member for Bragg, it was my initial understanding that there would not be a nomination period and that we would go up there to hold nominations and elections straight afterwards. Given that there is a nomination period, it seems to be a ridiculous expense to have 10 people sitting up there for two weeks in the hope they might receive a nomination or two. I was hoping to use the municipal services officers to receive the nominations (with a photograph) and fax them to my office so that we could start proceedings and prepare ballot papers—sorry, not ballot papers but, rather, prepare for the election.

The need for the government to remove this clause from the bill is clear evidence for us of the hasty fashion in which the bill has been cobbled together, and the comments made by the Electoral Commissioner remove any doubt that the State Electoral Commission is already struggling in its efforts to stage the proposed election.

From the reports that I have received in just the seven months since I took on this portfolio for the Democrats, it is perfectly plain to me that there are some excellent MSOs and some not particularly good MSOs. There are some Anangu MSOs and there are some white-fellow MSOs, and I note that one former MSO is currently in prison and is being investigated for defrauding an Anangu community of some $100 000. The bottom line for all MSOs, whether they are doing an excellent job or a poor one, whether they are indigenous or white, is that they are not impartial bystanders, they will always be involved to some degree in local politics and would always have their preferred candidates.

It is of some concern to us that the Electoral Commissioner seemed not to understand. This suggests that, despite his remarks, plans to hold an election are well under way; that, in fact, the commission is not ready or able at this time, and certainly not within eight weeks of the commencement of the act (and some people have expressed concern about any time period), to conduct and oversee a credible election process, according to the requirements of this bill should it pass.

If an election is held in the near future, the outcome will probably be disputed. As a result, Anangu, the parliament, the standing committee and the APY lands task force—in fact, all of us—will be back at square one. Nothing will have been achieved except the fuelling of a lot of enmity.

The Hon. T.G. ROBERTS: I thank honourable members for their contributions, although I understand that members can still make further contributions. In explanation of some of the statements that have been made, some gains have been made in relation to the propositions put forward by the Hon. Kate Reynolds regarding community administrators (or MSOs) not participating. If they are not Anangu, they will not vote.

The Hon. Kate Reynolds: They cannot vote, but that does not mean they cannot influence the election.

The Hon. T.G. ROBERTS: I understand that. They do play a role, and that clause has been removed from the bill. The government has taken on board some of the other concerns in relation to some of the delays that might be caused by the Electoral Commission in its role and function in setting up to ensure that a maximum number of people are able to vote so that there are no contestable ballots in any of the boxes and to ensure that we get the broadest participation possible. However, that does not mean that people will not contest the results of the ballots after the ballots have been completed. History shows that the APY elections have always been close; they have always been contestable; and they have always been fiercely fought. There has always been factions who have not been prepared to accept the outcomes, even on the simplified form of voting that they have at the moment.

We would be pretty optimistic if we believed that an election held under the prescription described in the bill is carried out to the letter and that we will have results with which everyone will be happy. History shows that it will not happen, and I would be surprised if it happened this time. If, before we proceed with this ballot, we can get a consensus of views (which has been recommended by some people and condemned by others) on where we go from there, and take the emphasis off the election so that people look a little further down the track in relation to the form of governance they would like after what could be regarded as an interim election to satisfy the requirements of the commonwealth and state funding bodies, we might have some chance of getting a unified position on the ground for the release of funds from the commonwealth and through the state agencies via the cross agency organisers, once we have them in place on the ground. That is the government's intention. If it is going to be frustrated by 'white fella' politics down here, you really cannot expect it to work up there on the lands. If there is going to be interference in the election results or the method of voting, or there is intimidation, we will not get a clean result up there. It is as simple as that.

There are a number of unknowns. One of the reasons we would like the extra flexibility within the proclamation time is to be able to draw a consensus, if we can, to describe the new election, to describe what the government requires in relation to service provision and accountability within the community, to describe to each community its role and function in trying to raise the standard of living of its community within its areas of responsibility and to describe to the lands council that that is exactly what it is—a lands

council having its election in preparation for a form of local governance to take place.

That is when the people on the lands council, including the elders, can take part in a broader democracy that brings about some reforms to the regimes that have been shown to be totally incapable of delivering results. It is a pretty simple formula as far as I am concerned. But, suddenly, the election is the most important thing to everyone, because that is when everyone can put in an oar. That is when everyone can have a view or an opinion and describe just how they see the whole of the processes up there. The election then becomes the be-all and end-all, and the delivery processes for the people are forgotten.

I would hope that people take into account the spirit of what the government is trying to do, which is to build in a degree of flexibility. It takes into account some of the uncertainties in relation to distances, the state of the roads that must be fixed and the weather that can cut off communities, not just for days but for weeks. Although I did not mention deaths in the lands, they can also stop the movement of people. There are occasions when, if a number of people die in either tragic circumstances or if they are senior people within a community, many of the roads are shut down and the movement of traffic is stopped, and it is an issue.

It is not an issue for people in the metropolitan area or in broad society, but it is an issue for people who have a different cultural understanding of what life and death means. If we do not take that into account, then our motives and objectives will be taken into account by people who will judge us. I would just like members to maintain a flexible approach to this. We are trying to get the best result possible. We are trying to get the funding regime set up in a way that can achieve the best results. This formula is as good a formula as we can come up with. It is not perfect. No-one is describing it as being perfect, but it is as good a formula as we can come up with.

I hope that we can foster the goodwill to get those services and reforms in place so that we can change the standards of living and get those people out of their poverty cycles. There are no attempts to change the existing regime to incorporate a pro-mining group or to get mining off the ground. The group in power now has agreed to a range of changes to the way in which it has worked with prospectors, miners and the people who are looking at the possibilities of starting up long-term mining ventures.

PIRSA has built up a relationship with the AP, and that has been going along unannounced, unheralded and unsung. The traditional owners have sat down with PIRSA, and there are no arguments about access and there are no arguments about not allowing mining to take place. All the leaders in the lands know that they have to change to allow partnerships with mining and with community. Miners know that, the mining companies know that and the executives know that. There is a new spirit (which, obviously, has not been captured down here) in relation to change. If impediments are put forward for petty reasons then, unfortunately, we will not be able to get the cooperation that is required to bring about the change that is required.

I refer either to potential change or getting service delivery in there to stop people from losing their lives through petrol sniffing, alcohol abuse and physical violence. I would hope that a certain amount of flexibility is built into the bill so that we can get on with the work that is required.

The Hon. R.D. LAWSON: Can the minister assure the council that the election will take place—provided the bill passes through this place this evening—by, say, the end of September this year?

The Hon. T.G. ROBERTS: The July date has gone. We cannot meet the date that was anticipated by Bob Collins. We now have to move this bill out of this council as soon as possible and it has to be proclaimed as soon as possible. That would take two lots of ten days, I think, and it would have to go back to the executive council—

The Hon. R.I. Lucas: You can have a special executive council straight away, if you are really serious.

The Hon. T.G. ROBERTS: The point is—being very serious—that we have to negotiate and discuss, and I think that could probably make the time frame that the member puts on it. The September date is within the bounds of reason: the July date is not. Even if we do get the bill proclaimed, there will be a period of negotiation that we have to go through to pay respect to the leadership within those communities. I will give an undertaking to the shadow minister that we will accelerate the process for discussions and for bringing the groups together up there, but I would hope that the outcomes would be towards the end of September, for an election.

The Hon. Kate Reynolds interjecting:

The Hon. T.G. ROBERTS: August? It is possible to bring the date back, but we do not want to be put in a position of not being able to reach the objectives of our own legislation, and by shortening the time frames that is a possibility. If we have the time frames understanding set out a little longer then it is not a matter of taking them out to the date set—it is a matter of doing it as soon as possible and getting those agreements as soon as possible but without cut-off dates being set that may be unachievable.

The Hon. KATE REYNOLDS: I do not mean to labour the point, but can the minister clarify that your remarks mean that the election would not be held before September?

The Hon. T.G. ROBERTS: If we can get an agreement with Anangu to hold the election before September and if we can get the electoral commission to set up, educate, inform and engage AP in time frames that are shorter than that, then that is a possibility. But my own view is that I think that time frame would be almost impossible to meet.

The Hon. R.D. LAWSON: Given the fact that the government introduced this bill last month and the Liberal opposition indicated immediate support for it, so there was never any doubt that the bill was going to pass in this form, have there been discussions or education going on to organise a poll?

The Hon. T.G. ROBERTS: There have been discussions in a difficult negotiating climate in that AP have been given false hope, I suspect, that they may be able to hang on until March next year. That false hope has not been provided by me; I have been trying to get them to accept that the pressures down here will not accept that sort of time frame, and they would have to be looking at time frames this side of Christmas. There is a climate that we can take some advantage of in relation to shortening those time frames. There are some discussions about what to put on the ballot papers. The electoral commission is looking at forms of advertising that are suitable to Anangu, such as posters and material that can be used on the PY media. So, some of the issues have been looked at and are being discussed in preparation for an election.

The Hon. R.D. LAWSON: I ask the minister to indicate with whom these discussions are being held. Are they being held with those people who are presently holding onto office

as the AP executive, or are they being held with others whom Mr Litster was able, in his one-day visit, to identify as those who are seeking an immediate election and whose names appear on the list of 300 signatures of the people demanding an immediate election?

The Hon. T.G. ROBERTS: For sensitive reasons, no other groups have been engaged to discuss the form that the ballot papers will take or the way in which the advertising will take place. However, I understand that people who are expert in the language and who are able to give advice on notices that would be looked at and the forms in which to put the advertising material have been engaged in discussions about putting forward options.

