LEGISLATIVE COUNCIL

Thursday 30 October 2008

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

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (11:03): I move:

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

Motion carried.

MURRAY-DARLING BASIN BILL

Adjourned debate on second reading.

(Continued from 29 October 2008. Page 505.)

The Hon. SANDRA KANCK (11:04): Continuing on with the remarks I was making last night, I point out that, with the realisation (which seemed to be such a surprise to so many) that the Murray-Darling Basin was being over-exploited has come a lot of finger pointing. When the Natural Resources Committee visited the upper parts of New South Wales and the lower Queensland areas of the basin, our first stop was at Menindee where we met the members of DRAG (Darling River Action Group). They told us that as we went northwards those irrigators in the north of New South Wales and southern Queensland would point the finger at them, and that is precisely what happened. The irrigators at Moree, Goondiwindi and St George all had their pet theories about the Menindee Lakes system, and this ranged from putting a barrier halfway through one of the lakes, so that the lakes could only fill up partly, to putting in a channel connecting one to another so that the smaller ones would fill and not the larger ones.

With each of the people I questioned, it was very interesting how I could not get them to compare apples with apples, so intent were they on finding someone else to blame. For instance, when we were at Goondiwindi I asked the irrigators about their justification for their perspective and, as an example of the notes I took, they said that the evaporation from Menindee Lakes when 80 per cent full is 700 gigalitres per annum. They then contrasted it with their own valley by saying that it uses 300 gigalitres a year. I asked, 'What is your evaporation?' and they could not tell me. It seems to me that we are dealing with areas that are even further north than Menindee, which means that they are subject to the greater heat of the tropics.

Those areas would be having similar amounts of evaporation. At each of these places, when I asked those irrigators what their evaporation was compared to Menindee none could tell us, but they were prepared to have a go at Menindee. At St George we met with a group called Smartrivers, which is a combination of the St George water harvesters and the Dirranbandi district irrigators. Smartrivers was formed in 2000 when water allocation management plans were put in place by the Queensland government as part of its responsible approach to the cap. The Smartrivers group took the Queensland government to court and won, so its allocations were not reduced one iota.

However, that group is now prevented from building more of these ring dams, but members of that group proudly told us that they are not prevented from deepening what they have. They represent Cubby Station, which is one of the irrigators in the Smartrivers group. They told us that Cubbie Station is an easy target because it has one owner. If, as they said, there were 30 irrigators owning that plot of land there would not be the same angst about that particular farm, or whatever you would like to call it. However, it is because it has one irrigator and people see one person as making a lot more profit that it becomes a target from those of us in the south.

From the perspective of a South Australian, though, what I heard from these irrigators is that every one of their triumphant wins is a loss to us. The consequence of a failure by everyone in the basin to take into account all the evidence about over-extraction combined with climate change has led to sudden, drastic and panicked action in some regards and a complete failure to act in others. Lake Bonney in the Riverland was one of the earliest communities in South Australia required to make sacrifices on behalf of the rest of the water users in this state. A report just released by the South Australian Murray-Darling Natural Resource Management Board has finally

recognised the concerns that the Save Lake Bonney group raised when the water supply into the lake was shut off 12 months ago.

The report, with the title 'Potential impacts from extended closure of Lake Bonney', advises that scientists recommend that Lake Bonney should not be shut off longer than 12 months. In fact, it is getting close to 13 months since it was shut off. That report says that fresh water should have gone into the lake in early October 2008. It says that the government knows there could likely be a major fish kill by this summer, with consequent odour problems for the people of that town (just as the Save Lake Bonney group predicted) which, of course, would have disastrous consequences on tourism for that town.

Acid sulphate soils are a possibility, as is the risk of algal blooms. The last time I went through that area was about a month after it was closed off and you could see an increase in algae even then. The report also recognises that there is now very significant exposure of Aboriginal human remains. That report basically comes to the conclusion that Lake Bonney needs an environmental flow. Barmera was a town that depended on tourism for its economic stability, and it has been robbed of that. Of course, Barmera is just one of many places in this state that is suffering.

The Lower Lakes and the Riverland in general are now feeling the pinch. I must stress that this is not about pleading a special case. Australians have proved over and again that, if their leaders convince them they are necessary, they will make sacrifices. If the sacrifices make sense, and if the sacrifices are seen as being shared by all in the community, South Australians will make those sacrifices; but this crisis has been marked by a failure to do both those things. Our current system of water restrictions is manifestly irrational and unfair. Basically, all the restrictions are aimed at our gardens, and our food-producing. Industry is basically left intact. It is not being asked to make the sacrifices, even though domestic use is such a very small part of the system.

Most people are willing to do their bit, as I say, even though they do know that our share of the Murray is a minuscule portion of all the water resources in the Murray-Darling Basin. However, indoor water use, showers, spas and dishwashers are all completely unregulated; and, despite all the rhetoric about an unprecedented drought, 375 new swimming pools were approved in the eastern suburbs of Adelaide alone last year. In the previous year it was 355, so you look at that number increasing every year. It is just sheer hypocrisy, and it has serious consequences.

At the same time as the Minister for Water Security and the Premier were referring to an unprecedented drought, managed investment schemes were planting new almond groves along the Murray. When the Natural Resources Committee visited the Lower Lakes, I think last month, I was shocked to see a new pipeline going into the grape-growing area, the name of which will come to me in a minute. This new pipe is being put in by large grape producers on top of all that is already there. It is anticipating the Wellington weir. They are putting in this pipe so that they can get less saline water above the Wellington weir to water more grapes that we do not really need.

This was happening at the same time that dairy farmers in the Lower Lakes were out crawling over the mud to drag pipes to a very quickly receding waterline. In the meantime, north of here—in those areas above Menindee—we see water in large amounts being held in those ring dams. We have the Coorong (a world class wetlands; Ramsar listed), which is choking on salt and we have interstate irrigators hoarding water.

In 2006-07, a total of 487,000 tonnes of raw cotton (valued at around $A832 million), was exported and, because of the drought, this was just 64 per cent of what they describe as 'normal' production. I guess it is a case of every cloud having a silver lining because, obviously, climate change and drought has slowed cotton production. The Australian lint/cotton production, in 2007-08, was forecast to be only 116,000 tonnes, which will be the smallest harvest since the 1982-83 season. However ABARE reported in March that the irrigation dams supplying water to the Australian cotton growing regions were nearly 40 per cent full in mid-February 2008, compared with only 9 per cent at the same time last year, so there is an indication of that hoarding.

We need to look at how much water 40 per cent is. A Murray-Darling Basin Commission report into on-farm water found that the total storage capacity above Menindee Lakes was 5,192 gigalitres; 2,999 gigalitres of this was held in ring tanks, and another 2,050 gigalitres of private storage capacity exists below Menindee Lakes. These private storages that we are talking about dwarf the capacity of the Menindee Lakes.

We also know that Cubbie Station is 40 per cent full at the present time; that is, 200 gigalitres of water. Cubbie Station alone can hold three-quarters of the Menindee Lakes storage.

Although cotton is not what was being grown at the time that the Natural Resources Committee visited Cubbie Station, they had been unable to plant cotton because the rains that fell in late December were too late for them to plant the cotton, which required an earlier planting, I think, in around September or October. Cubbie Station is not the only culprit as far as storage is concerned; I mentioned those figures that the Murray-Darling Basin Commission has given, but the New South Wales government does not know how much water is being held in ring dams in that state. It is an estimate, and it could be worse than we think.

The best guesstimate is that it is likely that something in the region of 2,000 gigalitres of water was being held above Menindee earlier this year, and yet it has been so easy for so many people to blame Menindee. The same Murray-Darling Basin Commission report noted that up to 50 per cent of stored water can be lost by evaporation before use. In fact, the annual evaporation from ring tanks was estimated to be 650 gigalitres per annum; a third of the 1,850 gigalitres that South Australia is guaranteed in a normal year, and three times Adelaide's annual average water use, so I think we need to be clear about where the finger should be pointed.

The Minister for Water Security has said that, if some of that water was released from Southern Queensland and Northern New South Wales, it would not get here because most of it would seep or evaporate. These are what are called transmission losses, but the Darling and the Murray rivers are not drains; they are (at least in some parts) ecosystems, so that when that water seeps—as if we talk about this being a bad thing—it is watering some of those ecosystems. We have to remember that there are some very stressed gums along those watercourses that desperately need a top up. I do not think that we should simply say, 'Okay, transmission losses: bad, therefore we should not allow this water through.' It does have a part to play in keeping alive what is now a very imperilled ecosystem.

The fact is that, if the water is able to be moved through these areas and some of that water is able to seep through the base of the creeks and the rivers, it does mean that, when there are substantial flows, more of the water will flow through the system; because, if you have a dry riverbed, what happens is that it soaks up the water. Therefore, when we do get a large rain event—in Southern Queensland, for instance—much of it will not get through to us precisely because the riverbeds have been allowed to dry up. Having a certain amount coming through will ensure that with a large rain event more of that water will come through to us.

It is also worth noting that the inflow to the Murray from the Darling at Wentworth has declined to 56 per cent of natural levels, and that is another significant loss to the ecosystem. The point is that we have a system in crisis. The environmental crisis has already caused economic and social problems but, somehow, because it is at the heart of it an environmental crisis—and we do not put a value on the environment as we do on irrigated crops—governments have been slow to respond from an environmental perspective. It does seem strange that our federal government can take this nation to war—as it did in Iraq—at a cost of billions of dollars and the possible loss of lives.

We are in the midst of a global financial crisis at the moment and, in a matter of days, the federal government may decide to spend $10 billion and issue deposit guarantees but, when it comes to the Murray-Darling Basin and the crisis there (that is almost intractable), no-one is willing to say, 'Nationalise the water. Declare a state of emergency. Seize any non-essential water. Make some decisions about appropriate crops.' We step back from that because it is about irrigation and making money; whereas the environment, generally speaking, is not seen to make money for us. That it is an important context for us to consider when we are dealing with this legislation.

I know that some of the speakers on the Water (Commonwealth Powers) Bill we were dealing with last night expressed concerns about the fact that it was template legislation. We have certainly had similar template legislation over a number of years now, in relation to the electricity system. In fact, the last lot of such legislation came through here about two or three months ago. Again, I expressed my outrage that we have legislation coming into this place that we are not permitted to amend, and this is in the same category—that is, the Water (Commonwealth Powers) Bill. As regards the Murray-Darling Basin Bill (on which I am speaking), I suspect we may be able to include amendments to that. However, there is always an enormous frustration when representatives of state governments get together and make all these decisions without the input of the parliament, and we are expected to pass it.

Nevertheless, in this case, the legislation that we are dealing with, to attempt to avert the worst of the crisis in the Murray-Darling Basin, is worth supporting. It may not be as good as it could be and, if that is the case, I suspect that in a year or two we will be back to deal with it again.

After all, that is what happened (not with legislation) with the cap when that was first proposed in 1995. That was reviewed but, as I said last night, we were still too lax in the amounts that we allowed to be extracted from the system. It is something that is now being evaluated again to see whether we can further reduce the extractions from the system.

I indicate Democrat support for the Water (Commonwealth Powers) Bill and the Murray-Darling Basin Bill. We recognise that, although they may not be perfect, we do have a dire situation and we must take urgent action.

The Hon. S.G. WADE (11:26): I rise today to speak to this bill and, in common with other contributors, to refer cognately to both the Water (Commonwealth Powers) Bill and the Murray-Darling Basin Bill. I do not propose to deal with the detail of the water management issues that led to this bill as those matters have been well covered by members in this chamber and the other place. Instead, I would like to consider these bills in the context of Australian federalism. I am a federalist but not out of an archaic concern for so-called state rights; after all, government exists to serve the interests of the people and any rights that they have fundamental to the collective rights of its citizens.

It is the rights of citizens that federalism protects. Citizens have the right to retain as much autonomy over their own lives as possible and to have decisions made as close as possible to them. As a federalist, I am alert to the pull of the centre in a federal system, and I am suspicious of the transfer of powers from the states to the federal government. Nonetheless, I support these bills because, as a federalist, I consider that the closest possible point for citizens able to effectively undertake whole of management catchment of a multi-state river system is the national government.

I do not assume that the commonwealth is more competent or more morally virtuous. The commonwealth is simply better placed to mediate the range of interests in the basin. This is not a recent revelation for South Australians. South Australians have been fighting for national involvement concerning the River Murray since the late 1800s. The battle lines were drawn between the colonies (as they then were) as early as 1881.

South Australia claimed the right to maintain navigability and urged an agreement on water sharing. During the Federation debates, South Australia evolved its position from one of asserting its right to water to insisting on the commonwealth having power over the Murray. In the 1897 and 1898 conventions, South Australia persisted with amendments to increase commonwealth control. The South Australian delegation was very talented and very diverse. It was also credited as being the most united on this issue. It was at one that the commonwealth should take control over the River Murray.

Ultimately, there was a compromise—a compromise which endorsed the status quo with limited commonwealth authority and the states retaining control of rivers within boundaries. *The Bulletin* magazine of February 1898 commented:

> Under the compromise, South Australia would be wholly at the mercy of the other provinces which could mop up all the available water and leave their barren neighbours with nothing but a streak of sand.

I suggest that they were prophetic words. The problem we have had in the management of the River Murray over the past 100 years is not a case of the failure of our federal system. It is a case of a flaw in the design of the federal system which was recognised in its construction but has yet to be addressed. Effectively, through this and related actions, we are moving closer to the vision of the South Australian members of the constitutional conventions, our founding fathers.

However, the mission is incomplete in two respects: the veto of the states has not been effectively removed and the new authority is not sufficiently independent. Some of our colleagues in the commonwealth parliament try to portray the commonwealth in this case as a white knight who is coming to the rescue of incompetent states. However, if the 1900s are testament to the failure of the states to develop an effective cooperative regime to manage the catchment, they are also testament to a commonwealth which has been tardy in acting in the nation's best interests.

A conference in Cowra in 1902 criticised the new commonwealth government for failing to use its legislative powers to resolve differences between the states about the sharing of water resources of the Murray. By 1904, the prime minister, John Watson, asked the states whether they would hand over control of the Murray to the federal parliament. South Australia had already appropriated a thousand pounds to begin litigation on the River Murray.