The Hon. R.D. LAWSON: I indicate to the committee that we regard that as an unsatisfactory solution. The government has backslid on a commitment. However, we accept, as we must, the minister's assurance that every effort will be made to conclude this election by September. We should bear in mind that that will mean those in office will have clung to office, contrary to the existing law which required that there be an election last December, for more than nine months after the time they should have relinquished that office and gone to their constituencies and been re-elected if they wanted to be.

Motion carried.

AUSTRALIAN ENERGY MARKET COMMISSION ESTABLISHMENT BILL

In committee.

(Continued from page 1956.)

Clause 1.

The Hon. R.I. LUCAS: I thank the government because earlier this afternoon a copy of the intergovernmental agreement that had been signed only in recent days by, I think, the remaining states and the commonwealth was made available to members, as I understand it, and at least we have had an opportunity to look at it this afternoon. As I indicated during the second reading, the opposition has significant concerns about this bill. We will not be repeating those during the committee stage, but we will highlight some through questions. Our position is one of not supporting the legislation but not opposing it, in acknowledging that the deal has been done and that the bill needs to go through. I seek your guidance, Mr Chairman. Usually the large questions are conducted on clause 1, but it may well be that you would agree that clause 3, which is the definitions clause and therefore covers every conceivable aspect of the national electricity market—I will not go through all of them—is probably the clause on which I will ask the bulk of my questions.

The CHAIRMAN: Given the late hour, it seems appropriate to proceed in that way.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. R.I. LUCAS: I have a considerable series of questions in relation to the intergovernmental agreement. I refer the minister to page 2, clause 1.5. I note that the minister has access to parliamentary counsel's advice on this occasion. The clause states: 'For the avoidance of doubt, this agreement is not intended to give rise to legal obligations among the parties.' As the minister knows, we have been waiting for everyone to sign off on this agreement in the last few days. Can the minister provide some information as to why the agreement has been drafted using that phrase?

The Hon. P. HOLLOWAY: This agreement was drafted by South Australian crown law officers. My advice is that intergovernmental agreements never gives rise to legal obligations. The statement is in there to reflect that fact.

The Hon. R.I. LUCAS: Just to clarify that, in some of the other provisions that we will come to later, there are quite specific and onerous provisions in relation to withdrawal of parties, notice in writing, and a variety of other requirements, for example, should any partner want to withdraw from the agreement. The minister is saying that South Australia's crown law advice, which was used in drafting this, is making it explicit that, whilst all those provisions might place explicit requirements on the parties, there is no legal obligation on any party to follow any of those provisions.

The Hon. P. HOLLOWAY: Essentially, this is a document of political intent. There are some agreements of which the leader would be aware—and has, no doubt, been involved in—such as other gas and electricity agreements, which really are (like all intergovernmental agreements) documents of political intent.

The Hon. R.I. LUCAS: I thank the minister for that answer. I think it is important to acknowledge that issue because, as I have indicated before, this government is partly led by a Deputy Premier who has indicated clearly that the moral basis of the government is that it has 'the moral fibre to break promises; the opposition does not'. So, the minister is acknowledging that there is no enforceable legal obligation. It is a statement of political intent and so, should the government decide that it does not want to abide by any provision, it could indicate that and there would be no enforceable obligation on the government in relation to any of the provisions in this intergovernmental agreement.

Having placed on the record that understanding from the government in relation to how one is to interpret the agreement, I have a series of questions in relation to the Ministerial Council on Energy, in particular. How will South Australia's interests be protected in the decisions that the Minister for Energy, on behalf of South Australia, has entered into with other states? I will not go over the detail again, but I gave one example of many where, under the current arrangements—the interconnector projects, for example—a national body, such as NEMMCO, needed to take a decision in the national interest, whereas the South Australian Independent Regulator at the time was required by state legislation to take into account the interests of South Australian consumers. I can attest that the discussions I had with the Independent Regulator during the period of the transmission licence application made it clear that his legislation did require the interests of South Australian consumers to be taken into account. I will ask a series of questions along those lines at the committee stage.

One of the keys in relation to this issue will be what the voting provisions on the Ministerial Council of Energy will be. I note that in the intergovernmental agreement (which, as the minister has indicated, has been drafted by South Australia's crown law officers) there are specific provisions which refer to the unanimous agreement of parties. Other clauses quite deliberately refer only to 'agreement', and there is no reference to 'unanimous agreement of parties'. For example, 3.3 provides: 'This agreement may be amended upon unanimous agreement of all parties,' but other provisions refer to only the agreement of parties. When one reads clause 4, which relates to the Ministerial Council on Energy,

clause 4.6 (voting provisions) provides that the MCE can establish such rules concerning its operations as it considers appropriate, including the making of decisions.

In relation to some of the questions I asked during the second reading debate, the minister responded in part by saying:

> The voting rules are determined by the council, but each jurisdiction has one vote.

I acknowledge that. The minister (or his officer) then said:

> Currently, all decisions except those provided for in the Australian Energy Market Agreement and various other arrangements such as the Trans-Tasman Mutual Recognition Agreement are decided on a unanimous basis.

That was not my question. We were not talking about what occurs currently. I referred to the fact that many of the decisions currently are required to be unanimous. I was inquiring about what the minister has agreed for the future under this new arrangement and whether a small state such as South Australia would continue to have, in essence, veto provisions on many of these decisions through a unanimous agreement requirement. The minister in response went on to say:

> Each jurisdiction which has or will enact legislation conferring powers on the Australian Energy Market Commission has a veto right in relation to that legislation.

That is interesting, but it does not really answer my specific question. I will come back to that.

In relation to the Ministerial Council on Energy, what agreement has the Minister for Energy in South Australia entered into in relation to the voting decisions on the ministerial council? Will these decisions have to be by way of unanimous agreement, or has the minister accepted a simple majority in relation to some of those decisions?

The Hon. P. HOLLOWAY: My advice is that the minister has not accepted anything at this stage, because there is a paper that will go to the Ministerial Council on Energy prior to its meeting in August. So, there will be a paper that will discuss that in August; it has not yet been determined.

The Hon. R.I. LUCAS: I am sure the minister has recommended that the Premier sign it. The minister has already agreed to an intergovernmental agreement, which we are addressing. For example, clause 4.4 indicates:

> That the parties agree that the MCE has any other energy related power conferred on it by agreement between the parties or by legislation.

There is no reference in that to unanimous agreement. Clause 4.7 states:

> The parties agree that decisions of the MCE concerning the NEM will be made by agreement of the MCE ministers representing parties that are, or are by this agreement, deemed by 4.8 and 4.9 to be NEM jurisdictions.

In both of those cases, as I have already observed, crown law—I assume based on government policy; I am not criticising crown law—has advised that some provisions would have to use the phrase 'unanimous agreement of all parties', but the government has decided in its agreement that it has signed not to require unanimous agreement in a number of cases, and I referred to that. The minister has just indicated that there has been no decision in relation to how voting will occur within the Ministerial Council on Energy. How can he reconcile that claim with this agreement that has already been signed by his Premier on the recommendation of his Minister for Energy that the term 'unanimous agreement' will not be required in relation to these particular areas?

The Hon. P. HOLLOWAY: As I said, a document will come out prior to the meeting which will determine these things. As far as the intergovernmental agreement itself is concerned, any changes require unanimous agreement. My advice is that the wording in it at the moment is such as to give it flexibility to come up with the voting rules when that takes place at the ministerial meeting.

The only other comment I would make is that I am sure the Leader of the Opposition has been to more ministerial council meetings than I have down the years, but I have attended quite a few now and invariably those ministerial councils tend to work on consensus. I must admit that I have not been on the Ministerial Council on Energy, of course, but certainly all the other ministerial councils I have been on work in such a way that you tend to get unanimous agreement.

The Hon. R.I. LUCAS: I have served on the equivalent to the Ministerial Council on Energy and I can assure the minister that, on a number of occasions, anything other than consensus is the mode of decision making. If there had not been the possibility of a small state like South Australia telling a state like New South Wales in essence to 'get nicked', to use the vernacular, then the power of the big eastern states would have overwhelmed the smaller South Australian states.

The Hon. P. Holloway: There has to be some sort of overall consensus or unanimity, if you like.

The Hon. R.I. LUCAS: It does not have to be. If one looks at 4.7, the parties agree that decisions of the MCE concerning the NEM will be made by agreement of the MCE ministers. Why has our Minister for Energy agreed to the agreement of ministers which in essence allows the possibility of a majority decision of the Ministerial Council on Energy and in which South Australia might be outvoted, which would be against the interests of South Australia? In other provisions, as I said, crown law has incorporated unanimous agreement provisions which clearly are a greater protection for a smaller state like South Australia.

The Hon. P. HOLLOWAY: My advice is that 4.7 is really just about who can vote and not so much about how the vote will take place, because my advice is that that is what will be determined at the next meeting.

The Hon. R.I. LUCAS: I indicate that certainly that is not, I think, what would be the most common reading of the provisions of that subclause, and I refer the minister to 4.4A and ask him for an example. I just want to give an example, and I refer to 'power to issue policy directions to the AEMNC'. I will return to this issue later. Would it be possible for the Ministerial Council on Energy to issue a policy direction to the AMEC on issues such as the volume of lost load (VOLL) pricing, or nodal pricing issues or the National Electricity Code?

The Hon. P. HOLLOWAY: My advice is that those rules have yet to be clarified, and they will come before the council later this year in September, and the NEL amendment bill will contain those provisions later this year.

The Hon. R.I. LUCAS: With the greatest respect, I do not believe that that is a proper answer, or a full answer, to the question that I have put to the minister. I want to know, and I will take these questions one by one. This provision that the Minister for Energy and the Premier have agreed to on South Australia's behalf says, 'The ministerial council will have the power to issue policy directions to the AEMC.' I indicate now that in my view, when the legislation comes in in September or so, it will not indicate, by way of a listing of

issues, whether or not the issue of volume of lost load or nodal pricing will be a policy direction power that the MCE will have over the AEMC.

If the minister says that he is not prepared to answer the question or cannot answer it, so be it. My question in relation to volume of lost load is whether the government envisages under the new arrangements the ministerial council having the power to issue a policy direction to the AEMC on an issue such as the VOLL pricing.

The Hon. P. HOLLOWAY: My advice is that there is no agreement on that and that would be an issue. That is the sort of issue that needs to be discussed in future.

The Hon. R.I. LUCAS: Does it fit within the definition of a policy direction that one might give—not that they would? Is it a policy direction type issue that, if the AEMC decided it could issue—

The Hon. P. HOLLOWAY: I understand that is the position that has to be resolved: is VOLL a policy direction issue? That is the question that has to be decided. That has not been determined yet and whether the 4.4A would apply is yet to be determined. That is my advice prior to the next meeting.

The Hon. R.I. LUCAS: To ask a more generic question, is the agreement the minister has entered into designed to allow the ministerial council to issue a policy direction in relation to a change—not any particular change—to the National Electricity Code? Is the minister's agreement to this on the basis that the ministerial council will have the power to issue a policy direction to the AEMC in relation to such an issue?

The Hon. P. HOLLOWAY: Perhaps the Leader of the Opposition could explain in more detail what he means by a policy code change. I understand that a discussion paper is out on streamlining policy code change, but it is just that at this stage. To answer his question, we would need more information about exactly what sort of policy change he means.

The Hon. R.I. LUCAS: I am happy to do that. A large part of the discussion paper relates to an endeavour to reduce the degree of duplication and consultation between the NECA currently and the ACCC in terms of the extent of consultation that goes into changes to the National Electricity Code. That is a key part of the discussion paper to which the minister has referred.

This power the minister has agreed to says that the ministerial council can issue a policy direction to the AEMC. The minister and his advisers would know that there is a current National Electricity Code and, putting aside whatever code change process one arrives at, looking at any provision in the National Electricity Code, can the ministerial council issue a policy direction to the AEMC which says that such and such a provision of the National Electricity Code will be changed along these lines? That is, there will be a policy direction issued by the ministerial council to the AEMC to indicate that there should be a particular change to the National Electricity Code.

The Hon. P. HOLLOWAY: My advice is that it is envisaged—and I use that word advisedly—that a minister can put up a change proposal but it has to go through the normal consultation processes.

The Hon. R.I. Lucas: A minister or a ministerial council?

The Hon. P. HOLLOWAY: It has not yet been determined whether it will be a minister or the ministerial council. If it is the ministerial council, it obviously has to be that aggregate view; but that has not been determined.

The Hon. R.I. LUCAS: I want to clarify that because, in the reply to the second reading, the minister confirmed that the AEMC will not be able to propose code changes itself; therefore, a proposed code change will need to come from somewhere else. The minister has indicated that a minister could, possibly, individually recommend a code change. The MCE might possibly be a body for a recommended code change. Who else might recommend a code change in terms of the new arrangements?

The Hon. P. HOLLOWAY: That might come from the code participants: the generators, transmission companies, and the like. It could also come from the regulator—the new AER.

The Hon. R.I. LUCAS: I was referring to clause 4.4A of the intergovernmental agreement, which says that the parties agree that the MCE has power to issue policy directions to the AEMC with respect to rule-making. I seek advice from the minister as to whether the Minister for Energy has agreed that, when the policy direction is issued to the AEMC, however that decision might have been taken with respect to rule-making, the AEMC has no discretionary power to disagree with a policy direction from the MCE.

The Hon. P. HOLLOWAY: I think I need to refer to clause 6 of the bill, which provides, under 'Functions':

> The AEMC has the following functions:
> (a) the rule-making, market development and other functions conferred on the AEMC under National Energy Laws or Jurisdictional Energy Laws;

So, it is really a matter that we dealt with in the National Energy Laws, which will eventually come before this parliament and which will be a very substantial document; and that is where these issues will be determined.

The Hon. R.I. LUCAS: That is not the question I am asking. I accept that under clause 6 of the bill we are going to see the issues of rule-making, market development, etc. conferred on the AEMC under National Energy Laws, and that will occur in September. I am saying that, when one looks at the intergovernmental agreement, the minister has agreed that the MCE will have the power to issue a policy direction to the AEMC. I am not talking about anything specific, but has the minister agreed, having agreed to this clause, that the AEMC has no discretion at all to follow a policy direction of the MCE—that is, the scheme of arrangement is that the MCE in certain areas can issue a policy direction to the AEMC with respect to rule-making? Forget the detail, but in relation to rule-making that we will see in September, has the minister agreed that the MCE will have the power to issue a policy direction to the AEMC? Will the AEMC have any discretion at all in terms of agreeing or not agreeing to MCE policy direction; or is it, as the drafting would suggest, a direction from the MCE and, therefore, there is no discretion from the AEMC at all in relation to a policy direction from the MCE?

The Hon. P. HOLLOWAY: As I said, the National Electricity Laws will contain the policy direction. I think we all understand that. In relation to whether or not it would be possible for the AEMC to have that discretion, that policy direction has yet to be determined. Presumably, the rules will make that transparent. The rules will make it transparent when they come out as to what discretion the AEMC will have.

The Hon. R.I. LUCAS: With the greatest respect, I do not think that is correct. The rule making of the AEMC, for example, will be outlined further down the track. The question I am asking here is not in relation to that but, rather,

what has our minister agreed to in relation to the power of the ministerial council to issue policy directions to the AEMC? The answer may be that we do not know to what the minister has agreed; or he does not know to what he has agreed; or we are still talking about it. All of those may well be fairer descriptions of where we are.

Certainly, I do not believe that the minister's response that it is all to come in the National Energy Law changes will answer the question. I will not belabour the point. When the NEL changes arrive in September, or soon afterwards, I can revisit the issue with the minister and the government, and I will just accept that I have asked the questions and that I disagree with the answers that the government, through its advisers, has provided.

Again, I will not further explore this issue, but what our minister has agreed to in relation to the voting power of the MCE is critical, and at some stage we will need to know whether or not that is by unanimous agreement or whether it is a majority decision. As I said, other provisions which we will look at in the intergovernmental agreement do refer specifically to unanimous agreements.

In relation to clause 4.7 of the intergovernmental agreement, can the minister clarify that the decisions of the MCE concerning the NEM will be made by agreement by the MCE ministers representing parties that are or are by this agreement deemed to be NEM jurisdictions? Can I clarify that that, therefore, refers specifically to South Australia, Victoria, New South Wales, Queensland and the ACT and, through subsequent provisions in this agreement, envisages Tasmania under 4.9 and the federal jurisdiction only in some decision-making areas under 4.8?

The Hon. P. HOLLOWAY: I think the leader's assertion is essentially correct, subject to the proviso as it is in 4.8 pending the coming into operation of legislation. That is the proviso in 4.8: the parties agree that, pending the coming into operation of legislation applying NEL within its jurisdictions, the commonwealth is deemed to be a jurisdiction. So, with that proviso, I think essentially the leader is correct.

The Hon. R.I. LUCAS: So, when the legislation comes in, are we to read this agreement to mean that the commonwealth would be then a fully fledged NEM member, and voting, or it will not be?

The Hon. P. HOLLOWAY: I need to know which legislation the member is referring to. It says in 4.8 that it is deemed to be a NEM jurisdiction for the purposes of. And then there is A and B.

The Hon. R.I. LUCAS: Clause 4.8 says that pending the coming into operation of legislation it is deemed to be a NEM. So, when that legislation comes in, what happens? Is the commonwealth a NEM jurisdiction, or not?

The Hon. P. HOLLOWAY: My advice is that the commonwealth will be regarded as a NEM jurisdiction when two things occur, the first of which is that the legislation referred to in 4.8, which is the Australian Energy Market Act 2004, has to come into place. That is the act that was passed in the commonwealth parliament in very recent days (last Friday). Also the National Electricity Laws have to be amended to accept the commonwealth as a jurisdiction.

The Hon. R.I. LUCAS: I thank the minister for that. As I understand it, eventually when these things happen, in essence, we will have seven NEM jurisdictions. We will have the five states, the ACT and the commonwealth government. Will that eventually be the case?

The Hon. P. HOLLOWAY: Yes; there will be seven, that is correct, including Tasmania.

The Hon. R.I. LUCAS: I refer to clause 7.4 of the intergovernmental agreement which talks about the AER. There is a provision in that which talks about the fact that the AER will consist of three members, two of whom are to be recommended for appointment by agreement of at least five of the MCE ministers representing each of the states and territories that have elected to be subject to the jurisdiction of the AER. Will the minister clarify which jurisdictions we are talking about; that is, five of the jurisdictions that we are talking about that have elected to be subject to the jurisdiction of the AER?

The Hon. P. HOLLOWAY: My advice is that the only jurisdiction which is not elected is Western Australia.

The Hon. R.I. LUCAS: What clause 7.4 is talking about is that there should be the agreement of at least five of the seven MCE ministers. Is that correct?

The Hon. P. Holloway: Five of the seven.

The Hon. R.I. LUCAS: It says, 'MCE ministers representing each of the states and territories.' Obviously that would exclude the commonwealth.

The Hon. P. HOLLOWAY: Yes, the commonwealth and Western Australia.