Instead, the cooperative regime which evolved into the Murray-Darling Basin Agreement was adopted. South Australia was dissuaded from litigation by two actions of the commonwealth. In 1906, the Premiers' Conference reached agreement on a scheme for locking the Murray. Secondly, the commonwealth established the short-lived and ill-fated Interstate Commission. Section 17(1) gave the commission wide powers of inquiry into works and diversions and the maintenance in improvement of navigability.

The agreement was a political solution finally reached in September 1914. Ironically, by the time the locks authorised by that agreement—and for which South Australia had fought so tenaciously—were constructed, the navigation trade was effectively dead. The commonwealth's involvement in the Murray issue, as I said, started as early as 1902. I would remind the council that a commonwealth commissioner chaired the Murray-Darling Basin Commission from 1915 to 1992, when the parties chose to appoint an independent president.

Throughout the history of the Murray-Darling Basin Agreement, then, the commonwealth has been a partner except for the fact that it contributes only the capital infrastructure costs and not the recurrent costs of the commission. The commonwealth shares in the responsibility for the failures as well as the successes of the Murray-Darling Basin Agreement. South Australia's interest in the Murray increasingly over this century has turned to developing areas of consumptive use. I refer to a document printed in Adelaide in 1926 entitled *Memoirs of Simpson Newland CMG* in which he stated:

> Somehow as time went on, the national spirit of the people changed and petty rivalries between the colonies as to how much each was entitled to use hampered progress. Thus it came about that Victoria and New South Wales entered into large schemes of diverting the river from the River Murray and its tributaries. Successive governments of South Australia played ignominious parts, spending years attending useless conferences discussing and wrangling with our sister states over the division of the water calculated to flow for given periods through certain gauges. As far as Victoria and New South Wales were concerned, the true object of these conferences was to discover how little South Australia could be induced to accept and to gain time to push on with their works in their respective states.

I would note that, in the constitutional conventions and through the 1900s, South Australia has relied on vigorous representation by its elected representatives. In 1987, the commonwealth did accept its responsibilities to promote national coordination of a multi-state resource when it persuaded the parties to add a ministerial council to the Murray-Darling Basin structure. A commonwealth minister chairs the ministerial council. However, the Howard government was the first commonwealth government to accept the logic of the South Australian Constitutional Convention delegates and seek to assume primary responsibility for the River Murray. The Howard government introduced major reform in January 2007.

The commonwealth sought a referral of power from the states to the commonwealth so that it could undertake this role. Following the announcement of the National Plan for Water Security on 27 January 2007, the states and the ACT held a summit to discuss the proposal in February 2007. At the summit, New South Wales, South Australia, Queensland and the ACT agreed to cooperate with the new arrangements, but Victoria held out. With wall-to-wall state Labor governments with one eye on the upcoming federal election and one eye on protecting the Labor brand, the states lost valuable time.

Premier Rann, also the national president of the ALP, was half-hearted in his protestations. On 24 July, the then prime minister, John Howard, announced that he would proceed with the introduction of a reform bill based on the commonwealth's existing constitutional powers, that is, without relying on the states to refer power to the commonwealth. The commonwealth was to pursue a new independent Murray-Darling Basin authority to be established on current powers.

So, here we are today, 21 months later. Labor has, both in opposition and now in government, delayed and opposed reform. After standing in the way of rural reform under the federal Liberal government, we are now seeing at least a partial embrace of the reforms of the previous Liberal government. The bill provides for a single authority, greater transparency and an agreed national framework for water allocation. The opposition supports those reforms.

However, the bills are disappointing in a number of areas. In the context of my focus, that is, federalism, there is a lack of a true national referral of powers. This is a lost opportunity to deal with a flaw in our federal system. The bills give effect to the Intergovernmental Agreement on Murray-Darling Basin Reform signed by the Prime Minister and first ministers on 3 July 2008 but it is largely based on the National Water Plan for Water Security announced by the Howard Liberal government in January 2007.

The Rudd Labor government already could have had a functioning basin water authority working on a basin plan for at least six months if it had acted on the basis of the Water Act 2007, but Labor has ensured that there will not be a functioning basin authority until 2009 and no basin plan until 2011 at the earliest. Under the regime, the independent authority can act under an emergency situation only if every state agrees. There is an incredible process of consultation with veto powers all the way through. Clause 13 (6) of the Water Amendment Bill 2008 provides:

> A resolution before the ministerial council will be carried only by unanimous vote of all ministers present who constitute a quorum.

The government is not serious about referring powers. It is retaining the veto power. That has been a problem for the past 100 years, and it will continue to be a problem as we go forward.

In passing the 2007 Water Act, the Howard Liberal government showed, however, that it was not willing to wait for referral. Even in the absence of referral of powers, the commonwealth showed that it was willing to accept its responsibility to manage a national resource by using its current constitutional powers to deliver a national response to a national issue. Now, without the support of a Labor state such as Victoria, the Rudd Labor government is on notice. It, too, must be creative in using its other powers to deliver outcomes for the river.

I will mention three constitutional heads of power. First, the corporations power could allow the commonwealth to regulate irrigators and other river users where they operate through a corporation. The external affairs power could be used to implement international treaties ratified by the Australian government. Two relevant treaties are the Convention on Biological Diversity and the Convention on Wetlands of International Importance Especially as Waterfowl Habitat. The final power, of course, would be the power in relation to interstate trade and commerce.

While I do not support commonwealth empire building by the expansive interpretation of constitutional powers, this on the other hand is a case where the primary role of the commonwealth is now accepted and the commonwealth needs to use its powers to its fullest extent to discharge its responsibilities. The commonwealth should also look at its powers under current commonwealth laws. For example, the Environment Protection and Biodiversity Conservation Act 1999 and the Natural Heritage Trust of Australia Act 1997 could provide the ability for the commonwealth to participate in schemes for the protection of environmental flows. In terms of the commonwealth power to intervene, it may well be that the EPBCA Act will be triggered in some circumstances. Whilst I appreciate that we need to avoid contention and litigation over commonwealth powers, neither can we afford continued commonwealth timidity and inaction.

I will not take the time of the council to detail my concerns with these bills in terms of the legislative process and the parliamentary process. The member for Heysen in the other place has done that more than adequately. However, in conclusion, in this bill the Rann government has failed to effectively stand up for South Australia. It has failed to complete the unfinished business of the South Australian delegations to the Constitutional Convention. The Rann government has chosen the interests of team Labor over the interests of South Australia. I suspect it will take the election of a Martin Hamilton-Smith government before we see a government that will finish the unfinished business of our founding fathers.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (11:40): I thank honourable members for their contribution to this debate. My colleague the Hon. Carmel Zollo last night summed up the responses to most of the contributions to these two bills. We have just had the Hons Sandra Kanck and Stephen Wade make some comments today. I thought the Hon. Mr Wade started off pretty well by providing background of the history of the River Murray issue as it has evolved during the history of Federation. It is just that he started to lose his way a bit towards the end. It seems that, the closer we get to the present, there is a fair bit of reinvention of history taking place.

The Hon. Mr Wade talked about commonwealth control of the river and mentioned some of the heads of powers that the commonwealth might use in relation to this issue, but he forgot to mention section 100 of the commonwealth Constitution, which reads:

> The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

That was one of the key clauses of the Constitution that delayed the Federation of this country by a decade or more, and it has been a problem ever since. But to suggest that somehow or other the

South Australian government could have done more, given the history of the river and those constitutional impediments, really is just a fantasy.

His last comment that Mr Hamilton-Smith might be able to do better rather reminds one of the recent Mayo by-election campaign where the local Liberal candidate promised that he was going to be the voice for the Lower Lakes and so on. I live in that electorate and we have not heard a word out of him since the election, and I do not expect to. The day that he raises some of these issues within his federal Liberal Party caucus and gets those many members who represent seats along the river to offer support for surrendering rights of their constituents towards the benefit of South Australia is when I will listen to members opposite.

I do not want to prolong the debate any further at this stage. I think that all the substantive issues have been addressed. The passing of this very important piece of legislation is long overdue. As the Hon. Mr Wade pointed out, after Federation, the River Murray Waters Agreement was passed I think in 1914. In the early 1980s that was extended to the Murray-Darling Basin Act but now, in 2008, we have the opportunity to deal with the many failings of those agreements, all of which incidentally were well known and well commented on at the time, but such is the history of the River Murray over the past century and a half that the legislation before us today is extremely important in terms of addressing some of those significant failings of the past 150 years. I look forward to the committee stage of these two bills.

Bill read a second time.

WATER (COMMONWEALTH POWERS) BILL

In committee.

Clause 1.

The Hon. S.G. WADE: I want to respond to the comments the minister made in his summing up on another bill, where he referred to section 100. I was certainly well aware of section 100. In fact, I am aware that constitutional lawyers Quick and Garran wrote quite extensively about section 100 in the early years of the new commonwealth government and reflected on the word 'reasonable'. They suggested that the word 'reasonable' is quite important.

It could well be an opportunity to balance the regional expectations of navigators, cultivators, and so forth, and it could be significantly influenced by the context. Rather than it being a 'get out of gaol free' card for the commonwealth to not fully explore its constitutional powers, my understanding of the constitutional consideration on this matter is that there is significant scope for the commonwealth, even under its current constitutional heads of power, to take a more active role in the management of the River Murray.

The fact that the Howard government put through the Water Act in 2007 certainly demonstrates that his government had the courage to explore those opportunities. The people of South Australia expect that the Rudd government will continue in that tradition.

The Hon. P. HOLLOWAY: The commonwealth bill, as I understand it, is an expansion of the Water Act 2007. Therefore, the Rudd government is, effectively, building upon what was in the 2007 act and extending it.

The Hon. S.G. WADE: I do not dispute that. As I said in my second reading contribution, I believe it just has not gone far enough. We need to bite the bullet, we need to remove the veto, and we need to ensure that the commonwealth has the capacity to effectively manage the basin. We are in a crisis situation. We really do not have time for the niceties of Labor's collusive federalism; we need to get on and deal with the crisis that we face.

The Hon. P. HOLLOWAY: History will show that in 1983, which is the last time there was federal and state Labor governments, the Murray-Darling Basin waters agreement was introduced. Of course, Queensland was not then a Labor state and remained outside the basin. Therefore, many of the issues that the Hon. Sandra Kanck talked about today, of course, have their origins in that time. Now that we do have cooperative governments, we have taken this very significant step—the next great step since the early 1980s, which was the first big step since the River Murray Waters Agreement came in in 1913.

Clause passed.

Clause 2 passed.

Clause 3.

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

Page 2, line 20 [clause 3(1), definition of *critical human water needs*, 9b]—

After 'national security costs' insert:

or cause permanent plantings that exist on the commencement of this act to be lost.

I will tie together amendments Nos 1 and 2 for the purpose of saving the committee some time. It is the permanent plantings amendment. Section 51 of the Constitution defines the legislative powers of the commonwealth parliament. It begins with matters such as trade and commerce, taxation, quarantine, census, statistics, marriage, pensions, etc. Then, section 52(xxxviii) provides:

Matters referred to the parliament of the commonwealth by the parliament or parliaments of any state or states, but so that the law shall extend only to states by whose parliaments the matter is referred, or which afterwards adopt the law;

My amendment is not only legal but also demonstrates that we are a parliamentary democracy not to be dictated to by the executive of this or any other government. Labor ministers here and east of the border have come up with an agreement or a plan and have then gone to their parliaments and told them that they have to pass this bill.

In my studies and knowledge of politics, it was always the parliaments that ran the country and not the government. If we get this wrong, who will be criticised? Who will the courts look to for clarification and be critical of if there is uncertainty? I remind all my colleagues that in both houses many non-government members have said that this bill is not strong enough and expressed problems about powers of veto, etc.

If we get this wrong, who will be criticised? Who will the courts look to for clarification, and who will they be critical of if there is uncertainty? The answer is: the parliament. It is incumbent upon us as parliamentarians, particularly in this, the upper house—the house of review—to review this bill and, where there is uncertainty, to amend it and not be pressured into rubber-stamping one of the most crucial bills and losing one of the last chances to give South Australians an opportunity for a water supply to address the social and economic stresses currently before this state.

I will come to the legal aspect in a minute, but bear with me as I discuss the parliamentary aspect. This parliament has received a bill that does not provide certainty for a great number of constituents—my constituents and those of every other member in this place. I add that a significant number of those constituents have been under incredible stress for successive years, and they are looking for some strength and direction through legislation for their certainty and that of their family and community.

The lack of certainty is that this agreement does not tell, nor has this government told, the people irrigating from the River Murray what the government's future plans are for irrigation in this great state. Irrigation started with resettled World War II veterans and migrants who, over successive decades, have gone along the River Murray and become great economic generators for the wellbeing of previous South Australians, current South Australians and, we hope, future South Australians.

Let us not forget the heritage of the irrigator, the World War II soldier settlers, those brave men and women who fought for this country. I can clearly remember that it was irrigation along the River Murray that assisted in an incredible way to rehabilitate the state after the State Bank collapse—irrigation which, to a significant extent, paid its own way to fix up its infrastructure, becoming more efficient and effective. South Australia has led the way, thanks to the initiatives of those irrigators, and it has been very effective at best practice farming methods in growing food for our state and nation and for export.

The parliament of South Australia has a bill which talks about critical human needs and which divides it into two parts. To put these in layperson's terms, they can be best described as human consumption, on the one hand, and other stuff, on the other. I will read again that 'other stuff' definition, which I read in my second reading contribution, because my amendment, and today's debate regarding this amendment, centres upon it, namely, critical human needs. I state again that these include, 'Those non-human consumption requirements that a failure to meet would cause prohibitively high social, economic or national security costs.'

I note that this is the same wording that appears in clause 86A(2), definitions, on page 11 of the bill, which comprises the tabled text. I am advised that we cannot amend the tabled text, so the way to do it is to amend the bill before us now which, I might add, has not yet been considered

or passed by the commonwealth and has certainly not been passed by some of the other states at this point, namely, Queensland and Victoria.

I return to the second limb of the definition. I have described it as political wording because, given the right circumstances, there is much that a government of the day could include in the definition. Again, due to time, I will not retrace my second reading contribution. I simply point out to honourable members that we, as the parliament of this state, have an obligation—not an obligation to nod along and agree with what the executive gives us to pass, but an obligation to review legislation and consider whether, first, it is in the best interests of our state or, secondly, whether additional clauses could go into this bill to make it better for the ongoing long-term interests of our state.

I turn now to the legality of this clause. If we are the only state to pass it, it binds only us, that is, South Australia. That is not my major intention. My major intention is to pass it and see all other states compelled to pass it, too. I believe that is what a Premier who fights for his state should do, and this parliament should remind our Premier to do that. As I said, many contributions have been critical of the lack of strength in the fight for South Australia in what we are debating now.

Subsection (37) of the Constitution tells us that states can 'afterwards adopt the law'. That applies to a clause of a bill just as much as to a bill in its totality. So, we can pass this, and Victoria, New South Wales and Queensland can adopt it after or during their debate in future weeks. That is what I consider to be desirable and what I believe our Premier should have fought for. To me, that is the best case scenario.

What if we pass it and we are the only state to do so? This wording then binds our state and any commonwealth action under this bill in so far as it relates to our state of South Australia. That is not a disaster, if that is the worst case scenario on the amendments passed: it is clearly a victory for South Australian irrigators. Why? Because it will mean that, when the commonwealth considers what are critical human needs in South Australia, it will see that permanent plantings are one of those needs.

When the new authority prepares the basin plan under section 86B of the draft bill in the tabled text in so far as South Australia is concerned, it will be compelled under direction from this parliament to treat critical human needs as including survival of permanent plantings. The stress, the mental torture and economic pressures through not even knowing whether you have critical water to keep permanent plantings alive has caused enormous problems from Renmark right down to Currency and Langhorne Creeks.

The definition is broad and that was recognised by one of the ministers in this place only yesterday, who I believe is on the record as confirming that. This parliament is saying that, if we pass this amendment, we believe survival of permanent plantings is one such 'non-human consumption requirement that a failure to meet would cause prohibitively high social, economic or national security costs'. We are talking here of thousands of families, thousands of jobs and billions of dollars for our state, and a sustainable food supply for the whole of South Australia. That is not a phrase we can leave the scientists in the authority to determine, but something parliament has to determine.

By law, if we are the only state with this amendment, the legal effect is simple. Critical human needs will include permanent plantings in South Australia. When the basin plan is prepared, the authority will have to factor-in permanent planting survival as one such need, and that is the emphasis on critical needs and permanent plantings—the survival of those plantings. It takes a minimum of five years, if those permanent plantings die, to replant and start to produce. Is that not our viewpoint in this state? Is it not the case that our critical human needs—remembering the broad wording, the 'non-human' wording in the second limb of the bill's definition—include survival of permanent plantings? Of course it does.

If necessary, I will call the council to divide on this vote, as permanent plantings are a critical human need. My amendment is a line in the sand for this government. I am asking a simple question: are permanent plantings a critical human need in South Australia, that is, within the broad definition of the bill? Should it include permanent plantings? Members can protest at my making it that black and white—and I am keen to listen to any arguments—but that is how I see it because, from multiple advice given to me through my office, the law is clear.

This amendment is either passed by all states or just this state. If all states pass it, we have also protected the survival of permanent plantings in Victoria and elsewhere as well as in South

Australia. If we are the only one state that passes it, we have told the commonwealth that in our great state, South Australia, we believe that our critical human needs include permanent plantings. That is what this amendment does, and in good conscience for the future of this state I encourage all members in this place to support the amendment.

In conclusion, I cannot emphasise strongly enough how desperate are our irrigators along the River Murray. They are struggling, discouraging their kids from continuing on the family farm and from becoming second, third or fourth generation farmers. Leaving growers and food producers in limbo with permanent plantings and uncertainty through declining to support and pass this amendment is just not cricket. They are out there now on their tractors listening to us Aussies getting a belting in the cricket from the Indians: let us give them some good news on the next news broadcast they hear that this parliament cares about them, their future and their permanent plantings, and wants to guarantee the survival of those plantings and therefore the survival of those family farms. I commend the amendment to the committee.

The CHAIRMAN: I remind members that I have been tolerant. In committee there should not be second reading speeches, and I ask members to keep that in mind, otherwise we may be here for a month.

The Hon. P. HOLLOWAY: I am sure that all of us would share the honourable member's concerns with the difficulties facing irrigators in our state and elsewhere in the country. However, just because we have concerns we should not pretend that somehow or other this amendment can fix those problems or even contribute positively toward them. The government obviously will oppose the amendment, but in so doing I indicate that it is disingenuous to suggest that the passage of this amendment would offer some benefit for those people who are suffering through the lack of water in the River Murray resulting from the prolonged drought.

It is inappropriate to use this referral legislation to address a short-term drought contingency issue. The definition the honourable member seeks to amend encompasses all types of permanent plantings without consideration of viability, economic or social value and priorities for providing food to communities, or other issues. The amendment seeks to make explicit but narrowly prescribe a definition for a single issue into what is necessarily a broad definition that recognises the need for flexibility during low water availability situations to respond to the issues at hand.

The current definition of 'critical human water needs' was agreed by all Murray-Darling Basin jurisdictions under the agreement on Murray-Darling Basin reforms signed at COAG on 3 July. It is sufficiently broad to cover permanent plantings and recognises that, while permanent plantings are an important issue, it is only one issue under the critical non-human consumption requirements referred to in the existing definition. It is broad as it recognises that the detail of critical human water needs would be developed under the basin plan.

The basin plan will set out a comprehensive process for addressing critical human water needs under low water availability conditions, including defining the amount of water required in New South Wales, South Australia and Victoria to meet the critical human water needs of communities. Rather than hardwiring the definition into legislation, the process allows the development of detailed arrangements regarding critical human water needs that are tailored to the conditions and issues at hand.

If it were to proceed, this amendment would change only South Australia's amendment reference and not the core definition in the Commonwealth Water Amendment Bill 2008. We have jurisdiction only over our state. All the problems of managing the River Murray over the 110 years since Federation and before have come about because this state does not have the power to tell other states what to do. This amendment could be seen—and I think would be seen—as South Australia entrenching a parochial position and being at odds with the new culture and practice of basin-wide management these reforms seek to establish.

It is worth pointing out that, apart from the political risk to which I have just referred in terms of this being seen as a sort of parochial undermining of the whole agreement, there is a risk that, by adding the additional part to the definition as proposed by the honourable member, that is, the definition of 'critical human water needs', it could be legally argued that South Australia would no longer fall within the definition of a referring state under the Commonwealth Water Amendment Bill 2008. This is because, by changing the definition, the subject matters referred by South Australia will no longer align with the subject matters required for South Australia to be a referring state as defined under section 18B of the commonwealth bill.

Obviously, that commonwealth bill reflected the agreement and the arrangement by all the states at COAG. If this is altered, I think there is that risk. If we consider the application of the amendment (if that amendment were to succeed), the commonwealth parliament would potentially not be able to rely on this amendment if it wishes to amend relevant sections of the Water Act so that they applied uniformly to all basin states. It would be constrained by the narrower subject matter reference given by other basin states. It could enact legislation that applied only in South Australia. However, this could potentially jeopardise the cooperative nature of the agreed reforms.

I understand that, like the rest of us, the honourable member is concerned about the incredibly difficult situations facing irrigators in the River Murray, but what we are dealing with before us today is a reference of powers from this state to the commonwealth. An agreement has been reached with all the states in relation to that. One may wish that some other states were more cooperative, not just now but in the past, but that is what has been achieved. Let us not put that at risk by changing our referral and making us the odd state out and, potentially, I think in a political sense, having the finger pointed at us by other states as being at odds with what these reforms are trying to seek.

The Hon. J.M.A. LENSINK: In relation to this definition of 'critical human water needs', which appears at line 19, page 2 of the bill, paragraph (b), to which the minister referred in his comments, provides:

> Those non-human consumption requirements that a failure to meet would cause prohibitively high social, economic or national security costs;

As the minister stated, this is quite broad. From my recollection, the minister mentioned that that could anticipate permanent plantings. Could he provide some other examples of what this provision anticipates?

The Hon. P. HOLLOWAY: The definition of 'critical human needs' as it is in the bill provides:

> (a) core human consumption requirements in urban and rural areas; and
>
> (b) those non-human consumption requirements that a failure to meet would cause prohibitively high social, economic or national security costs;

Clearly, if water was not available for Adelaide, not just for us to drink but if it were to have a severe impact on industry within this state, it would put tens of thousands of people out of work. That is clearly what is envisaged in terms of causing prohibitively high social, economic or national security costs.

The Hon. J.M.A. LENSINK: Is that anticipating a disaster scenario? Is that what it is intended to cover?

The Hon. P. HOLLOWAY: What is envisaged under this reform is that, under the basin plan, obviously there would be negotiations on how this detail would be dealt with. However, I think it is quite clear from the definition and what other states have done. I do not think any other state would argue that those critical needs for Adelaide, which might affect significant employment here, would not be a critical human need. Obviously, it would be anticipated that that would be incorporated as part of the basin plan. Clearly that would be an unacceptable national outcome, should this city not be considered as part of that plan, in terms of these sorts of needs.

The Hon. A. BRESSINGTON: I raise a couple of points on what the minister said about the other states pointing their finger at us. As I understand it, from a briefing that I received from outside the government employees, South Australia is already having the finger pointed at it because it is the only state that has not taken the time to develop and implement a food bowl plan. That means that, in times of severe drought, it has already been predetermined in the other states what areas will be sacrificed and what steps will be taken to either pay out those landowners, irrigators and farmers, or relocate them. The information that I received was that South Australia is the only state that has not gone to the trouble of developing a food bowl plan. I would like clarification on that from the minister, if that is the case.

Also, a point was made about critical need, where South Australia would not be included in the overall national plan and that that would be unacceptable, but we are seeing that now with the situation with the Lower Lakes and the Coorong, are we not? That is a national icon; it is under international protection from the Ramsar convention, but nobody interstate seems to be rushing to our aid to assist us to save that international icon. So, for me, what the minister is saying does not necessarily gel with what we see happening. I think that the Hon. Robert Brokenshire's

amendments may go a long way to encourage the government to develop that food bowl plan and to secure, as a critical human need, food for this state and perhaps for other states as well.

I would like the minister to confirm whether or not South Australia has a food bowl plan that has already been developed, or a project that is underway, where we are guaranteed that some of our farms and citrus growers, and those people who provide us with the food that we need, have some protection already in place at a state level; and, if not, why not?

The Hon. P. HOLLOWAY: It is inevitable that other states will try to point the finger at South Australia, just to move—

The Hon. A. Bressington interjecting:

The Hon. P. HOLLOWAY: It is inevitable that they will try to do that, just to move the finger of suspicion from themselves, but I think that everyone knows where water has been overallocated and over-consumed in the past 30 years. That has been well documented, but I would argue that other states are well behind South Australia in the reforms that have been made in relation to our irrigation areas. It was during the 1990s that much of the work was done to convert those open channel irrigation systems that we had near Renmark and Loxton and other areas.

The Hon. A. Bressington: Do we have a food bowl plan?

The Hon. P. HOLLOWAY: What do you mean by a food bowl plan?

The Hon. A. Bressington: If you don't know—

The Hon. P. HOLLOWAY: We've had a food plan in this state for more than a decade. Yes, we do have a plan, but we have done a lot of work in this state—and, yes, I think it was done when Rob Kerin was the minister for primary industry—on our major irrigation areas to replace the open channels with piped water so that the amount of losses was greatly reduced. Significant benefits were made, and significant state and commonwealth money over the years has been put in. Over two or three decades, actually, there have been improvements to the state. This state has far and away the most efficient delivery of water to irrigation systems of any state. Now—

The Hon. A. Bressington: That wasn't the question.

The Hon. P. HOLLOWAY: You are talking about a food bowl plan. This state has had its various food plans in place long before other states did.

The Hon. A. Bressington: So, does that mean that it was known prior to that that all those citrus growers' plantings would be sacrificed in time of drought and they were not told about it?

The Hon. P. HOLLOWAY: The honourable member is coming up with a complete red herring here. The fact is that, until fairly recently, this state had always received its entitlement (the 1,850 gigalitres) that it had under the Murray-Darling agreement. It has been only in relatively recent times, due to the unprecedented drought—remember that it is well documented that in South-Eastern Australia we have had the driest period on record; not just in one year such as we had in 1914, but we have had a series of years in a row—that there has been that serious water deficiency throughout the Murray-Darling Basin.

Obviously, we have to adjust to that, because that is the situation facing us at the moment. However, historically this state has done far more to use the water that it has efficiently, and we are way ahead of other states. So, I really do not think that the honourable member is making any significant point here. If she is trying to compare what we do compared with other states, it just does not gel.

The Hon. A. BRESSINGTON: The points that I made here were raised in a briefing that I received from Professor Mike Young, who is nationally recognised as an expert on the management of the Murray-Darling Basin. He has been involved at government levels all over the country, negotiating how this could work better, and I believe he is in high level talks now. The one thing that he pointed out to me in the briefing was the fact that Victoria and New South Wales have spent a billion dollars in developing a food bowl project: a stage 1 and a stage 2 project.

He indicated that it is about determining, in times of severe drought, what areas of agriculture and irrigation will be sacrificed, and what farms and plantations will be relocated or bought out by the government; and, in fact, that is why the Victorian government was a little

reluctant to come on board with the plan that the Howard government came up with, because South Australia has dragged its feet in this area.

If the minister says this is a bit of a red herring, just because he does not know the answer, then we have a serious problem in this chamber, debating a bill that, as every member in this place has said, is one of the most important bills we will be debating in the history of this parliament. It was not a red herring; it was a serious question. It was a question raised by an expert in a briefing, and all I want is an answer. Do we have a food bowl project plan that determines how our agriculture and irrigation will be managed in times of drought? What areas will be sacrificed or relocated? It is a 10-year plan. The other states have it. We do not have it, obviously, because you do not know what a food bowl project is.

The Hon. P. HOLLOWAY: In trying to catch up to this state, to the work that was done over at least 10 years—

The Hon. A. Bressington interjecting:

The Hon. P. HOLLOWAY: They are. The honourable member should go and see the Mulwala Canal that takes water to the Murrumbidgee irrigation area. It is a big open canal, which loses more water through evaporation and leakage than the entire irrigation consumption in South Australia. I have been a member of the Murray-Darling Basin Commission and have been interested in this subject, and I have been a member of the Murray Valley League for nearly 30 years. I did a lot of work on this matter in my previous employment when the Murray-Darling Basin Act was negotiated back in the early 1980s.

I can tell the honourable member that there is massive wastage of water in upstream states. The delivery of water through our irrigation system is vastly superior to that. Victoria is a little better than New South Wales, I think it would be fair to say. However, they are spending $1 billion and what they are doing is improving the efficiency of the water delivery in their irrigation system—because they need to. Much of that work has been done here.