The Hon. R.I. LUCAS: I refer to clause 8.1 in the intergovernmental agreement. The minister responded in the second reading to my question as to whether there will be any impact on NEMMCO, and I have referred to the schedule 1 provisions which refer to the assets of NEMMCO. In his reply to the second reading he said, 'No changes are proposed to the core functions or structure of NEMMCO.' I refer the minister to clause 8.1(a) of the intergovernmental agreement which says that the AMC will have the following functions: from the commencement date all rule making and market development functions currently performed by NECA and, to the extent applicable, NEMMCO in respect of the NEM electricity wholesale market and transmission networks. I ask the minister to reconcile that intergovernmental agreement provision with the answer that he provided in response to the second reading.

The Hon. P. HOLLOWAY: It is my advice that this is just a safeguard clause. It is not expected that there will be any transfer from NEMMCO to the AEMC, but just in case the need arises for something—

The Hon. R.I. Lucas: You are talking about schedule 1 again.

The Hon. P. HOLLOWAY: Is the honourable member talking about 8.1(a)?

The Hon. R.I. Lucas: Yes, I asked a question about 8.1(a) in the intergovernmental agreement.

The Hon. P. HOLLOWAY: Yes, that is what we are talking about. Again this is a safeguard function should something unforeseen arise, but it is not expected that there would be the need to transfer any functions from NEMMCO to the AEMC.

The Hon. R.I. LUCAS: I think that is an extraordinary response. We have an intergovernmental agreement which the minister has signed off on which has specifically indicated that the AEMC will have the following functions, and then it lists a number of functions. First, all the rule making and market development functions currently performed by NECA will be transferred as a function to the AEMC. It goes on: '. . . to the extent applicable, NEMMCO, in respect of the NEM electricity wholesale market and transmission networks. . . ' Depending on what is envisaged here, NEMMCO has a not inconsiderable role in relation to the NEM electricity wholesale market and transmission networks. That has

obviously been specifically drafted by the minister for some reason; it is not a fall-back mechanism. The minister must have had something in mind when he agreed to this provision. If once again I cannot get an answer, I will have to leave it unanswered on the record.

The Hon. P. HOLLOWAY: It might be helpful if I point out that clause 5.1(c) of the intergovernmental agreement provides:

> The parties agree that the Australian energy market institutions will comprise:
>
> (c) NEMMCO, which will continue to be responsible for the day-to-day operation and administration of both the power system and electricity wholesale spot market in the NEM.

The Hon. R.I. LUCAS: I acknowledge that point, but it does not answer the question of 8.1(a). It may be that the minister has no better response tonight. I will leave it on the record. It is another unanswered question, certainly from the opposition's viewpoint, as to what our minister has agreed on our behalf in relation to the intergovernmental agreement.

I turn now to 8.1(c), which is one of the key aspects of the whole debate, particularly when one takes it in conjunction with 9.1(c). This relates to handing over to the national bodies (the AEMC and the AER). Clause 8.1(c) provides:

> . . . by no later than 31st December 2006, rule making and market development functions conferred by restrictions in respect of electricity and natural gas distribution networks and retail markets (other than retail pricing).

And 9.1(c) provides:

> Functions of the AER. The AER will have the following functions no later than 31st December: economic regulation of NEM electricity distribution networks and retail markets other than retail pricing for the parties that are NEM jurisdictions.

That is the intergovernmental agreement to which the Minister for Energy has agreed and his Premier has signed on South Australia's behalf. It is quite explicit that the AER will have the function of the economic regulation of NEM electricity distribution networks and retail markets no later than 31 December 2006.

This is an issue I touched on during the second reading stage, and it is critical to the whole debate. In the debate in another place, the minister indicated along the following lines: 'While I think it is a sound agreement in principle, my own view is that I would not be going to Sportsbet and putting too much money on it getting up.' How does the minister reconcile the agreement agreed to by the minister and signed by the Premier of South Australia in those two areas with the minister in another place inferring that he did not think this proposition had much chance of getting up?

The Hon. P. HOLLOWAY: I refer the leader to the annexure to the agreement, and I remind him that it is part of the agreement under clause 1.2. If the leader looks at page 2 of 5 of the annexure, the last dot point before 'Electricity transmission' states:

> Agreement that the AER will be responsible for the regulation of distribution and retailing other than retail pricing, following development of an agreed national framework. Work will commence on the national framework in 2004, and the MCE will consider the outcome in 2005. Following MCE agreement on the framework, the AER will assume responsibility for national regulation of distribution and retailing, other than retail pricing, by 2006. Any jurisdiction may, at their discretion, opt to transfer responsibility for retail pricing to the AER once it has assumed distribution and retail responsibilities.

The Hon. R.I. LUCAS: I think that confirms my concerns and the issues I raised during the second reading stage. That is, if one looks at that annexure and the construct of the document, the agreement which has been signed will have a slightly greater significance anyway. Nevertheless, I accept the fact that this is an annexure to the agreement, which talks about the MCE making decisions. As I said, in the end, if there is just a simple majority on the MCE and that is to be the voting decision, that will be a critical element in terms of what will occur in relation to national regulation of distribution and retailing other than retail pricing, but the annexure makes it clear that there is an agreement for the transfer. The actual intergovernmental agreement makes it clear that the AER will have the economic regulation of distribution and retail markets in South Australia no later than 31 December 2006. I ask the minister to point me to anywhere in this intergovernmental agreement, or the annexure, where the Minister for Energy has incorporated the provision (which he indicated in his contribution in another place) that, from South Australia's viewpoint, it was a non-negotiable condition that regulation of distribution and retailing be done locally.

The Hon. P. HOLLOWAY: The clause that I just read provides 'following development of an agreed national framework'. I assume that the minister is giving his opinion that, from his and the state's perspective, that is the view that would be taken in that process.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, it says, 'following development of an agreed national framework'.

The Hon. R.I. LUCAS: That is, that the entity, by simple majority, would agree on a national project, which is not in the interests of South Australia.

The Hon. P. HOLLOWAY: There has been no negotiation on it. I make the point that I made earlier, that it is hard to believe that such a major issue would be agreed unless it had that unanimity amongst the parties.

The Hon. R.I. LUCAS: A lot of things might be hard to believe in relation to the operations of the National Electricity Market, irrespective of what perspective one has of the national electricity market.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I am saying that it is the current minister's fault. This is his intergovernmental agreement. The point the opposition is making is that this is the agreement that this minister has entered into on behalf of South Australia. It is the opposition's view that—

The Hon. P. HOLLOWAY: His negotiations are based on what went before it.

The Hon. R.I. LUCAS: No, not at all. I have clearly indicated that it is the opposition's position that the minister has sold out South Australia's interests in relation to the intergovernmental agreement and, now that we have finally seen a copy of it, we are highlighting a number of areas where we believe the minister has been negligent in terms of the agreement that he has entered into; and he has not protected the interests of South Australia in relation to a number of these provisions. I will not pursue this any further other than to indicate, again, that the minister has referred to the annexure, which does not, in my view, support his contention anyway, because it talks about an agreement.

If the MCE agrees that the decisions will be taken by a majority rather than a unanimous view, and the minister cannot indicate that that will not be the case, then the interests of South Australia may well be in the minority when the big eastern states have a different view about what is good for the national electricity market. As I said in my second reading contribution, it is quite possible that some decisions may well be for the national benefit, but they may well not be for the

benefit of South Australia. As I said before, that was one of the strengths of some aspects of the current arrangements, where the former government had ensured that in things such as transmission licence considerations the South Australian interests had to be protected and that not just the national interests needed to be considered. Sadly, those sorts of considerations do not appear to have been taken into account by the minister.

The Hon. P. HOLLOWAY: I should point out that the Ministerial Council on Energy has not yet agreed to a majority vote, and I repeat the points that I have made throughout this debate in the committee stage that they are matters that will be agreed to in the coming months. I certainly do not concede that that really is the case, and I also make the point that was made by the minister in his response in the other place that at present we do have a very inadequate set of regulatory structures for the National Electricity Market. If the leader is suggesting that the current arrangements are perfect then I think he would probably be in a pretty small group of people who would hold to that view, because the minister has had to negotiate improvements over what I would have thought is, transparently, a fairly inadequate system. And I think that he has done a good job.

The Hon. R.I. LUCAS: Well, we can all have differing views in relation to that. Certainly, I do not hold the view that the current arrangements are perfect—as with any new market there can be improvements, but they need to be improvements and not going backwards, as some of these would seem to be.

I refer, for example, to the functions of the AER, and to 9.1(e) where 'such other functions as may from time to time be agreed unanimously'. The minister made the point in response to my earlier question that the ministers had not agreed that a majority vote would prevail in some areas. I again point to this provision to indicate that the minister has clearly agreed that in some of these clauses there has to be unanimous agreement. So, for 9.1(e) and a number of others, the MCE ministers have to agree unanimously, yet in a number of other areas he has deliberately not agreed to a unanimous agreement provision. It is simple logic that, if the minister has insisted that there has to be unanimous agreement in some provisions but in others he has deliberately chosen not to use the phrase 'unanimous agreement', he has settled for a lesser provision—whether that is a simple majority, two-thirds majority, or three-quarter majority or whatever it is—and it is clearly not unanimous.

The Hon. P. Holloway: It might be if that is negotiated.

The Hon. R.I. LUCAS: But you have provisions in here with unanimous agreement in them, so if you have others that do not have unanimous agreement then it is something other than unanimous agreement.

The Hon. P. Holloway: Not necessarily.

The Hon. R.I. LUCAS: Well, it is an extraordinary way of running the state, of negotiating on behalf of the state if the minister is going to put that provision. We have differing views, and at this late hour I will not belabour the point.