Certainly, in this state we do have a proposal to support irrigators who are under stress, and that is part of the Murray Futures Initiative. The Premier and the Prime Minister announced the exit package to support adjustment in the Riverland because of the current drought conditions. Clearly, we need to move towards greater viability within that area, where some of those smaller operations are not viable in the current conditions. Indeed, unfortunately, some of our dryland areas are probably not viable either, if the current drought conditions continue. However, that is another issue.

Highlands irrigation restructuring has led to over $300 million per annum in economic return to the region. As Minister for Urban Development and Planning, within my portfolio, I have been working with the Minister for Water Security and the Minister for Agriculture, Food and Fisheries, doing my part (in terms of changes to planning laws) to enable this restructuring to take place. The government has been working on the Murray Futures Initiative in great detail. As I have said, I am playing my part in terms of dealing with the situation.

If people have to sell up, they can retain the property they live in but the remainder of their property can be onsold. That is something which is very difficult under current planning laws. That is just a small part. Clearly, my two colleagues (the Minister for Agriculture, Food and Fisheries and the Minister for the River Murray) have been much more involved in that than I have. However, this state has been working hard for some time to enable that sort of restructuring to occur.

Upstream states need to do a huge amount of work to improve delivery to their irrigation systems. It is quite primitive in many cases—not in all cases—compared to the systems we have in South Australia. We have always had a shortage of water in this state and, as a result, we have developed more efficient systems and far better irrigation practices over time than, unfortunately, some of the upstream states that have had the luxury of being self-indulgent. Those days are over now.

The Hon. R.D. LAWSON: I have a couple of questions for the minister, but I should preface them by saying that I do strongly support the sentiments which underlie this amendment. However, I want to understand its effects, and I believe that the parliament ought to understand whether there might be any unintended consequences to an amendment of this kind. On the subject of unintended consequences, I am reminded of the fact that, in America, state legislatures thought it would be a great idea to pass laws to prohibit banks from pursuing borrowers who were unable to meet their mortgage commitments. This led to hundreds of thousands of borrowers

walking; it led to banks losing security and to the subprime crisis; it led to a worldwide financial crisis which will result in millions of people losing their jobs. I think unintended consequences are something we really have to look at here.

My first question to the minister relates to the indication that, if our reference to the commonwealth parliament is extended in the way in which the amendment proposes, the reference itself could misfire—by changing the subject matter of the reference itself. My questions are: does the government have legal advice to that effect; how strong is the legal advice; is this just a mere possibility or is it something the government is throwing up to raise the spectre of some danger—a spectre which does not really exist; and is the minister prepared to table such advice as the government has received on that particular matter?

The second question relating to unintended consequences involves the intention giving additional status to permanent plantings in the water context and, in particular, the permanent plantings in this state. Is the minister able to tell us, in relation to the whole of the basin, whether there are greater permanent plantings in other jurisdictions than we have here? Could it possibly be that, as a result of elevating permanent plantings to the status of critical human needs, we would in fact find that the water available to South Australia as a whole is diminished by reason of the fact that the extensive permanent plantings in other jurisdictions are elevated?

The Hon. P. HOLLOWAY: First of all, the honourable member asks whether we have had legal advice. I understand that we have had some verbal advice from the Crown Solicitor. Clearly, this amendment was tabled only earlier this week. I am sure that the Crown Solicitor would like more time to consider it but we have to deal with it in the time frames available to us. However, I am informed that the verbal advice is that there are some risks with this legislation, and I explained those earlier.

It would seem to me that if you have an agreement among states to refer powers, if every other state does it bar one, and one state for whatever reason in its parliament tries to be different, inevitably there will be risks. First of all, of course, there is the political risk; then, there is the legal risk.

The political risk, I think, is obvious. I imagine that if you were Victoria and it could be perceived that any amendment that we had would somehow impact on you, and you were reluctant to be part of an agreement, would you not like that to happen? Is that the sort of political risk that you would want to take? That is purely my personal observation about what I think could be the political risk.

In terms of the legal risk, which I think the honourable member rightly raises, I can only repeat what I said earlier, that, by adding the additional part of the definition, it could be legally argued that South Australia would no longer fall within the definition of a referring state under the commonwealth Water Amendment Bill 2008. At this stage, that is the only information we have because, of course, this amendment has been there for only a couple of days.

The Hon. M. PARNELL: I want to pose a question or two to the mover of the amendment. The mover, in his second reading contribution, was critical of managed investment schemes and, as I understand it, his criticism was around the distorting role that those schemes have played in encouraging excessive plantings. He referred to almonds being planted interstate.

When I look at the honourable member's amendment, I can see that it relates to permanent plantings that existed at the commencement of the act, so it relates to plantings already in the ground, and my question of the mover is: does his amendment in fact entrench these managed investment scheme plantings of which he was so critical? A subsidiary question would be: would his amendment effectively make it very difficult for us to roll back excessive plantings that may have been put in as a result of managed investment schemes?

The Hon. R.L. BROKENSHIRE: Most of those significant management investment schemes are actually in Victoria and the eastern states; however, there are some managed investment scheme developments of more recent times in the Barossa Valley, where they draw water from the River Murray. I understand there is a problem in trying retrospectively to exclude people who have planted permanent plantings in managed investment schemes by now saying that this applies to all permanent plantings but excludes managed investment schemes. It is out of our control.

I think it should have been addressed as part of this whole debate on water supply and future water supply because this is how ridiculous and absurd this whole thing is at a time when

here we are now, in the main, debating the merits of trying to protect generational family farming, when the commonwealth and all these ministers and premiers have done nothing to address the fact that managed investment schemes can still run ahead at a rapid rate if they have the money to buy water allocations.

Again, it highlights, with a good question from the honourable member, how flawed a lot of this is. My proposal seeks to do the best we possibly can to protect and, in the main, support permanent plantings on existing family farms, and that is why I appeal for support there. I will join forces with the honourable member to see what we can do about preventing further managed investment scheme irrigation projects from occurring, with the help of his federal colleagues and those with whom we have contact.

The Hon. R.D. LAWSON: I directed a question to the minister earlier but he did not answer it; instead, he addressed the legal issues. What would be the effect in terms of water flows (if the minister is able to answer this) of this amendment if other states were to adopt the same principle—and one would imagine that everyone would have to adopt the same principle—that critical human water needs now include permanent plantings? I imagine there are vast permanent plantings in New South Wales and Victoria. Could this change to the definition have the effect of diminishing flows to South Australia generally? I simply do not have enough technical understanding of the mechanisms of the basin plans, etc., contained in the agreement to know the answer myself.

The Hon. P. HOLLOWAY: First, we need to make the point that the commonwealth would be unlikely to use any full effect of a reference from just one state anyway—in fact, almost certainly it would not—so there would be absolutely no advantage. The other states would have to amend their legislation request and then get agreement from the commonwealth presumably to do that. If it were sought to cover these permanent plantings (which means any trees, bushes, vines or palms maintained for the purpose of the protection of food or human consumption) then presumably those permanent plantings in New South Wales and Victoria would get extra protection under this.

Would that mean less water coming into South Australia? Clearly, it would depend on the basin plan. I think it is well accepted what critical human needs are. It should be remembered that provision has been made, and I think at present extra water has been allocated within Dartmouth or one of the major storages which is recognised for South Australia's critical human needs. If we were to expand this definition, other states might well decide that, if it is going to cover an additional range, it might well mean less water for South Australia. I guess that is just one risk, but who really knows? It comes under the basin plan, as I understand it, and it is not as though this is just coming out of thin air. People from the states and the various governments have been working on these issues for many years, so I think there is a good understanding of what is required. If we were to basically put in something out of left field similar to this amendment, it could put in jeopardy all those understandings which we expect would flow through to the basin plan.

The Hon. R.D. LAWSON: I would like to add to that I agree with the sentiments uttered by the mover. He talks about family farms and the like. Mind you, many of the plantings in the Riverland are not family farms at all; they are major multinational corporations planting thousands of hectares of vines and the like. But, I agree with his sentiments. Of course, the value of a family farm in South Australia is the same as the intrinsic value of the family farm over the border in New South Wales and in Victoria. All family farmers are entitled, in a nation like Australia, to the same protection.

I cannot envisage this amendment really operating if we were the only ones to do it. It would be inevitable that the others would seek the same concession; and they are entitled to the same concession, if we think it is a good idea. That is no bad thing, because, let's face it, in South Australia the Labor government always pretends that it is the most innovative. It wants to take the best steps; it wants to lead the nation. Well, here is an opportunity. The mover of this amendment has introduced a measure which will lead the nation in a better direction, if, indeed, it is a better direction.

He is right to say that, until now, this parliament really has not had an opportunity to express a view about this. The Premiers got together, and they reached an agreement, and the state bureaucracies reached a deal. Now it comes before a legislature for the first time. We have an opportunity to improve the deal, and we have an obligation to improve the deal if, in fact, it can be improved.

I do not have any reason to not support the principle or the amendment itself unless there are unintended consequences that have not been explained to us. I have a question of the mover. This, undoubtedly, is a good and popular move in the Riverland, and it is a good political move, but has he had technical advice? He has told us that he has had technical legal advice, but Professor Mike Young has been mentioned by the Hon. Ann Bressington, and other experts such as the Wentworth Group. Is it the sort of measure that would have the support of the scientific and technical community?

One basis of the new package is that we want to get away from parochial political considerations and manage the Murray-Darling Basin on a scientific and technical basis. We complain in this state how parochial Queensland politicians have raped the river in the interests of their voters. We do not want to be guilty of exactly the same offence. Did the mover have technical advice from Professor Mike Young, the Wentworth Group, or other people to suggest that this is indeed a feasible or desirable amendment?

The Hon. R.L. BROKENSHIRE: I have had technical legal advice. I have spoken to agriculturalists about the issues around maintaining and ensuring that permanent plantings survive during the most difficult ongoing drought period, such as that which we are seeing at the moment. I have not spoken to Professor Mike Young about this. I have been endeavouring to have a meeting with him. I point out that, as was the case with what the minister had to say, with much fewer resources than what the minister and the government had, I have done as much homework as I possibly could in the very short time that we have had to examine the text, and so on. In the briefing that we were given, when it comes to where 'critical human needs' is allocated, together with where water is allocated to the 'Lower Murray swamps, country towns, all other purposes (irrigation, etc.)', I am not quite sure what the 'etc.' means.

The point I am getting at is that the global amount of water is allocated and will continue to be allocated state by state. My understanding from the briefing is that it will still be up to the individual states to see how they cut up the water.

In further answer to the honourable member's question, I put to the minister that what I am proposing is an important intended amendment for the future of the state's best interests. Primarily, we have to look at the best interests of the whole river system, but most members have agreed that this bill does not do that entirely and that there are still many anomalies state by state.

On page 45 of the tabled text there is a specific clause, clause 250C, which provides, 'Commonwealth water legislation does not apply to matters declared by law of a referring state to be excluded matters'. I will not read the whole clause, but my understanding is that that provision is in the tabled text to give states the exact opportunity of doing the things we are debating in this amendment at the moment. To help my colleagues and me, I would like an answer to that.

Finally, my understanding of what the minister said is that he acknowledged that the clause was very broad. He went on to talk about not only potable water for human consumption but also about industry and jobs in Adelaide. Industry and jobs in Adelaide are important, but they are important across the whole state.

The Hon. P. HOLLOWAY: Of course they are important across the whole state and, clearly, there need to be priorities. What we are really talking about here is that, if we are in a situation of an unprecedented drought, as we have been recently, with the lowest levels of inflows into the basin ever recorded over not just one year but over a number of years in a row, then quite clearly we have to have some contingency to deal with it.

We talk about critical human water needs, and we are talking here about rationing. We are talking about being able to deal with limited amounts of water. The more broad you make the definition to deal with it, the less effective it becomes. Of course, what we would like to see happen is all needs being met for human consumption as well as the retention of permanent plantings. That is a high priority for any government, and I guess the only thing above that is critical human needs as they are defined. Clearly, one must have a hierarchy. When you have a situation of serious drought, you have to have a hierarchy about what goes first, if you like. The more you broaden that definition, the more you start to defeat the whole purpose of having the rationing in the first place.

The honourable member asked some questions about the displacement provisions. If one looks at the displacement provision, clause 3.7, declared excluded matters and displacement provisions, clause 3.7.3 provides:

...the referring Basin States undertake to avail themselves of the mechanism referred to in 3.7.1 only in relation to inconsistencies between the commonwealth water legislation and legislation of a referring Basin State that are unintended and where the legislation of the referring Basin State is not inconsistent with the objects of the Water Act.

That makes it pretty clear that these provisions are only quite restricted and only to deal with those inconsistencies that are unintended or where the legislation is not inconsistent with the objects of the Water Act.

The Hon. R.L. BROKENSHIRE: On a point of clarification, was the minister talking then about 250C and the exclusion clauses there with respect to commonwealth water legislation as against law of referring state to be excluded?

The Hon. P. HOLLOWAY: I was referring to the agreement on Murray-Darling Basin reform. This is the referral, the agreement signed by all state premiers. The commonwealth has not signed it yet. That is the undertaking it has given.

The Hon. R.L. BROKENSHIRE: I ask in the first instance whether the minister would be kind enough to explain to the committee, in the table of the text, the intent of having 250C on page 45 of the tabled text if it does not allow for some flexibility state by state? It says, 'Commonwealth water legislation does not apply to matters declared by the law of referring state to be excluded matters'.

The Hon. P. HOLLOWAY: My advice is that this clause was included only because this legislation is so broad that there may be the potential that it could lead to some inconsistency between that and a state law. However, the agreement I just mentioned was that the agreement, signed by all the premiers, is that those excluded matters to which 250C refers, where it says 'Commonwealth water legislation does not apply to matters declared by the law of referring state to be excluded matters'. The agreement is that the only excluded matters would be those that relate to inconsistencies between the commonwealth water legislation and legislation of referring basin states that are unintended and where the legislation is not inconsistent with the objectives of the Water Act. If you did not have a clause like that in there, there could be the potential for some conflict. I do not think it is foreseen that there is any.

I want to make it clear that we are debating the amendment moved by the honourable member, and there is no way under section 250C that, somehow or other, the state could exclude permanent plantings. That really is a different issue. I guess that the text is about future acts where some legislation might be inadvertently inconsistent. The question of section 250C and that text is quite irrelevant to the amendment before us, because this particular question would not be an excluded matter.