The Hon. P. HOLLOWAY: These agreements are not easy to negotiate—and I am sure that the leader would understand that much—when you have this many jurisdictions. What has been reached here is agreement on those areas where it clearly says (and I suppose that will be the case in other areas) that further negotiation is needed in relation to those matters, unless the agreement allows the flexibility of that. But it is not correct to say that those areas will necessarily be a majority vote rather than a unanimous vote—that is yet to be determined.

The Hon. R.I. LUCAS: They were the questions I had on the inter-government agreement. I want to now briefly turn to some of the issues raised by the response to the second reading. I have already had a number of those canvassed, and we have agreed to disagree on some.

In relation to national transmission planning, there had been some discussions in the early stages of the reformulating of the national electricity market to some sort of national transmission planning body, in addition to the AEMC and the AER. In the latter stages that seemed to lose support amongst a number of jurisdictions and those who were arguing for it. I did ask the question specifically of the minister, and the minister has talked about the national transmission planning process and things such as that, but he has not specifically responded to the question regarding whether there has been any decision by the ministers not to proceed with some form of national transmission body—albeit it might have been of an advisory nature in relation to national transmission issues.

The Hon. P. HOLLOWAY: I can tell the leader that the MCE, at its December meeting, made various decisions. It agreed to a package of reforms addressing seven key transmission issues. First, in relation to national transmission planning, a new NEM transmission planning process will be established to improve consistency, transparency and economic efficiency, particularly for interconnector development, comprising an Annual National Transmission Statement (ANTS), which will detail the major national transmission flowpaths, forecast interconnector constraints and identify options to relieve constraints. The ANTS will be developed by NEMMCO in conjunction with market participants, with the first statement to be published in mid 2004—in July, I am told, so shortly. This also comprises a last resort planning power to be exercised by the AEMC to direct that interconnection projects be subject to the regulatory test, which is revised. The transmission planning process will be developed in 2004 and implemented by a panel of industry representatives established by the AEMC, with technical support from NEMMCO, following a code change process managed by the AEMC.

The Hon. R.I. LUCAS: Is the minister now saying that our Minister for Energy has not agreed to any new body—advisory or otherwise—in relation to national transmission planning?

The Hon. P. HOLLOWAY: What was the comment by the minister to which the member was referring? Was he referring to the second reading speech or to the answer that I gave?

The Hon. R.I. LUCAS: I will clarify it for the minister. The minister has given me a response in relation to my question. I put a question during the second reading and I said that in the very early stages that, together with the new bodies, the AER and the AEMC, a number of people were supporting a third new body, which was some sort of national transmission planning or advisory committee—something along those lines. I asked that question.

The minister responded to the second reading today, and he has indicated all about ANTS and a variety of other things but has not specifically answered the question, which I will put again. Is it fair to say, given the answer we now have, that our minister has not agreed to any new body in relation to national transmission planning, that is, over and above the bodies that we have been talking about—the AER, the AEMC, the ACCC and the MCE?

The Hon. P. HOLLOWAY: My advice is that there is no agreement to a new body.

The Hon. R.I. LUCAS: If there is no agreement, I accept that, but is there currently any consideration of another body in relation to national transmission planning to which our minister is a party?

The Hon. P. HOLLOWAY: My advice is that the government was not looking at establishing any new body but, of course, there may well be some grouping within the AEMC in relation to that matter.

The Hon. R.I. LUCAS: When the minister says some grouping, that is, that the AEMC may well establish an advisory committee or a group that would advise it. So, it would not be a separate body, but if it was anything it would be a subgroup or a group operating within the auspices of the AEMC.

The Hon. P. HOLLOWAY: There has been no decision to date. My advice is that if there was to be such a body then that is probably how it would operate.

The Hon. R.I. LUCAS: Would it be fair to say that the state government does not agree with the proposition that a national grid company be established to manage transmission planning and interconnectors from the eastern states into South Australia?

The Hon. P. HOLLOWAY: My advice is that the government is yet to assess such a proposal.

The Hon. R.I. LUCAS: Given the earlier answers from the minister that there was no support for any separate body, how can the minister reconcile that answer with the proposition that he has not assessed Mark Latham's proposal for a national grid company to oversee interconnectors from the eastern states into South Australia?

The Hon. P. HOLLOWAY: The government has not yet had the opportunity to assess that proposal. The answers that I have provided in the last few minutes have been about the current state of play.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: It is, but that particular proposal has not yet been assessed.

The Hon. R.I. LUCAS: Can I take it that no information has been provided to the South Australian government by Mr Mark Latham or the Australian Labor Party in relation to this proposition of a national grid company?

The Hon. P. HOLLOWAY: I gather that there have been some discussions in relation to that matter but no one here this evening is a party to those, so I cannot further enlighten the committee. I would remind the committee that, in relation to the previous answers, the Leader asked about what decisions the government made and that was the answer that I provided.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, I said that no decision had been made.

The Hon. R.I. LUCAS: I will check *Hansard*.

The Hon. P. HOLLOWAY: Your question was in relation to what decisions had been made.

The Hon. R.I. LUCAS: Given what the minister is now putting to this committee that no detailed propositions have been put and that no consideration has been given, and that it was still to be assessed, how does he reconcile that with a statement from the Minister for Energy in *The Advertiser* of 21 April where he said that the state government would welcome plans for a national grid company?

The Hon. P. HOLLOWAY: I am one of those who has had a long involvement with the SNI proposal and the way it went through, and anyone would welcome some changes to that process. I have been a critic for a long time of the way in which that process was handled, and that goes back more years than I care to remember. From the government's point of view, we would welcome any proposal to improve the process, but we have not yet had a chance to assess that. At this stage no decisions have been made, and that was the point I made earlier.

The Hon. R.I. Lucas: No discussions?

The Hon. P. HOLLOWAY: The honourable member says 'no discussions', but what—

The Hon. R.I. Lucas: The minister's most senior energy adviser is in the chamber tonight, and he is advising you.

The Hon. P. HOLLOWAY: As I indicated earlier, they have been discussions to which nobody here was a party.

The Hon. R.I. Lucas: Well, he is here.

The Hon. P. HOLLOWAY: I cannot speak for what discussions were held, and I suggest that that is not really relevant to the bill. After all, we are discussing these changes, and I do not think I can add anything further to the record in relation to the government's position on that matter. I repeat that, if anything demonstrates the deficiencies in the system, it would be the SNI process. Obviously, this government welcomes any improvements, and it would look at those. However, there are no decisions as yet.

The Hon. R.I. LUCAS: I indicate that this is my final question in relation to this clause, and then we can move on. What the minister has indicated is that, when the Minister for Energy said that he would welcome plans for a national grid company, he made that statement on the basis of not having had discussions and not having had a detailed proposal put to him. If the interjection has not been noted, I put on the record that the minister is advised tonight by the Minister for Energy's most senior energy adviser. Certainly, he would be aware of everything the Minister for Energy has been getting up to in relation to discussions with Mr Mark Latham and federal Labor energy advisers with respect to this issue. Those are all my questions on clause 3.

The Hon. P. HOLLOWAY: I again make the point that there are enormous deficiencies in the current arrangements, and the Minister for Energy has done his best to sort those out in what is obviously a very difficult environment—and one that he inherited. As the minister pointed out repeatedly, it was not of his choosing and not necessarily the way he would prefer, but we are one of a large number of jurisdictions in a market that was established almost a decade ago.

The CHAIRMAN: I think all committee members are aware that these are unusual circumstances and there is a need to get this done. I think everybody is being as patient and cooperative as they can be at this time of night.

Clause passed.

Clauses 4 and 5 passed.

Clause 6.

The Hon. SANDRA KANCK: I move:

Page 5, after line 5—Insert:

(2) The AEMC must, in performing its functions, consider the following:

(a) the need to maintain ecologically sustainable development (as defined in section 3A of the Environment Protection and Biodiversity Conservation Act 1999 of the commonwealth);

(b) the need for efficient and equitable demand-side participation by customers and least-cost planning;

(c) the need for the electricity supply system to reduce greenhouse gas emissions;

(d) the impact of the market on low-income consumers.

In his explanation, the minister said that South Australia is in the forefront of energy market reform. A few weeks ago when the Prime Minister released his energy statement, South Australia's energy minister (Patrick Conlon) was critical of the Prime Minister and his government for not taking global warming seriously. My amendments present an opportunity for the state government to do something about the federal government's refusal to take global warming seriously. This clause relates to the functions of the commission, and my amendment sets in place some of the things the commission should be required to do in the performance of its functions. In particular, the Democrats see a need for ecologically sustainable development to be considered as well as social justice implications so that the impact on low-income consumers is taken into account.

As I mentioned in my second reading contribution in relation to greenhouse gas emissions, the deregulation of the electricity sector has contributed more than 34 per cent of Australia's greenhouse gas emissions. As the lead legislator, I believe that inserting a clause such as this is important to give an indicator of how we should behave, because currently the market (as it is constructed) is only about getting the cheapest price.

The Hon. P. HOLLOWAY: I addressed this matter in my second reading reply, but I will briefly repeat what I said. These powers and functions will have effect across all jurisdictions (not just South Australia). The appropriate place for specific functions is in amendments to the National Electricity Laws, which I have indicated we will consider later this year. That is the appropriate place to consider such specific functions. If it is done in this bill, it would only apply to South Australia and not to the remainder of the jurisdictions, and I think it would cut right across the whole spirit and nature of this cooperative agreement.

The Hon. SANDRA KANCK: I had a suspicion that that would be the sort of response we would get.

The Hon. P. Holloway: It's the reality.