The Hon. R.D. LAWSON: I make an observation on the point raised by the Hon. Mr Brokenshire. I think he is right to the extent that section 250C does envisage that there is a certain element of flexibility and that absolute uniformity in the references is not required. However, I doubt that the honourable member's amendment would amount to an excluded matter. He is not actually seeking to exclude something: he is seeking to add something in with a limitation. I just do not believe that that particular section provides a mandate for what he is envisaging.

The Hon. R.L. BROKENSHIRE: I go on to the next page, then, and section 250D. At the moment I understand that what the minister says—and this all ties in quite clearly with my amendment—is that some agreement signed off at COAG has more teeth than the tabled text and the legislation we are debating at the moment. I find that amazing, because I have only ever voted on bills to become law, not what premiers agree to. Section 250D, 'Avoiding direct inconsistency arising between the commonwealth water legislation and laws of referring states', clearly shows to me that there is provision and opportunity there, not for the future but for what we are debating right here and now.

The CHAIRMAN: Order! The Hon. Mr Brokenshire will stand if he continues to speak.

The Hon. R.L. BROKENSHIRE: I am sorry, sir, please, forgive me; I was a bit excited. We have only one chance at this.

The Hon. P. HOLLOWAY: We do have only one chance at this. I would suggest that we should not put it all at risk by this committee supporting an amendment which would put us at odds with the rest of the country. As I said, there is significant political risk, let alone the legal risk, and others better informed than I can talk about the legal risk. Certainly, we have had preliminary

advice that there could be a legal risk. I thought that, with a group of politicians here, I need not spell out what the political risk might be if we are the odd ones out.

The Hon. J.M.A. LENSINK: I would like to take this opportunity before we break for lunch to place the Liberal Party's formal position before the chamber and perhaps to give the government some time, because I think that many matters that have been raised this afternoon do relate to legal issues. I place on the record at this point that our water and environment spokesperson, the member for MacKillop, stated in his contribution that this bill had been brought in with indecent haste, and I think that we see the fruits of the manner in which all non-government members have been provided with this bill.

The member for MacKillop is still consulting with stakeholders to gain some better understanding of the implications of this amendment. I request that the government formally table some legal advice to the effect that at this stage it has been verbal, because in our view this amendment has a great deal of merit, and we will be supporting it in a division in order that these matters can continue to be discussed. I think that we are all very well aware of the political risk, namely, that if this is inserted other states may well seek to insert their own matters.

However, South Australia is the most vulnerable state in this system. For that reason and because some 10 per cent of citrus groves are already dead in the Riverland, and while we have seen earlier this year floodwaters in Queensland a significant amount of which have not reached the system, this matter ought to be given some greater consideration. We will support the honourable member's amendment and, if the government wishes to make a case (and we do not believe that it has made such a case thus far) for not supporting it, then we would urge it to do so post-haste.

The Hon. P. HOLLOWAY: How extraordinary that members opposite, who have been criticising this government repeatedly—even though in their second reading speeches they were saying how belated this measure was and how long it has taken—are now turning around and criticising the government in respect of an amendment that is quite clearly flawed. I guess people have always played politics with the River Murray. In fact, it delayed federation for a decade.

I think Professor Sandford Clark once made the comment about the River Murray that the one thing that the history of the River Murray shows is that there has been little change in the genetic stock of politicians in relation to improving the River Murray. I think we have just seen an example of that from members opposite.

Progress reported; committee to sit again.

[Sitting suspended from 13:02 to 14:17]

VOLUNTARY EUTHANASIA

The Hon. SANDRA KANCK (14:17): Presented a petition signed by 21 residents of South Australia, concerning making voluntary euthanasia legal. The petitioners pray that the council will support a referendum on voluntary euthanasia at the next general election.

MURRAY RIVER

The Hon. SANDRA KANCK (14:18): Presented a petition signed by 14 residents of South Australia, concerning extraction of water from the River Murray. The petitioners pray that the council will do all in its power to promote the buy-back of water allocations by state and federal governments in order to improve environmental flows and support sustainable agriculture.

PAPERS

The following papers were laid on the table:

By the President—

District Council of Kimba—Report, 2007-08

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

Capital City Committee Adelaide—Report, 2007-08

By the Minister for Correctional Services (Hon. C. Zollo)—

Reports, 2006-07—
Industrial Relations Court and Industrial Relations Commission
Julia Farr Services
Reports, 2007-08—
Construction Industry Long Service Leave Board
Education Adelaide
Office for the Ageing
WorkCover SA
WorkCover SA Financial Statements
A Report into Sexual Abuse—Children on Anangu Pitjantjatjara Yankunytjatjara (APY) Lands Commission of Inquiry—Implementation Statement by the Minister for Families and Communities

By the Minister for Gambling (Hon. C. Zollo)—

Reports, 2007-08—
Club One (SA) Ltd. Financial Report
Gaming Machines Act 1992
Independent Gambling Authority
Problem Gambling Family Orders Act 2004—Report to Parliament

By the Minister for State/Local Government Relations (Hon. G.E. Gago)—

South Australian Abortion Reporting Committee, South Australian—Report, 2007
Reports, 2007-08—
Boundary Adjustment Facilitation Panel
Controlled Substances Advisory Council
Libraries Board of South Australia
Medical Board of South Australia
Nurses Board of South Australia
Pharmacy Board of South Australia
Food Act
Vulkathunha-Gammon Ranges National Park Co-management Board
Windmill Performing Arts Company
Witjira National Park Co-management Board
Review of the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1982—October 2008

GLOBAL FINANCIAL CRISIS

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:20): I seek leave to make a ministerial statement on behalf of the Hon. Kevin Foley MP, the Deputy Premier and Treasurer in the other place.

Leave granted.

The Hon. CARMEL ZOLLO: As read by the Deputy Premier and Treasurer, it states:

I rise today to update the house of a direct impact of the continuing global financial crisis on the state's finances. Members will recall that I advised the house on 14 October that the state's net operating position since 1 January 2008 had weakened by a total of $280 million as a consequence of the global financial crisis.

This was due to the higher nominal interest expense associated with the deterioration in our unfunded superannuation liabilities, a combination of loss of earnings and discount rates, and downward revisions to some revenues based on the anticipated flow-on effects of the financial crisis on the real economy.

Despite the unprecedented actions of central banks and governments in recent times, the global financial instability and volatility continues. For the financial year to date, the Australian stock market is down 26 per cent and global stock markets are down 35 per cent. I have previously stated that I would report back to the parliament with a full financial statement before the house rises for the end of the year.

The timing of this was originally based on the proposed COAG meeting of 17 November, at which time this state's share of Commonwealth Special-Purpose Payments and the National Infrastructure Payments would become clearer. It has recently been widely reported that the Prime Minister will be attending a G20 meeting on the global financial crisis in Washington on 15 November.

The commonwealth has since advised us that it is increasingly likely that the COAG meeting of 17 November will be postponed, although we await confirmation. To this end, I can advise that the financial

statement will now be incorporated into a mid-year budget review when we are in receipt of the commonwealth's Mid-Year Economic Fiscal Outlook and the Financial Settlements agreed at COAG.

As I have already advised the house, I have asked the Department of Treasury and Finance to provide cabinet with a full range of options for the deferral or, in some cases, the cancellation of capital projects not considered essential to service delivery in the current financial climate. In these very uncertain financial times, I also want to provide certainty to the local infrastructure market whenever possible.

This has become particularly acute in relation to the time line for the new prisons and secure facilities project. I emphasise that the time lines for the procurement process for this project remain unchanged. Bidders are required to submit fully-costed proposals to government in December, including their estimated construction time lines. The government project team will then assess bids and announce a preferred bidder in April 2009.

The final contract will be announced in July 2009 as per existing time lines, and construction will commence thereafter based on the winning bidder's construction program. However, today I can advise the house of the government's decision to announce new commissioning dates for the prisons and secure facilities project. The new commissioning dates are:

- 2013-14 (previously 2011-12) for the new men's and women's prisons;
- 2013-14 (previously 2010-11) for the forensic mental health centre; and
- 2011-12 (previously 2010-11) for the secure youth training centre and pre-release centre.

The overall budget impact of delaying this project will improve the government's net lending outcomes over the period 2009-10 to 2011-12 by $359 million. It should be made clear that the revised prisons time frames are certainly not a precursor to deferring the government's other PPP projects such as the six new super schools and the Marjorie Jackson-Nelson Hospital. As I have stated previously, the timelines for these projects remain on track.

The government recognises that the revised prisons timelines will result in demand pressures on existing facilities. The government will address this through constructing additional cell capacity. Treasury and Finance advise that the additional cell capacity of 160 beds will require an investment of $30 million across 2010-11 and 2011-12 plus associated operating costs. These will be permanent new structures within regional facilities that will provide enhanced capacity into the future if and when the state takes delivery of the new prisons and secure facilities.

QUESTION TIME

ROYAL ADELAIDE HOSPITAL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the master plan for the existing Royal Adelaide Hospital site.

Leave granted.

The Hon. D.W. RIDGWAY: On Tuesday 29 April of this year I asked the minister a question about the existing Royal Adelaide Hospital site and, in particular, I advised him that sources within Planning SA had advised me that Woodhead, an international architecture and design firm, had been engaged to undertake some planning work for the government at the RAH site. The minister, at that time, was unable or unwilling to confirm that; however, earlier this week, I received an answer to a question from the minister that Woodhead is providing master planning services for this project. Given that the government's commitment was to return the site to parklands, as Minister for Urban Development and Planning, has the minister been briefed on the master plan for the existing Royal Adelaide Hospital site?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:28): As I understand it, the master plan is being conducted through my colleague the Minister for Health. Obviously, the Royal Adelaide Hospital will continue in operation for some time yet even though we hope to have work under way for the new, much-needed Marjorie Jackson-Nelson hospital within the next 12 to 18 months or so. It will be some time before that will be completed. Clearly—

The Hon. D.W. Ridgway: You have no idea what is happening then. You are the Minister for Urban Development and Planning and you have no idea.

The Hon. P. HOLLOWAY: I am sure that the Royal Adelaide Hospital will continue to be used as a hospital for a significant time yet, so it is important that my colleague—

An honourable member interjecting:

The Hon. P. HOLLOWAY: The point is that, if it is being used as a hospital, it is just logical that the Minister for Health would be responsible for the master plan.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes, indeed, I am. Don't you think that master planning, since it is largely about a hospital site, would be looked at by him? It is the health agency which will need to determine exactly which buildings it will require according to which time frames. Quite appropriately and logically, that is where those studies should lie.

ROYAL ADELAIDE HOSPITAL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:30): I have a supplementary question. So, is the minister confirming that he has not been briefed on the nature of any future land use at the Royal Adelaide Hospital site?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:30): Obviously, the government has had some discussion about this. Why do you think we would employ people out there to look at future options? There is a range of heritage—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Yes; it will continue to be used as a hospital for quite some years yet. Obviously, the needs of health will be paramount to the short to medium-term use of the Royal Adelaide Hospital. Clearly, the ownership of that site is currently under the Minister for Health, and it is appropriate that he should therefore look at the future use of that site. If it is determined that it be handed over to some other use or it requires some zoning change or such like (not that I expect it will be), I expect that it would be referred to my portfolio, which deals with such issues. However, that site is currently being used as a hospital, and the Minister for Health, quite sensibly and appropriately, will determine the future use of this site.

ROYAL ADELAIDE HOSPITAL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:31): I have a further supplementary question. In the briefings and discussions which the minister has obviously had but which he is not telling us about, has residential use for some of the existing buildings been discussed, and is the government turning away from its commitment to return the site to Parklands?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:32): I can assure the honourable member that the disposal of this site will not take place for some years yet. I believe it will be two elections before the remainder of the site will ultimately become vacant. It is appropriate that, when one looks at the future of that site, you take into account the needs of the health department. As I have said, because that site is in the name of the Health Commission, it is appropriate that the Minister for Health should put forward recommendations as to the future of that site, because it will become available after the needs of the health department have been satisfied.

NEWPORT QUAYS

The Hon. J.M.A. LENSINK (14:33): I seek leave to make an explanation before asking the Minister for Urban Development and Planning a question about a Newport Quays application.

Leave granted.

The Hon. J.M.A. LENSINK: The Port Adelaide Enfield Council rejected an application from Newport Quays at one of its meeting this year. It provided in its minutes, which run to some six pages, some 45 different aspects for why the application was rejected, including threatening viability of a retail/commercial focus around a public plaza in stage 2C of Newport Quays; varying markedly from the concept plan contained in the development plan; negative impacts on the heritage significance of the state heritage listed Hart's Mill complex and other local heritage places; and that there were some 130 apartments with bedrooms without windows. Does the minister envisage that, under the better development planning process, this particular development would have received approval?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:34): The honourable member is incorrect when she says the Port Adelaide Enfield Council rejected an application. The approving authority for development on that site is the Port Waterfront Redevelopment Committee, which is a subcommittee of DAC, which was specifically set up to make those decisions. It is true

that recently that subcommittee has rejected the most recent application from the developers in relation to that site.

Obviously, the Port Adelaide Enfield Council is consulted, and it may well have expressed a view on it. However, I point out that the council does not have the capacity to reject applications as such; the approval of any development applications is the duty of this subcommittee of DAC.

In relation to the types of buildings that might be approved and high-rise buildings in general, that has nothing to do with the residential development code that the government is proposing.

I think the honourable member was referring to a better development plan. I do not expect that that is the case, but I would have to examine which part of that code the honourable member might be referring to in relation to that application.

Let me say that the subcommittee of DAC, the Port Waterfront Redevelopment Committee, rejected the most recent application by the developers because it believed that it was not in accordance with the development plan for the area.

CORRECTIONAL SERVICES OFFICERS

The Hon. S.G. WADE (14:35): I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the occupational health and safety of correctional services officers.

Leave granted.

The Hon. S.G. WADE: I note the ministerial statement tabled today indicating that the government is going to persist in its rack, pack and stack policy. The legal fund for correctional services officers recently released its 2007-08 annual report. The Correctional Officers Legal Fund exists to provide representation for subscribing correctional services officers.