The Hon. SANDRA KANCK: It may be reality, but I think sometimes we need to challenge reality. When a group of energy ministers gets together and comes up with a plan such as this, we are given the legislation and told to accept it as it is. I think that is an insult to the community. As far as most consumers of electricity are concerned, in South Australia particularly, the National Electricity Market has done nothing for them, and this legislation gives more of the same when we are told that basically the amendments cannot be considered.

The Hon. P. HOLLOWAY: What I am saying is that the appropriate place for this is in amendments to the National Electricity Law. That is where these sorts of issues should be considered, not in this enabling bill.

The Hon. R.I. LUCAS: I think that is an interesting response. I indicate at the outset that the shadow minister for energy has advised the Liberal Party that, for similar reasons to the government's, it does not believe it is in a position to be able to support amendments to the legislation at this stage, and that will be our position.

In relation to what the minister has just said, that the more appropriate place is the National Electricity Law, I think what the minister at some stage ought to indicate, whether it is tonight or at another stage, is how parties other than the government, such as the Australian Democrats, would engage themselves in the National Electricity Law changes. Otherwise, we will find ourselves in September or October confronted with another national agreement where we are told this has already been agreed to. So, I would have thought, if the minister has been indicating that now is not the time to do it, you should do it with NEL changes, then at some stage, he or the minister should indicate to the Leader of the Australian Democrats how she might engage in discussion with the minister in terms of putting propositions to the minister prior to his going off and reaching agreements at a national level.

The Hon. P. HOLLOWAY: Whether you like it or not, with all these co-operative agreements we are one state amongst a number and the commonwealth has significant clout within our system due to the vertical fiscal imbalance which is a feature of the Australian federation. It is a sad fact of life but, without going into that too much, I would just add that greenhouse issues are really best dealt with in any case on a national basis. The South Australian government has, as the Leader of the Democrats indicated, called on the federal government to change its policies. The South Australian government is working with the other states to implement a greenhouse strategy without the federal government. Indeed, there was a meeting last week in Sydney last Saturday, I understand, to discuss those very issues. The honourable member may well have seen some comments by the minister following that meeting. The states are serious in relation to the greenhouse issues and in their work together the appropriate place to put those functions is in the national electricity law. If you are going to have a national law, the reality under this system is that it is going to have to be negotiated between all those parties. That is just a reality. Either you have a national system or you do not.

Amendment negatived.

The Hon. R.I. LUCAS: If the MCE issues a policy direction to the AMEC, there are some indications in the Intergovernmental Agreement about what needs to be done: it needs to be done in writing and all that sort of stuff. Is there the government prepared to give a commitment that it would in some way be made public—that is, gazetted or published in some way? So, if the ministerial council was to issue a direction, I think it is under 8(1)(e) of the intergovernmental agreement, it has got to be given in writing etc. However, it does not actually say that there be public notification at the time of a policy direction. I seek from the minister an indication as to whether he is prepared to give a commitment that there be some public notification of a policy direction issued by the MCE to the AMEC. Obviously he will have to put that at the ministerial council. Other jurisdictions may have their view on it and it may well be the case.

Amendment negatived; clause passed.

Clauses 7 to 23 passed.

Clause 24.

The Hon. SANDRA KANCK: I move:

Page 9—Delete subclause (9).

This clause is about confidentiality and seems to be a clause very much about keeping information away from the public. Subclause (9) in particular reads:

> Information that is classified as confidential by the AEMC under a National Energy Law is not liable to disclosure under the Freedom of Information Act 1991.

I hope the minister will not tell me that we need to amend the bill that comes in in September, because this one seems to be a step before that. Waiting until September to deal with this would not appear to be appropriate. It is certainly not in the interests of stakeholders, including household consumers, to restrict information as this subclause envisages. There is already protection for matters of commercial in confidence

under FOI laws. To impose further restrictions, as in this subclause, is certainly not helpful to consumers.

The Hon. P. HOLLOWAY: I put arguments on this in the second reading response. The provisions of subclause (9) are similar to the current provisions provided to the Essential Services Commission of South Australia. The Australian Energy Market Commission is to take over the rule changing and market development roles of the National Electricity Code Administrator, which is exempt from FOI legislation. The government sees this as an improvement in the level of disclosure currently permitted and the minister fought hard to ensure such a result rather than the current situation with the National Electricity Code Administrator. This clause needs to be retained as it continues the current regime that operates within South Australia in regard to such regulatory matters.

Amendment negatived; clause passed.

New clause 24A.

The Hon. SANDRA KANCK: I move:

After clause 24—Insert:

(1) The AEMC may conduct an inquiry into a matter relevant to its functions.

(2) The AEMC must give notice of the inquiry—

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

(b) on the AEMC's website; and

(c) to any government authority affected by the inquiry.

(3) The AEMC must prepare a report on the results of the inquiry and deliver a copy of the report to the Minister.

(4) The Minister must, on receipt of the report, deliver a copy of the report to each of the other Ministers who are members of the MCE.

(5) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days after receipt of the report.

(6) The AEMC must, on the report being laid before both Houses of Parliament, publish the report on its website.

This is another way of opening things up a little so the public is able to have input into what is going on. Basically it sets out that the AEMC can conduct an inquiry relevant to its functions and then sets out the advertising and reporting of it. It is an amendment to promote openness.

The Hon. P. HOLLOWAY: My arguments against this clause are similar to those against the honourable member's amendment to clause 6. Any amendments to this legislation will only apply in relation to South Australia. The amendments will not be able to be considered by the Australian Energy Market Commission when exercising its functions and powers outside of South Australia. That is why it is unworkable, as are the honourable member's points in relation to ecologically sustainable development. They really need to be part of a National Electricity Law—that is the appropriate place for them—not in a piece of legislation setting up a national body but whose powers would be restricted to South Australia.

The Hon. SANDRA KANCK: It seems that, in order for us to get any social justice or environmental sustainability into the National Electricity Market, we have to wait until we get this legislation in September. I do not know if we have any bookmakers here in this place, but I am willing to bet that, when I try to put them up in September, there will be some good reason that we cannot get them up.

The Hon. P. HOLLOWAY: The National Electricity Laws will have to be laws that apply presumably across the nation. For better or worse, we are part of a National Electricity Market. However, in relation to greenhouse matters, for example, that we were discussing earlier, it was entirely appropriate that we should address such matters in a national way. That is what the states and the Minister for Energy in this state are attempting to do.

The Hon. SANDRA KANCK: Will the minister ascertain from our energy minister his willingness to consider incorporating something like this into the legislation that will be presented to us in September?

The Hon. P. HOLLOWAY: I missed part of the question. If I do not answer, perhaps the honourable member could ask it again. I have just spoken to the minister's officers, and I indicate that the government is prepared to take up the matters in her amendment with the other states in negotiations on the National Electricity Laws.

New clause 24A negatived.

Remaining clauses (25 to 28), schedule and title passed.

Bill reported without amendment; committee's report adopted.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I move:

That this bill be now read a third time.

The Hon. R.I. LUCAS: As the bill emerges from the third reading, I repeat that the Liberal Party's position is that we have significant concerns with the agreements that have been entered into by the South Australian government, particularly by the Minister for Energy. We believe that we have been through a shell of a process in terms of establishing the AEMC and the AER. We are not aware of what the agreements have been, or will be, in relation to some of the critical questions that have been asked during the committee stage and the second reading of this debate.

The Liberal Party's position is that we cannot therefore indicate a position of support for the legislation but we will not be opposing its passage, on the basis that we recognise that it has been negotiated and agreed to by this government and the Minister for Energy. Whilst we might have significant criticism of what we believe is the incompetent and negligent job that he has undertaken on our behalf, we are not in a position to make changes to that at this stage.

Bill read a third time and passed.

SITTINGS AND BUSINESS

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I move:

That standing orders be so far suspended as to enable the Clerk to deliver the Natural Resources Management Bill, the Parliamentary Remuneration (Non-Monetary Benefits) Bill, the Pitjantjatjara Land Rights (Executive Board) Amendment Bill, the Australian Energy Market Commission Establishment Bill and messages to the Speaker of the House of Assembly whilst the council is not sitting and notwithstanding the fact that the House of Assembly is not sitting.

The Hon. J.F. STEFANI: Mr President, did I hear the minister say that the remuneration bill—the dummy bill—is being transmitted to the House of Assembly? Have I heard that correctly?

The PRESIDENT: In relation to the bills we have dealt with tonight, the minister has proposed that they be delivered to other house. He has implemented a process to enable all the bills that have been passed tonight to be delivered to the other place.

Motion carried.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 25 June. Page 1838.)

The Hon. R.I. LUCAS (Leader of the Opposition): I always get the best shifts.

The Hon. A.J. Redford: You are really popular!

The Hon. R.I. LUCAS: Exactly; I can imagine at 11.55 p.m. I thank my colleague the Hon. Angus Redford for his support. In the interests of assisting the government's consideration and passage of the Appropriation Bill debate, I have agreed to make one part of my Appropriation Bill contribution at this late hour and to seek leave to conclude my remarks when we return. The purpose of that is to give the government and its advisers some time to consider some of the questions I will be putting on behalf of Liberal Party members in relation to the budget measures. My intention is to make one general comment, to put some specific comments on notice and then seek to conclude.

The one general point I want to make this evening in relation to the Appropriation Bill debate relates to the whole process of the estimates committee process. There has been media commentary about the estimates committee process, and commentary in both houses about the estimates committee process. I share the view of many that there is much capacity for improvement in terms of the estimates committee process. However, I do not share the view of the group that wants to do away with the estimates committee process completely, as some in another place have indicated. There are very few opportunities for an opposition to put detailed questions over a period of time to ministers. The processes of the house are such that some questioning is allowed during question time each day, but, increasingly, at least in another place, there are restrictions being placed on the way in which questions can be put and the capacity to put those particular questions.

I think the estimates committees (as they exist) certainly can be improved and, to a large part, that could be dictated by the attitude of ministers and governments in relation to how that process operates. I think my colleague the Hon. Angus Redford indicated that in his portfolio areas—I will not list the detail of his criticisms—in a considerable period of time, with a combination of ministers' making long introductory statements and dorothy dixers, very few questions were able to be asked by opposition members of particular ministers. The structure of the portfolios and the estimates committees these days mean that ministers can make a series of opening statements for various parts of their portfolios: so, when one looks over a particular day, some ministers construct their process so that they make a series of opening statements to take up the time of the committee.

From a government viewpoint, the generous use of Dorothy Dix questions is also a common feature of some ministers in terms of the process of handling estimates committees. I acknowledge that at least this year some ministers did not undertake a long series of dorothy dixers, but that was because they had truncated the length of their day considerably and knew they would be subject to criticism as a result. But in other areas the structure of the day can also restrict the opposition. For example, in relation to the Leader of the Government and a portfolio as important as the Department of Trade and Economic Development, the way the minister structured the day meant that the resources area took a considerable period of the morning, the Office of Regional Affairs took—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Not mine. The Office of Regional Affairs took a considerable portion of the late morning and early afternoon, and then the Department of Trade and Economic Development was originally intended to be truncated into a period between about 2.30 or 2.45 in the afternoon through to about 5 o'clock or 5.30. When the minister was asked to extend the day to 10 o'clock (as former ministers used to), he obviously knocked that back; but he at least did agree, I will give him that, to an extension of about an hour in the afternoon to take further questions on small business. That is as an example of how it is possible to structure the day. Some ministers will refuse to reorganise the day because they have made the decision in relation to when they want various things to be done.

The proposition I want to put is something that we will obviously discuss in the Liberal Party, but, whilst there will be some changes that can be made to the estimates committee in the House of Assembly, I am not a subscriber to the view that members of the upper house should participate in the House of Assembly estimates committee process. My proposition, if there is the agreement of my colleagues, would be that the Legislative Council itself should establish an estimates committee process. It is my contention that, some time later this year or early next year, regardless of who is fortunate enough to win government at the next election (so that there can be no criticism that this has only been constructed by a party that is currently in opposition), the Legislative Council should consider as a chamber, potentially through a sessional order change in the first instance, establishing either just one estimates committee and or two estimates committees of the Legislative Council. My suggestion is made with a view to hopefully taking it away from the issue of who is seeking partisan political advantage at the moment and to have it debated as a potential sensible policy discussion for whoever is in government after the next election, and obviously it could be reviewed after that.

Why should the Legislative Council be involved? It is not my contention that the estimates committee process for the Legislative Council would occur at the same time as the House of Assembly; that is, there would be the continuing process with the House of Assembly at Appropriation Bill time and it would go through its estimates committee process. But, in my view, we ought to have an ongoing estimates committee which monitors expenditure much as the senate committees do in relation to monitoring the expenditure of government departments and agencies. Given our numbers, it might not be that all departments and agencies would be able to be monitored during any 12 month period. However, it would be a decision of the committee or, indeed, an instruction from the council perhaps, that the Legislative Council estimates committee, for example, if the issue of contention happened to be the health budget, would call the Minister for Health as a witness, together with his or her senior bureaucrats, for extensive questioning in terms of the progress of the budget and public expenditure within that department and agency.

The advantage from a public accountability viewpoint is that a Legislative Council estimates committee of six, with two government, two opposition and two non-major party participants (as is always the case in the Legislative Council), would mean that the government of the day does not control the estimates committee process, which is one of the problems currently in the House of Assembly. We have a further complication where one chair of a committee managed to take almost a third to a quarter of the time when asking questions from the chair of his estimates committee.

I think we see from the Senate estimates committee process the capacity of people currently in opposition—

Senator Faulkner, Senator Robert Ray, Senator Stephen Conroy and others—to conduct forensic examinations of ministers and departmental chief executives on particular issues at great length, rather than having to accept what the minister lays down as 'Okay, you can have two hours for this and 1½ hours for that,' or whatever it might be. If opposition senators in the federal parliament decide they want to spend six or 10 hours grilling the Minister for Defence on a particular issue, they do so at great length and with the power and capacity of the upper house of the federal parliament to continue to question the minister and the senior departmental executives.

I have had some work undertaken in relation to this particular proposition. It is an issue that I will discuss first with my own party. I have previously contemplated trying to introduce it during this session but, as I said, I think a criticism could rightly be made of that proposition that we never had it when we were in government, why should this government agree to it when it is in government? I am hoping to get beyond that debate, if my party agrees, and that we do have potentially a debate and a discussion that, if the majority in this parliament agrees it is a sensible change, we might introduce it from the next parliamentary session.

The Hon. G.E. Gago interjecting:

The Hon. R.I. LUCAS: No, after the next election. So, whether or not there was a change.

The Hon. G.E. Gago interjecting:

The Hon. R.I. LUCAS: I am not sure what I said then. What I am talking about is after the next election, whether or not there is a change in government. I place on the record some of the questions in relation to the Appropriation Bill. During the estimates committee the Treasurer said:

> A large proportion of that—

that is the contingencies in the administered lines—

> is contingencies for enterprise bargains into which we will be entering.

Further on he indicated:

> A large proportion of that, of course, is now coming out of that $220 million contingency that you just mentioned. . . Yes; the contingencies are huge, because we have to deal with huge enterprise bargains over the course of the next 12 months or so.

The opposition highlighted that there were some $226 million of contingencies in the Treasurer's administered lines, contrary to his assertions that he had spent every dollar other than the $50 million surplus. In particular, there are contingencies under employee entitlements, supplies and services, other payments and purchase of property, plant and equipment, totalling $225.9 million, a significant increase over the 2002-03 equivalent of $98.2 million and the 2003-04 equivalent of $119.5 million. Of that $226 million, approximately $30 million is listed as a contingency for employee expenses. My question to the Treasurer is: given that only $30 million or so of the $226 million is in relation to employee expenses, how does he justify his statement to the estimates committee that a large proportion of the $226 million is for enterprise bargains into which they will be entering? The Treasurer also said:

> We will have another round of enterprise bargaining with teachers which I think will be included in this budget year.

Can the Treasurer confirm that the next scheduled increase for teachers will not be in the financial year 2004-05 but will be in the budget year 2005-06 and therefore his statement in the parliament would not be accurate that part of the 2004-05 contingency is to cater for enterprise bargaining provisions for teachers? The Treasurer also indicated:

> I am advised by my officers that the nurses enterprise bargain which we have just concluded is an increase in outlays of the order of $170 million. A large proportion of that, of course, is now coming out of that $220 million contingency that you just mentioned.

Again, given that the employee expenses contingency is only $30 million or so, does the Treasurer concede that his statement that a large proportion of that is now coming out of the $220 million contingency is not correct? Can the minister, in particular, indicate how much of the nurses enterprise bargain cost will come out of the 2004-05 contingency? The minister has also indicated that the nurses enterprise bargain is an increase in outlays of the order of $170 million. Given the information provided by the Minister for Health and her officers, can the minister indicate how he has come up with a figure of $170 million for the nurses enterprise bargain?

I refer to a statement made in the estimates committee, and I acknowledge that the next day the minister, as I understand it, having received some vigorous counselling from the Treasurer, came in and corrected some claims that had been made by her departmental officers. During the estimates committees, one of her officers (who is listed here as Mr Beltchev, but I understand the minister said that it was not Mr Beltchev but some other officer), said, and I read from *Hansard*:

> My understanding is that the estimated cost of the EB outcome in 2004-05 is estimated to be $56 million in round figures, increasing in 2005-06 to $108 million; increasing again in 2006-07 to $155 million; increasing further in 2007-08 to $167 million.

Clearly, none of those figures correspond with the $170 million the Treasurer has talked about. The officer went on to say:

> The construct of the budget estimates, as they stand at the moment, include some provision for future EB outcomes. They are estimated to be as follows: in 2004-05, $25.3 million; in 2005-06, $51.6 million; in 2006-07, $73.8 million; and in 2007-08, $79.5 million. That leaves an approximate budget impact that is not yet reflected in the budget estimates, because the decision has been taken since the budget estimates were compiled. That budget impact that is not yet reflected in the budget is estimated to be in 2004-05, $31 million, rising in 2005-06 to $56.5 million, to almost $82 million in 2006-07 and $87.5 million in 2007-08.

The next day, as I have said, the minister, after some vigorous counselling I understand, came in and said that the officer had got it wrong and had been working off old figures. My question is: if that is indeed the case, and I think there is some doubt about that, can the Treasurer now outline what the correct figures for each of those figures previously given by the minister's officers to the health estimates committee? That is, what is the cost in each of the forward estimates years that is reflected in the departmental budget, and what is the cost that must be taken out of the centrally administered contingencies? In her response with respect to the nurses' agreement, the minister said:

> The key components of the offer that are being accepted and agreed to are: a 3.5 per cent enterprise bargaining increase operative from 1 October 2004 and 2005; a 3 per cent nursing specific special increase from 1 July 2004; a further 1.5 per cent nursing specific special increase payable from 1 July; a 5 per cent increase, consisting of a 3.5 per cent enterprise bargaining increase; and a 1.5 per cent nursing specific special increase operative 1 October 2006.

I ask the Treasurer to outline specifically the detail of the nurses' enterprise agreement because, when one adds up all of those percentage increases, it does not add up to the 16.5 per cent publicly acknowledged figure for the nurses'

enterprise agreement. I seek from the Treasurer in detail exactly how much of an increase there will be on each particular date during the three-year term of the nurses' enterprise agreement. Also, will the Treasurer provide those figures for the most common classification of nurses, that is, the classification in which the largest number of nurses are employed, what the individual dollar impact would be on nurses operating in that category and what the estimated costs will be of each of those component increases?