Interestingly, the cover of the annual report features a series of cogs: one labelled 'rack 'em', one labelled 'pack 'em' and one labelled 'stack 'em'. This is really funny; wait until you read this, Paul. The foreword by the Executive Officer states:

> So Kevin Foley thinks Corrections is run by storemen and packers—rack 'em, pack 'em and stack 'em—an easy thing to say from an ivory tower. While he is busy burdening the system with double bunk 'racks', consideration should be given to those who have to manage those prisoners, their overcrowding, their health, mental illness and rage with little or no extra resources. He doesn't have to cut prisoners down in the middle of the night, nor run the risk of going home battered, bruised or worse. He doesn't run the gauntlet of suspension or transfer (under a draconian PSM Act) pending investigation into unfounded, malicious or minor allegations.

Later, the annual report indicates that WorkCover claims lodged by members through the funds have increased by approximately 28 per cent this financial year. The opposition understands that, following the Port Augusta riot incident, the government agreed to a demand by the PSA that no further bed spaces be created by placing mattresses on the floor, because to do so would raise occupational health and safety issues for its members. The PSA considers that it is not safe for corrections officers to access prisoners in overcrowded cells. My questions are:

1. Given that the government has agreed that no further bed spaces will be created by placing mattresses on the floor, because to do so raises occupational health and safety issues, can the minister assure the council that any bed mattresses on the floor before this agreement with the PSA in cells that were originally designed for one person will be removed?

2. What is the department doing to deal with the recent blow-out in WorkCover claims amongst Correctional Services Officers?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:38): It is a shame that honourable members think this is incredibly amusing. The portfolio of corrections is—

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: As I said, it is a shame that honourable members opposite think this is something they should amuse themselves with. All bed space management in our prisons is with the agreement of the PSA. In relation to mattresses on the floor, I understand that

there was an agreement to put some mattresses at Mobilong before the major incident, and that has continued. I understand that the figure may be around 11, but I would have to check that, as it is from my recollection.

What those opposite do not understand is that we had a major incident and lost 92 beds but, having lost those 92 beds, we still have capacity across the prison system in our state. If my memory serves me correctly, even today we have over 50 beds for males and over 10 for females. We are using the watch-house sparingly now, and I think we are down to 11 beds. Of course, we are not having to use any other police cells in any shape or form. I understand that by agreement there were some mattresses on the floor at Mobilong. That is in agreement with the PSA and, because it is an operational decision and because the safety of our correctional services officers is important to us, clearly when any decision is made we do it with their agreement. We have a bed management committee, which I understand meets on a regular basis, and it is by agreement that any extra capacity is added to our prison system.

The honourable member mentioned WorkCover claims. Clearly we call it a challenging area of public administration because—and I hope it does not shock members opposite to hear—many people in our prisons actually do not want to be there. They have many co-morbidity issues when in our prisons, but as a department we always attempt to ensure that our prisoners are looked after in a safe, secure and humane way. We always put the needs of our correctional services officers above those of our prisoners, and that is exactly what happened (we still have an investigation occurring) with the incident at Port Augusta. Prison officers were required to supervise prisoners in the infirmary, and I understand that at the time a session on the oval was cancelled. We would always put the needs of our correctional services officers above those of our prisoners. If members opposite think this is funny and that prisoners do not belong in gaol and they would rather see them roaming the streets, that is for them to decide.

CORRECTIONAL SERVICES OFFICERS

The Hon. S.G. WADE (14:42): On what basis does the government consider that mattresses placed before the riot are not an occupational health and safety risk when it has accepted after the riot that they are?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:42): We have always been open and up-front about this. Clearly there was an agreement beforehand on a day-to-day basis with the PSA in relation to those beds. It does not mean that there are three prisoners in a cell, like some people are trying to suggest, as that is not the case. I am also told that some prisoners actually prefer it that way. Clearly it is not something that is common place and should not be, but apparently sometimes that happens, as well. Again, there is spare capacity across the system.

From memory, there are 52 free beds today for men and 13 for women, and no prisoners are housed in any holding cells, other than the Adelaide City Watch-house. We have placed on record on many occasions that this is not necessarily ideal, but it is closely monitored and used only when it is necessary. It has not been used this year. The honourable member wanted to visit the Watch-house, but he could not do so because there was nobody there for him to visit. However, since the major incident we have had to reopen it again. Those numbers and the conditions are being closely monitored and the Ombudsman is able to go through any time he wishes.

The Hon. S.G. Wade: I have asked to go through the Watch-house.

The Hon. CARMEL ZOLLO: You have asked and it has been accommodated because now you can actually see somebody there, but previously there was nobody there for the honourable member to see.

MURRAY RIVER COMMUNITIES

The Hon. R.P. WORTLEY (14:44): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question regarding the economic outlook for the River Murray communities of South Australia.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: I know it is joke time for you people, but there are serious issues to which we need answers.

Leave granted.

The Hon. R.P. WORTLEY: South Australia is still facing the ravages of the worst drought in 100 years—maybe even 1,000 years. That has meant tough times for people along the River Murray who make a living out of farming or rely on farming communities for their businesses. A lot of blockies and shop owners have struggled, as has the River Murray struggled through the lack of inflows upstream and the scant rainfall across the state. The economy along the River Murray is more than just farming and irrigation. What is the government doing to encourage alternate job opportunities and investment while we wait for some relief in this long, dry spell?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:46): I thank the honourable member for his question. It is a fact that many communities along the river continue to face challenging times due to the prolonged drought and the effects of climate change. While the farming community is incredibly stretched by the climatic conditions, there are ways the government can provide assistance and encouragement to people along the river. I am pleased to inform members that today, together with the Minister for the River Murray (Hon. Karlene Maywald), we have published a houseboat marina strategy that will give a much-needed shot in the arm to the economy along South Australia's major waterway.

South Australia's houseboat industry is estimated to generate more than $60 million a year into the state's economy both directly and through flow-ons to associated service industries. The draft Houseboat, Mooring and Marina Strategy for the River Murray in South Australia—which we will be making available for public comment for the next three months—seeks to improve the health of the river whilst supporting and enhancing tourism through this important industry. South Australia's houseboat industry—

The Hon. J.M.A. Lensink interjecting:

The Hon. P. HOLLOWAY: Have you got something to say? Please, let's all share it. Let's all share your wisdom. So, what are you saying? She is not saying anything; it is just plenty of mumbling.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Obviously, it was not important enough to share it with us. The honourable member and other members might be interested to know that South Australia's houseboat industry relies for its economic survival on retaining the character and natural environment of the River Murray. A healthy working River Murray is essential for the future viability of this important industry, and the aim of this strategy is to protect and enhance the river environment while encouraging investment. This comprehensive marina strategy will encourage job creation and investment in rural South Australia at a critical time when farming communities along the River Murray remain stressed by the worst drought in a century.

Protecting, enhancing and restoring the health of the River Murray is a high priority for this state. The proposed strategy, which will guide the planning decisions of the state and local governments along the River Murray, is designed to encourage tourism-enhancing marina developments without compromising the environmental integrity of the river system. Key elements of this strategy include:

- encouraging the development of off-river marinas to provide home ports for all houseboats (we will get them off the main river);
- provision of site suitability criteria to ascertain the best locations for such marinas; and
- trials of a formal mooring network for touring houseboats to minimise river damage.

In keeping with this strategy, the state government today conditionally approved a new residential marina development at Mannum in the Mid-Murray. The approval of the Mannum Waters residential marina project proposed by Tallwood Pty Ltd follows a comprehensive environmental assessment using the state's major development process. The Mannum Waters development sets a new benchmark for best practice marina and residential developments along the River Murray and is in keeping with the draft strategy published today.

Secure houseboat moorings off river and adopting comprehensive wastewater collection and spill containment will safeguard water quality at the marina. Work associated with the marina project will also enhance stormwater and wastewater treatment in the Mannum area, reduce pollution and improve the quality of inflows into the River Murray. Stage 1 of the development involves an investment of $15 million, which is expected to grow to $165 million once the project is fully constructed. The approved marina development on a 178-hectare site south of Mannum comprises:

- a fully-serviced houseboat marina facility with 156 berths, waste disposal facilities and provision for permanent occupation;
- a residential land division of up to 162 waterfront allotments, along with tourist accommodation and some retail and commercial opportunities;
- stormwater retention basins and a constructed wetland system for water filtration;
- the relocation of the Mannum Wastewater Treatment Plant from the floodplain, with opportunity for the reuse of the wastewater to irrigate the adjacent golf course.

The marina developer must ensure that all water discharge from the project into the River Murray is at least equal to the quality of river water. Tallwood will also be required to secure a water licence and sufficient allocation from the water-trading market, including the consideration of any restrictions that may apply at the time, before being allowed to fill the marina basin two years from today's authorisation at the earliest.

This will ensure that no additional water is taken from the river as the developers will have to buy existing allocations on the market. While the initial consideration of the Mannum Waters project predates the draft marina strategy, many of the issues covered in the assessment process pointed to the need for a consistent strategy for the houseboat industry in the South Australian reaches of the river.

The formal three-month feedback period for the draft Houseboat Mooring and Marina Strategy for the River Murray will run from 18 November until 20 February 2009. Hard copies and CD ROM versions will be available from councils along the river from 18 November. Community information sessions will be held along the river and in Adelaide, with details of this program to be posted on the Planning SA website from 18 November. Feedback from this three-month process will be used to shape the final strategy, which will be used by state and local government to guide planning decisions. That draft is also available online at the Planning SA website.

I think it is important that, while much of the attention has been focused on other issues in the river, we do not forget that many of the commercial businesses in the Riverland and along other parts of the river are struggling and it is important that we should give those people our support. That is why, at this time, with this marina strategy, we can not only help clear up some of the environmental issues, which I suppose are facing the river, but also encourage the growth of that industry to provide some economic support for that region.

MURRAY RIVER COMMUNITIES

The Hon. J.S.L. DAWKINS (14:51): I have a supplementary question. Will the minister indicate how many Public Service jobs have been removed from the communities along the River Murray as a result of the government's shared services program?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:51): That is not something that comes within my portfolio; that is all I can say.

Members interjecting:

The Hon. P. HOLLOWAY: Oh, gee—there's Rob Lucas. Isn't he a laugh! There's Rob Lucas laughing again. He has been 29 years in this place and he has been dumped on the backbench. He is here for one reason—to get back at his leader. That is the only reason he is there.

The Hon. Carmel Zollo interjecting:

The Hon. P. HOLLOWAY: The one in the other place—yes, Mr Hamilton-Smith. We all know that is the only reason he is staying here; he wants to repay the favour of being dumped from the leadership.

HOUSING SA, SMOKE ALARMS

The Hon. J.A. DARLEY (14:52): I seek leave to make a brief explanation before asking the Minister for Correctional Services, representing the Minister for Housing, questions regarding smoke alarms in Housing SA homes.

Leave granted.

The Hon. J.A. DARLEY: I was recently contacted by a constituent who attended an open inspection of an ex-Housing SA property located at 41 Vincent Street, South Plympton. During the inspection, my constituent noted that the home did not appear to be fitted with any smoke alarms. Given that it has been compulsory by law, since 1998, to have smoke alarms installed in homes, pursuant to regulation 76B under the Development Act—and we are reminded on an almost daily basis of the tragic and sometimes fatal consequences of not having them installed—my questions are: can the minister give an assurance that all Housing SA homes have smoke alarms installed and maintained in working order; and, if so, will the minister explain why there seem to be no smoke alarms installed in this particular house?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:53): I will refer the honourable member's questions to the Minister for Housing in another place and bring back a response.

MAIN NORTH ROAD, EVANSTON PARK

The Hon. J.S.L. DAWKINS (14:54): I seek leave to make a brief explanation before asking the Minister for Road Safety a question about the Main North Road at Evanston Park.

Leave granted.

The Hon. J.S.L. DAWKINS: In recent months, the Department of Transport, Energy and Infrastructure has made substantial alterations to Main North Road, adjacent to the new bulky goods precinct at Evanston. One of the alterations has seen the removal of the slip lane that previously allowed traffic from Krieg Road, Evanston Park, to turn right and head north into Gawler. Krieg Road is a main feeder road which carries much of the significant levels of traffic that emanates out of Evanston Park and Evanston Heights. Constituents in the area have pointed out that it is extremely difficult, and even dangerous, to make a right-hand turn without the slip lane. I can testify to this, as I regularly travel past this junction. Community representations were made to the Minister for Transport and DTEI in early September, but there has been no response. My questions are:

1. Will the minister take urgent action to ensure that the slip lane is restored for Krieg Road traffic turning right onto Main North Road?

2. Will the minister investigate why the slip lane was removed, as it seems that its existence would not impact on traffic entering or leaving the nearly completed bulky goods precinct?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:55): I thank the honourable member for his question in relation to what appears to be some major works or upgrades on Main North Road at Evanston Park. He has mentioned that he has made representation to the Minister for Transport, Energy and Infrastructure in the other place and is awaiting a response. I will endeavour to seek some advice from the minister and bring back a response, in particular, the reason for the removal of that particular slip lane.

AMY'S RIDE

The Hon. B.V. FINNIGAN (14:55): I seek leave to make a brief explanation before asking the Minister for Road Safety a question about Amy's Ride.

Leave granted.

The Hon. B.V. FINNIGAN: Following the tragic death of cycling champion Amy Gillett in Germany in July 2005, the Amy Gillett Foundation was formed and has undertaken tireless work to ensure that road users are becoming more aware of cyclists, and vice versa. Will the Minister for Road Safety inform the chamber about this Sunday's cycling event?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs)

(14:56): I thank the honourable member for his question. Members may have already seen an item in the press about this matter. This Sunday the entire length of the Southern Expressway will be closed to cars while 2,000 cyclists embark on Amy's Ride. I am wondering whether the Hon. Mark Parnell is going to be joining them.

The Hon. M. Parnell: I am hoping to.

The Hon. CARMEL ZOLLO: I am very pleased to hear that. I am pleased that the chamber is being represented. Amy's Ride will raise money for the Amy Gillett Foundation and, I am pleased to say, the state government has contributed $30,000 towards the event. As members probably know, Amy was an ambitious Australian in the prime of her life when she was tragically run down by a car while training. Amy was a true member of the nation's athletic elite. She not only had a successful career in rowing, which saw her represent Australia at the Atlanta Olympic Games, but she was also on track to achieving even further cycling success.

Following Amy's death, her husband, Simon, and parents, Dennis and Mary Safe, started the Amy Gillett Foundation with Cycling Australia. The launch of the foundation was supported by the state government, which donated $50,000 in 2005. The Premier also encouraged other state governments, and Victoria and Queensland followed suit.