I will not read through them again, but the minister went through a number of other improvements (as she would describe them) in the nurses' enterprise bargaining agreement. I ask the Treasurer to list each of those and to indicate the individual cost of each of those components of the nurses' enterprise agreement that have been listed on page 1 732 of the House of Assembly estimates committee. In relation to enterprise bargaining, I ask the Treasurer to provide information (which, I suspect, would be available through the Commissioner for Public Employment or other officers involved in the negotiations) for the most common classification of nurses, teachers and police.

By 'most common' I mean that classification in which the largest number of officers exist, and where South Australian teachers, nurses and police rank in terms of national pay arrangements as of 1 July this year and on the basis of current known enterprise bargaining agreements for 1 July next year and 1 July 2006. Similarly, in relation to public sector workers, will the Treasurer provide information on what would be the equivalent categories, if that is possible, to an ASO8 position and the equivalent ASO4 category in the state public sector in South Australia, and the payment gradings in South Australia compared to the other states for officers at a similar classification level in those areas?

Certainly, in relation to teachers, police and nurses those calculations are available. As a former minister, those calculations were provided to the former government as one entered into the enterprise bargaining negotiations. They are not things that would need to be constructed. I must admit that, in relation to the public sector one, I am not sure whether or not that has been done, although I would be surprised if it has not. In relation to the contingency, the Treasurer also said:

> Another amount in that contingency relates to assistance the government may wish to make available for the naval ship contract.

Further on he said, 'As I have said, we are in hot competition around the nation on that.' I ask the Treasurer to indicate how his statement that the South Australian government is in hot competition with other states in terms of cash allocations out of the contingency for the naval ship building contract compares with the 'no competition' agreement that the South Australian government has entered into with other states in relation to corporate assistance packages between the states to attract companies to invest in South Australia.

I now turn to the vexed question of the Port River crossing, and a series of questions that were asked of the Treasurer and others in the budget estimates committees. I specifically ask the Treasurer to provide to this committee the current estimate of the total cost of the Port River crossing, together with associated road works. The Treasurer has indicated—and I accept this—that it depends on what the final tenders will be, but obviously the budget papers are constructed on broad estimates. For example, the Treasurer indicated that the approximate cost for stages 2 and 3 is about $136 million. Can the Treasurer outline what is included in that approximate cost; for example what associated road works are included in that, what was the cost of stage 1 of the project and some of the road works that the new government announced in relation to South Road and crossings on South Road, which I understood were argued to be part of the Port River project generally? Are those costs included in stages 2 and 3, or are they accounted for separately in the budget papers?

Once we have answers in relation to the total current estimated costs of the project and the associated road works, can the Treasurer outline where specifically in the budget papers those costs are allocated? That is, are all the costs for stages 2 and 3 allocated in departmental or agency budgets, or is some of the money being held in centrally held contingencies? Can I also clarify whether, based on the answers that the Treasurer gave in estimates, the commonwealth figure that was included in the state budget forward estimates for the project was a figure of $64 million; and, if it is $64 million, where is that accounted for in the budget lines in the papers produced?

In relation to the Port River crossing, in last year's estimates the Treasurer advised that capital expenditure by the new PNFC in undertaking stages 2 and 3 of the Port River expressway would not impact on the budget result for the general government sector. Given that statement, can the Treasurer indicate how, in the budget papers, this government accounts for the budget treatment of the capital expenditure of the new PNFC, which has been utilised to undertake stages 2 and 3 of the Port River expressway given, as I understand it, that there are subsidies paid from the government to the PNFC—and I would assume that the PNFC would collect tolls under the government modelling and potentially make repayments back to the budget, as a revenue line. If that is the case, can the Treasurer indicate which budget line includes the revenue projections from the tolls as the offset to the subsidy payment from the Treasury to the PNFC to undertake the capital expenditure? If the Treasurer's contention in last year's estimates—that is, there is no budget impact—one would assume that if there is an expenditure item in terms of a subsidy into the PNFC there must be a revenue item from the PNFC back into the budget or Treasury in some way.

The next area relates to the cash alignment policy. When we come back I will go through, perhaps in a little more detail, some of the replies we received from some ministers and officers on one threshold question, and they seemed to differ. In relation to the cash alignment policy, the Treasurer said:

> The Health Commission, DAIS, and so on, have expenditure authorities. It is the health department and not the hospitals themselves. September this year will be the first time agencies will start implementing the cash alignment policy. It is a better way to manage cash within the government sector, but it does not alter the expenditure authorities. The health department has the authority to spend what the parliament has allowed it to spend.

What I am asking the Treasurer is as follows. The department has an expenditure authority, which might be a lump sum aggregate of $100 million—and, certainly, expenditure authorities do not go down to the last thousand dollars: an agency is given an aggregate sum. There are certainly component parts which are clearly bid for in the annual ongoing budget processes, but there are also core ongoing functions of agencies which continue to be funded in some way.

Under this new policy, if an agency stays within its expenditure authority's limits but saves $3 million out of its $100 million expenditure authority and wants to use that $3 million for another priority—that is, it saves money in one area and wants to spend it on a higher priority within the agency, it is not going back for additional sums of money—can the Treasurer indicate whether the cash alignment policy allows an agency to make savings within its expenditure authority and to reallocate those savings within the portfolio to higher priorities? As I said, we received conflicting answers during the estimates committees. Some agencies believed that Treasury would take back those savings and, in other cases, the view was that agencies might be able to hold on to those savings. It is a simple question, and we seek the Treasurer's response to it.

We also seek detail as to how the cash alignment policy would operate. For example, the Treasurer said:

> Each agency has about two weeks' cash at their disposal within their agency and, where larger amounts accumulate, we bring them back to the Consolidated Account.

I ask the Treasurer: is it intended that the cash alignment policy would operate in an ongoing fashion, that is, every month, for example, if the cash exceeded the two week cash limit, would the agency have cash removed to the Consolidated Account, or is it to be done only at consolidation at the end of the year? If the government is going to do it on an ongoing basis (which seems to be the case, from the Treasurer's response), the question remains that, if cash is taken out of an agency one month, what capacity does an agency, if it is operating within its expenditure limits, have to get the cash returned to that agency? In those circumstances, what happens in relation to the interest accruing on the cash deposits held by the Consolidated Account, for example, having taken it from the particular agency? Does the Consolidated Account keep the interest earned, or does the agency take all or part of the interest earned when and if it is returned to a particular agency?

Mr Goldsworthy asked the minister a question about why only three agencies—DAIS, human services and the police department—were listed under 'Return of capital' in the Consolidated Account receipts. He was asked why only those three agencies were listed and not all the other agencies that had lost cash. The minister's response was, as follows:

> As clarification I am told that in the budget papers there is an amount for each agency, but for an accounting purpose, human services, admin services and the police have amounts via return of contributed capital as against via payment to government. I am told that this is an accounting measure and one that we need not get too excited about.

I think that answer from the Treasurer is an indication that he is not clear about exactly why that is the case, and I seek a detailed response from Treasury as to why those three agencies have returned the cash in that particular way. Can he explain why other agencies return it via, as he says, payment to government? Can he indicate, for example, where that occurs?

In relation to cash policies, I refer to the Department for Environment and Conservation, where cash and deposits accrual will rise by almost $30 million from $69.9 million to $97.4 million in 2004-05. I specifically seek an answer from the Treasurer as to why, if there is this cash alignment policy operating, the Department for Environment and Conservation has a cash build up of $30 million, almost to $97 million, at the end of 2004-05 and how that equates to the cash alignment policy of two weeks cash being available to the particular agency.

The Treasurer also went on to say in response to a question from Mr Goldsworthy:

> We are not perfect, we have not been able to get it right. There is still a tendency for agencies to overspend.

Can the Treasurer indicate which agencies in 2003-04 and in 2002-03 were overspending as he has conceded on the public record in the parliament? Can the Treasurer list those agencies for each of those two financial years and the extent of the overspending? In the area of stamp duty, I ask the Treasurer by head of stamp duty could he detail the actual dollars collected, and the dollar amounts budgeted, as per the budget papers for each year from 1998-99, to 2003-04?

I indicate at this stage that they are the key questions that I want to put to the minister. When we return on Monday there may well be a small number of additional questions and I will make the rest of my contribution to the Appropriation Bill. In relation to the last week of the session, given that there will be pressure to get things through, from the opposition's viewpoint we will ensure that all of our speakers are concluded by Tuesday. It certainly would assist the opposition if the government agreed that the leader could respond late on Tuesday or Wednesday, so that if there is something further that needs clarifying during the committee stage we would at least have Thursday to do that. That would assist the Legislative Council so that we do not end up sitting late Thursday night and into Friday. So, we give an undertaking to have all of our speakers concluded by Tuesday of that final week and, if that is agreeable to the leader, it might assist us, at least in respect of the Appropriation Bill anyway, in not delaying the last week of the session. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

SITTINGS AND BUSINESS

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I move:

> That the council at its rising adjourn until Monday 19 July.

I thank all members for their forbearance over the past couple of days. There have been a few longer nights than usual, but the work we have done should make the last week of this session much more manageable. I indicate to the Leader of the Opposition that we will try to facilitate his request in relation to the budget. I thank members for their cooperation in getting through the legislation, some of which had tight time frames, in such a speedy manner.

Motion carried.

ADJOURNMENT

At 12.31 a.m. the council adjourned until Monday 19 July at 2.15 p.m.