I have had the pleasure of meeting the foundation's general manager, Melinda Jacobsen, on a number of occasions and have relayed the government's interest in ensuring the success of the foundation and its endeavours. As I am sure members are aware, the state government is working towards a safety target of a 40 per cent reduction in fatalities and serious injuries on the state's roads by the end of 2010.

I would like to congratulate the Amy Gillett Foundation for its dedication to improving road safety. Not only is it raising cycling awareness but it is also assisting Amy's injured team mates with their recovery and career aspirations. In regard to Sunday's event, it is very fitting that it is being held in Adelaide, which is Amy's home town. The ride is scheduled to start at 10am, and the start venue is the Flinders Medical Centre. The expressway will be closed specifically between 10am and 11am to enable participants to ride free of other traffic. There are distance options available to suit all levels of cycling: a 25 kilometre course; a 30 kilometre course; and, for the more adventurous, a 60 kilometre course. All options finish at McLaren Vale.

Members interjecting:

The Hon. CARMEL ZOLLO: I understand that the honourable member is doing the 60 kilometre course. I congratulate him in advance. I am now reminded that two members in the other place are also undertaking this ride, the Hon. Patrick Conlon and Mr Leon Bignell MP. I am sure all the cyclists taking part in Sunday's event will be thinking of Amy and her tremendous success. I urge anyone who is interested in finding out more about Amy's Ride to visit www.amygillett.org.au.

PENOLA BYPASS

The Hon. M. PARNELL (15:00): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning, representing the Minister for Transport, Energy and Infrastructure, a question about the Penola bypass.

Leave granted.

The Hon. M. PARNELL: There have been plans for many years for a road bypass to take trucks off the main street of the picturesque town of Penola in the state's South-East. Back in November 2006, a DTEI submission to the Public Works Committee suggested that the state's contribution to the $15 million Penola bypass project would be $4 million, subject to the Wattle Range Council's successful application for federal funding. These figures, including the state's contribution of $4 million, were confirmed recently on 9 September this year by the CEO of Wattle Range Council, Mr Frank Brennan, on ABC local radio.

However, in a letter dated 8 September—the day before that radio interview—Trudi Meakins, executive director of DTEI, wrote to Frank Brennan, stating:

> I am pleased to advise that $8.85 million has been committed to the Penola bypass under the Long Life Roads Program for expenditure in 2008-09...I understand that the Wattle Range Council has also made a $2 million allocation towards this project and is progressing with land acquisition of the proposed bypass corridor.

The letter continues:

As the project estimate for the whole bypass at this stage exceeds the available combined budgets of DTEI and Wattle Range Council, I encourage your council to continue to lobby the Australian Government for funding to complete the whole project. Until additional funding is provided, I believe the best way forward is to apply the State Government's funding of $8.85 million towards construction of the southern section of the bypass only.

According to this letter, the state's contribution has more than doubled from what was previously publicly revealed, from $4 million to $8.85 million, and it has gone from being contingent on matching federal funds to being untied. The other significant change is the reference to the state funding being directed to the southern section only of the bypass. I point out to members that the southern section will not reduce the number of any trucks that currently pass through Penola. It is purely designed for new additional trucks harvesting blue gums.

Trucks that currently travel between Mount Gambier and Adelaide will still need to pass through the heart of Penola. In the meantime, and without any further notification of federal funding, the council has commenced compulsory acquisition of the land for the bypass, a process which has been highly distressing for the residents affected. My questions of the minister are:

1. What is the state government's actual funding contribution to this project?

2. Will the state's contribution continue to be contingent on matching federal funding or does the state government intend to fund the majority of the project on its own?

3. What is the point of the state government funding a road bypass that will not remove one additional truck from the heart of Penola?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:03): I will refer that question to my colleague in another place to get the details, but I will just make the comment that this government is very mindful of the need to protect communities, particularly in our regional areas, and I think that, whatever the figure is, this government is very generous to rural communities in terms of the provision of key infrastructure.

GOVERNMENT CONTRACTS, PROBITY

The Hon. R.I. LUCAS (15:03): I seek leave to make a brief explanation before asking the Leader of the Government a question about probity guidelines applying to major government bidding contracts.

Leave granted.

The Hon. R.I. LUCAS: On Monday 22 September this year, the Rann government announced, immediately after a cabinet decision, the names of three successful companies who were shortlisted for the $1.1 billion desalination plant project. Those companies were Addwater, Water First and Adelaide Aqua. The Rann government also announced that there were strict probity guidelines applying to processes such as this and to everyone involved in the processes, including obviously the final decision-makers: the ministers in the cabinet.

My question to the Leader of the Government is: did the probity guidelines that applied to the process for shortlisting bidders for the $1.1 billion desalination project prevent individual Rann government ministers from attending fundraising functions organised by the fundraising arm of the Labor Party (SA Progressive Business) and hosted by companies associated with one of the successful bidders?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:05): I will refer that question to the relevant minister responsible for the letting of those contracts and bring back a response. I do know that this government has set in place strict guidelines, and we all know why that happened. I am sure everybody here remembers what happened, and I refer to the water outsourcing contract back in the 1990s. Remember the debacle over that when there were late bids and all that sort of thing? As I said, following what happened in those days, the government has strict guidelines. The responsibility for this matter is the relevant minister, and I will refer the question to him.

GOVERNMENT CONTRACTS, PROBITY

The Hon. R.I. LUCAS (15:06): I have a supplementary question arising from the answer. Given that the minister cannot outline what the probity guidelines are, how can he assure the council that he, as a minister who helped make the final decision, did not breach one of those probity guidelines during the process?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:06): I have no idea who the contractors were who were involved. That matter obviously is in the hands of those making the decision.

GOVERNMENT CONTRACTS, PROBITY

The Hon. R.I. LUCAS (15:06): I have a supplementary question arising out of the answer. How can the minister give an assurance to the council or the community that he has not breached the probity guidelines if he is not in a position to know what they are? I am not asking overall: I am asking whether he is allowed, as a Rann government minister, to attend a fund-raising function organised by the fund-raising arm of the Labor Party and hosted by a company associated with one of the bidders. It is a simple question.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:07): We all know what the Hon. Rob Lucas is on about; these sorts of issues are his specialty. Try as—

The Hon. R.I. Lucas: It's a simple question.

The Hon. P. HOLLOWAY: It's not a simple question. The honourable member knows that there are certain ministers who are responsible. It is those members who know who the relevant tenderers are, and I have no doubt that they will have complied rigorously with whatever requirements were placed upon them.

Members interjecting:

The PRESIDENT: Order!

RECLAIM THE NIGHT

The Hon. I.K. HUNTER (15:07): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about Reclaim the Night.

Leave granted.

The Hon. I.K. HUNTER: Reclaim the Night is held internationally on the last Friday in October. It began in Rome in 1976 as a protest against the 16,000 reported rapes of women in one year. The concept was picked up around the world, and I understand it has been observed in Australia since 1978. Will the minister provide the chamber with the details of this year's Reclaim the Night?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:08): I thank the honourable member for his most important question and his ongoing interest in these very important policy matters. This year marks the 30th anniversary of Reclaim the Night events which traditionally focus on rape and sexual assault on the streets. I am pleased to inform members that this year's event is changing its focus to better reflect the reality of violence against women and to celebrate the resilience and achievements of women in our community.

Statistics about violence against women show that most of it does not occur randomly on the streets at all, as many of us believe. Rather, the overwhelming number of attacks on women—93 per cent, in fact—are inflicted by someone who is known to them. This will be the focus of this year's event. The devastating statistics relating to assaults against women continue to occur. According to the 2005 Personal Safety Survey Australia, 19.1 per cent of women in South Australia have experienced sexual assault since the age of 15. It also shows that women are more likely to be sexually assaulted by a current or previous partner or a family member or friend than by a stranger.

The state government has shown its commitment to women's safety by reforming the rape and sexual assault laws, and we remain committed to addressing the insidious nature of violence against women.

As part of the Rann Labor government's commitment to safety, we are currently undertaking a thorough review of South Australia's domestic violence legislation. Coordinated by the Women's Electoral Lobby, this year's Reclaim the Night event is being held between 7pm and 11.30pm at the Yungondi Courtyard at the Lion Arts Centre this Friday 31 October.

Tomorrow night will feature family-friendly entertainment, as well as food and other stalls. Lillian Holt, an inspiring Aboriginal woman, who was awarded the Gandhi/King/Ikeda Peace Prize in 2004 for her work in peace and reconciliation, will be the guest speaker at the event. Participants will also be entertained by DJ Narelle Walker, as well as Sista Act and Women of Country, the seven dynamic passionate deadly sisters who were the hit of the Adelaide Fringe Festival. Red hot cabaret trio The Three Chillies, who performed to sell-out crowds at the 2007 Feast Festival, will also be performing.

The organiser, the Women's Electoral Lobby (WEL), is an independent women's lobby group working to protect the rights of Australian women. WEL lobbies politicians, unions, employers, educationists and others on behalf of women and seeks to change social attitudes and practices that discriminate against women or create barriers to women participating fully within the community.

I congratulate WEL for placing the safety of women at the forefront of its agenda. It is the right of all women to feel safe in their homes and in the community, and Reclaim the Night provides a significant opportunity to engage with the community on this issue. It is also a great opportunity to catch up with friends, meet new people and have fun in a family-friendly atmosphere. I encourage members to attend and demonstrate their commitment to women's safety.

EDUCATION DEPARTMENT

The Hon. R.L. BROKENSHIRE (15:12): I seek leave to make a brief explanation before asking the Minister for Gambling, representing the Minister for Education, a question about education department bureaucracy.

Leave granted.

The Hon. R.L. BROKENSHIRE: A constituent has contacted me concerned about the welfare of his son, who I will call 'Brad' for the purpose of this question, although that is not his real name. Brad was racially abused at a particular school in the metropolitan area to the extent that Brad's father, on psychological advice, withdrew him from the school.

That same psychological advice recommended that Brad be reunited with his primary school friends at a particular public school. Brad's father has requested that Brad be transferred to that school to improve his mental health. Based on psychological advice, Brad is not attending his old school and unfortunately, therefore, has not been attending school for approximately eight weeks. The department, if it holds a view contrary to the treating psychologist, has not even sought an independent assessment of Brad for over eight weeks. My questions are:

1. Why has the minister taken so long to consider this request?

2. Will the minister grant to Brad forthwith a transfer to the school where it is considered his psychological condition will considerably improve?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:14): I thank the honourable member for his most important questions. I will refer his questions to the Minister for Education in another place and bring back a response.

SPORTING FACILITIES, AUDIT

The Hon. T.J. STEPHENS (15:14): My question is to the Minister for Correctional Services, representing the Minister for Recreation, Sport and Racing. When will the minister commission the long overdue audit of the state's sporting facilities, for which Sports SA and the opposition have been calling for years?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (15:14): I will refer the honourable member's question to the minister in the other place and bring back a response.

TELSTRA BUSINESSWOMAN OF THE YEAR AWARDS

The Hon. J.M. GAZZOLA (15:14): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the Telstra Businesswoman of the Year Awards.

Leave granted.

The Hon. J.M. GAZZOLA: Since 1995, the Telstra Businesswoman of the Year Awards have been recognising and rewarding Australian women for their contribution to business in the wider community. Can the minister provide information on today's announcements of the Telstra Businesswoman of the Year Awards?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:15): This afternoon, I had the great honour of speaking at the South Australian Telstra Businesswoman of the Year Awards luncheon, which is always an inspiring event.

An honourable member interjecting:

The Hon. G.E. GAGO: I see that the honourable member opposite is obviously very supportive of this event and the awards that acknowledge the quite remarkable efforts of a number of very talented women. The depth of talent and inspirational stories showcased at today's event were a reminder of the diversity of skills and dedicated women who are currently achieving great things here in South Australia.

Tammy May, the owner of debt management specialists, MyBudget, was the 2007 winner of the Businesswoman of the Year Award, and she provided an inspirational account of her year. Tammy explained how she started her business in 2000 at the age of 22, which is quite remarkable, and she now employs around 30 staff who service more than 2,000 clients. As a young mother of two young children and two stepsons, she talked of the challenges she has faced and the importance she places on helping her clients which have driven her success.

I am pleased to share the details of the winners of this year's awards: Business Owner Award, Angela Giacoumis; Private and Corporate Sector Award, Paulette Kolarz; Community and Government Award, Kate Gould; Business Innovation Award, Jane Mussared; Young Businesswoman Award, Paulette Kolarz; and the South Australian Telstra Businesswoman of the Year was Paulette Kolarz.

As the member noted, the Telstra businesswomen awards have been acknowledging and rewarding Australian women for their contribution to business in the wider community since 1995. They showcase successful women role models and provide a powerful platform to help redress the ongoing under-representation of women in management.

Currently, women account for 46.1 per cent of the South Australian workforce. According to the 2008 census of Women in Leadership, released by the Equal Opportunity for Women in the Workplace Agency this week, only 10.7 per cent of executive managers of the Australian Stock Exchange top 2,000 listed companies are women. There are only 8.7 per cent of women on the boards of these companies, and only 2 per cent have female chairpersons. As few as four of these companies have a female CEO. This is obviously something we need to keep working on.

Women report that they find it difficult to juggle their work-life responsibilities with full-time employment, particularly in leadership positions, and it is imperative that support around women's caring responsibilities are seen as a priority. According to a US study, for every $1 a company spends on flexible work or family benefits, there is a return of between $2 and $6 through reduced absenteeism, increased motivation and higher rates of retention. So, as you can see, Mr President, it is smart business practice.

Women need to be given every opportunity to participate in the workforce, and that is why the South Australian government has established the Women's Employment Participation Initiative (WEPI). The initiative aims to promote the economic and social benefits of employing women while, at the same time, clearly outlining to women the positive initiatives the South Australian government has implemented to assist them in gaining sustainable work. Diversity of talent breeds powerful businesses, and this is reflected in the commercial results. For the past two decades, firms that are majority owned by women have grown at about twice the rate of other firms.

The Rann government is committed to enabling women to reach their potential as leaders in every field. In 2004, we set ourselves gender balance targets in South Australia's Strategic Plan, and our first target is to achieve a 50 per cent representation of women on state boards and committees. Our aim is to create the critical mass that is believed to undermine the indirect and systemic discrimination that occurs. As of 1 October 2008, I am pleased to say that we reached

45 per cent (a figure that represents a 30 per cent increase) of women on state boards and committees in just four years.

I assure members that this would not have been achieved without a very public target with which to measure progress. Having women on boards and committees makes great sense for business. A recent study by a leading independent business research organisation in the United States found that Fortune 500 companies with high representations of women are significantly outperforming those with the lowest. This emphasises the most understated aspect of equal opportunity in the workplace, that is, that the benefits are not only profound but mutual for both employers and employees.

CHILD PROTECTION CASE

The Hon. A. BRESSINGTON (15:21): I seek leave to make a brief explanation before asking the minister representing the Minister for Families and Communities a question about a child protection issue.

Leave granted.

The Hon. A. BRESSINGTON: Last Thursday I had an 11-year old boy arrive at my office after running away from his foster parents. This young person has been in care for seven months and has been removed from the care of his father, but not because of allegations of abuse and neglect. I notified the minister's office that the boy had come to my office, and she then asked his case workers and a trouble-shooter from the department to come and negotiate. This child was well aware of his rights and knew that he could not be removed from this place. He had come here for sanctuary and all he was asking for was the opportunity to spend some time with his family.

The family member is his aunt, with whom he has been involved since he was a small child, and there is no order against the aunt to not have contact with him, but for some reason contact has been completely cut off and the child has been isolated from his family. I have a six-page litany of the mishandling of this case since this child was five years old. The first incident that started to change his behaviour—

The PRESIDENT: The honourable member will refrain from opinion.

The Hon. A. BRESSINGTON: There is no opinion. It's a six-page litany.

The PRESIDENT: I thought it was your opinion.

The Hon. A. BRESSINGTON: No, it's not.

The PRESIDENT: Isn't it your opinion that that is wrong?

The Hon. A. BRESSINGTON: What's wrong?

The PRESIDENT: The stuff on the paper.

The Hon. A. BRESSINGTON: This?

The PRESIDENT: Yes.

The Hon. A. BRESSINGTON: No; this is right.

The PRESIDENT: So, it is your opinion that it is right?

The Hon. A. BRESSINGTON: No, this is a public interest disclosure statement.

The PRESIDENT: But is it your opinion that it is right?

The Hon. A. BRESSINGTON: No, I haven't made it—it has been handed to me and there are supporting documents for this.

The PRESIDENT: Carry on.

The Hon. A. BRESSINGTON: This child's behaviour began to deteriorate when he was five years old and claimed to have been sexually abused by a 10 year old student at his school. Families SA did not pursue an investigation into this because the assault had apparently occurred by someone within the same age group as this child. This situation has escalated now to where last week the young boy ran away. All he wanted was contact with his family. I spent 6.5 hours negotiating with department workers and the boy to get him to go back into foster care. He agreed to go back into foster care on the undertaking that an assessment would be made of his aunt so that he could spend time with her. The department agreed to that and there was supposed to be a

meeting on Wednesday morning. On Tuesday I was informed that those issues would not be discussed at the meeting on Wednesday. As a result, I heard this morning that this boy has again run away.

In the meeting this boy made very clear that if he ran away again he would not be found and that he would rather be unsafe in a place of his choosing than in the care of his foster parents. I am not saying that his foster parents are not doing a good job—they have a tough job—but my questions are:

1. Will the minister undertake to meet with the father and the young boy to discuss the serious matters included in the public interest disclosure and sight the supporting documents I mentioned?

2. Is the minister aware that family contact has been absolutely discontinued, despite the undertaking of case managers in my presence that they would complete an assessment of a family member so this boy could be placed in the care of the aunt, if she is seen to be fit?

3. Is the minister aware that the department made an undertaking to this young boy in order to get him back to foster care and that it broke its word and should now take responsibility for the fact that today he has run away again?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (15:25): I thank the honourable member for her important questions, essentially in relation to a child protection issue. I undertake to refer the matter to the Minister for Families and Communities in the other place and bring back a response. I do note the honourable member's involvement in trying to assist this constituent, as well as the assistance provided by the minister's office in the other place to ensure that there is a good resolution.

MID NORTH REGIONAL LAND USE FRAMEWORK

The Hon. C.V. SCHAEFER (15:25): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning questions about the Mid North Regional Land Use Framework.

Leave granted.

The Hon. C.V. SCHAEFER: I have been reading with absolute astonishment the regional land use framework for the Mid North (a draft consultation of some 55 pages), because a plan indicates to most people something that is moving forward rather than a statement of the present. The only thing I have been able to discern from this plan is a map on page 23 showing environmental and cultural assets and, I presume, the predicted plan for them. A blue line marks protected coastal habitats, features and existing developments by establishing coastal zones and managing future development. That line runs from south of Wandera East to well north of Port Germein. It is joined then to the north by yet another protected area. My questions are:

1. Is this area projected also to be the marine park?

2. Is the area or is it not currently under the auspices of the Coastal Development Branch?

3. Is it or is it not under the auspices of the Natural Resources Management Board?

4. How many of these bureaucracies are overlapping in order to draw another set of lines on a map?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:27): The Mid North Regional Land Use Framework—and a Far North Land Use Framework was issued at the same time—relates to land use and specifically zoning. A number of agencies, obviously, are concerned with how land use happens, but it is the job of the Department of Planning and Local Government, Planning SA, to be concerned with zoning. Quite clearly, one issue that has come up in recent times has been the protection of coastal areas, and there are a number of good reasons for that.

One reason, of course, is increasing concern about climate change and rising sea levels. Of course, our coastal regions are under a level of attack that is much greater than previously envisaged. It is therefore important that we preserve what we have left of our coastline. Recently, we encountered issues in relation to the outer council areas. For example, we have the Eyre

Peninsula Coastal Strategy, which was developed by all local governments and councils in the area specifically to protect that coastal area.

Within that zoning, of course, existing uses are protected. If agriculture, for example, has been taking place right up to the edge of the coast, that can continue. Clearly, we need to ensure that we have protective zoning along most of our coastline to ensure that we do not get development which will ultimately be threatened by rising sea levels or, as we have seen in the eastern Eyre Peninsula, development which will endanger the amenity of some of our key coastal assets.

All that is being envisaged here is zoning that will apply for any future development in relation to that area covered by those maps. But, of course, in managing that area, the Coast Protection Board and the Natural Resources Management Board (and others) may well be involved in decisions about the future use of that land. What is important is that we should get a form of zoning for that coastal strip that protects that area from inappropriate development. That, I think, answers the key part of the question, but I point out that the regional land use framework—for the Mid North as well as for the Far North—is out for discussion and, if the honourable member (or anyone else, for that matter) wishes to make a submission in relation to that, that will obviously be considered in the final version.

Again, I make the point that, while a number of agencies might well be used in controlling use of a particular form of land, what the strategy seeks to do is to provide direction as to an appropriate form of zoning that will govern future development within that area.

ANSWERS TO QUESTIONS

FLEURIEU PENINSULA SWAMPS

In reply to the **Hon. SANDRA KANCK** (7 May 2008).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Environment and Conservation has provided the following information:

1. Mr Peter Bulman was engaged by Primary Industries and Resources South Australia and the Department of Water, Land and Biodiversity Conservation to project manage an independent assessment of two methods used to determine buffer distances between Fleurieu Peninsula swamps and plantation forestry.

I am advised that decisions regarding the project and its delivery were made jointly by the representatives of Primary Industries and Resources South Australia and the Department of Water, Land and Biodiversity Conservation.

2. The former minister for environment and conservation and the Minister for Forests agreed that an independent assessment of the methodology used to determine buffers between Fleurieu wetlands and plantation forestry would be undertaken. The particular administrative arrangements were not the subject of prior approval of the Minister for Environment and Conservation.

3. The Department of Water, Land and Biodiversity Conservation and Primary Industries and Resources SA agreed to jointly fund the project.

4. The practice of contracting work through third parties, including private companies, who, in turn, sub-contract other parties to undertake that work is common practice.

5. Mount Lofty Ranges Private Forestry has invoiced the Department of Water, Land and Biodiversity for the amount of $13,750 (including $1,250 GST). The payment of was made on 11 October 2007. The payment is reflected in the financial records of the Department of Water, Land and Biodiversity Conservation as expenditure to Contractors—Mount Lofty Private Forestry.

SHINE SA AND THE AIDS COUNCIL OF SA

In reply to the **Hon. A.L. EVANS** (14 February 2008).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Health advises:

1. SHine SA has never been directed or advised to disassociate itself from the AIDS Council of SA and actually has had a long and professional relationship with the AIDS Council since it was established in the mid 1980s. SHine SA and the AIDS Council of SA work in collaboration to raise awareness about HIV/AIDS with the community, health and education professionals.

2. SHine SA remains the preferred supplier of sexual education material in South Australian schools. The Focus Schools program aims to improve the sexual health, safety and wellbeing of young South Australians through professional development for teachers and education programs for young people in government schools in years 8, 9 and 10.

Increased notifications of Chlamydia have resulted from prevention and education initiatives such as SHARE/Focus Schools, the annual Sexual Health Awareness Week and the Commonwealth's Chlamydia Strategy (2006) which has increased the demand for testing and clinical services. By increasing testing of Chlamydia, more infected people are diagnosed, treated and their contacts follow-up before further spread of the sexually transmitted infection occurs.

3. The increase in Health funding to SHine SA in 2006-07 was due to a capital grant contribution for the building of the Woodville GP Plus Health Care Centre.

FIELD RIVER VALLEY

In reply to the **Hon. S.G. WADE** (17 October 2007).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Environment and Conservation has advised:

1. The draft code of practice for wastewater overflow management is currently in the final stages of consultation with stakeholders, in particular local councils. Consultation of the draft code has already taken place with both SA Water and United Water, and as a result, SA Water has established and begun implementing its 'Preliminary Wastewater Overflow Abatement Plan (Wastewater Networks)' in response to the draft.

2. The EPA is in close contact with SA Water and United Water and receives and reviews notifications about overflows that enter either a watercourse directly or indirectly, or if the volume is over one megalitre. Consistent with the preliminary wastewater overflow abatement plan, if a particular site has recurring blockages, a regular program of clearing the affected network can be implemented.

FLINDERS CHASE FIRE

In reply to the **Hon. J.M.A. LENSINK** (13 September 2007).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Environment and Conservation has advised:

1. On the afternoon of Thursday, 6 September 2007, a routine prescribed burn was conducted by the Department for Environment and Heritage (DEH) in Flinders Chase National Park on Kangaroo Island (along Yacca Flat Road near Remarkable Rocks) as the first stage of a 950 hectare ecological burn. This was the seventh burn of this type conducted over the past 18 months.

The burn was planned and conducted (as were the previous burns) in accordance with the relevant procedures and prescriptions. These procedures (South Australia Prescribed Burning Code of Practice) and prescriptions (Burning Prescriptions for South Australia) have been developed jointly with other fire agencies in SA (in particular SA Country Fire Service (CFS), Forestry SA and the Bureau of Meteorology) and endorsed by the SA Government Agencies Fire Liaison Committee

The weather conditions on Thursday, 6 and Friday, 7 September 2007 were drier and windier than predicted, causing the burn to reignite and spread into the adjoining area that was already approved for burning later in the year. The decision was made by the DEH burn incident controller, in consultation with the DEH state co-ordinator and local CFS officers, to allow the fire to continue to burn, with DEH and CFS crews monitoring and managing the situation.

The total area burnt during the fire was approximately 1,000 hectares. Some minor damage to signs and roadside posts occurred and two vehicles suffered minor paint damage.

DEH conducts a debrief of staff and operational review of all bushfire incidents and prescribed burns its staff attends as a matter of course to ensure procedures remain appropriate and to make necessary improvements to the conduct of future bushfire and prescribed burn operations. In line with this policy, a review of the Yacca Flat prescribed burn will occur.

2. I have been advised that current burning guidelines do not need reviewing as a result of this fire. These guidelines have been agreed to by the government agencies that make up the SA Government Fire Liaison Committee (committee representatives are from DEH, CFS, Forestry SA, SA Water and other relevant agencies). The total damage caused has been estimated at $6,260.

FIELD RIVER VALLEY

In reply to the **Hon. S.G. WADE** (15 March 2007).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Environment and Conservation has advised:

1. The response to the member's question of 8 February 2007 was given in the context of particular events that occurred in the Hallett Cove region during 2004 and 2005, which was the information I had been provided by the Environment Protection Authority (EPA).

I have since been informed that the EPA is aware of the two incidents to which the member refers in July and September 2002. The July 2002 incident resulted from the accidental digging up of a sewage pumping main by an earthworks contractor, a cause that is not related to the reliability of the sewerage system as a whole. The incident in September 2002 was as a result of a sewer main blockage in Hallett Cove.

Whilst it is true that these overflow incidents did not arise from power outages, the dominant cause of high volume overflows in the Christies Beach sewerage system drainage area since 2002 has been by power outage. It is for this reason that the EPA undertook its audit of the system in 2004 and why SA Water, the owner of the infrastructure, has committed dedicated resources to help avoid recurrences.

2. United Water and SA Water have undertaken a comprehensive risk assessment on environmental impacts for all of the major wastewater network assets across metropolitan Adelaide. This was undertaken to enable an overflow abatement program to be developed and prioritised in accordance with the EPA's draft code of practice for wastewater overflow management. This risk assessment is reviewed annually to take into account any changing circumstances.

The draft code of practice for wastewater overflow management was developed by the EPA in consultation with SA Water, United Water, the Department of Health and local government. The aim of the code of practice is to provide a guideline for wastewater authorities and operators to ensure effective management and continual improvement to the operation of wastewater systems.

3. I can confirm the second source of contamination is of non-human and non-livestock origin and advice from the Department of Health is that the likely cause is pigeons roosting in the Field River immediately downstream of Lonsdale Road. In response to the contamination the Department of Health advised the City of Marion to erect permanent signs warning the public to avoid contact with the water body, which council has undertaken.

I asked the EPA to contact the City of Marion and provide an update as to actions that have been undertaken in relation to this source of contamination. Council informed the EPA that it is acutely aware of the contamination that is resulting from the nesting pigeons and provided an overview of the actions that have been undertaken over a period of five years to address the issue. These include:

1. Actions to limit the number of pigeons nesting in the area such as trapping and shooting. These had limited effect. Baiting was also considered but dismissed due to the untargeted nature of the activity.

2. In conjunction with the Department of Transport, netting was placed on the relevant embankments to try to prevent the birds from accessing and therefore nesting in the area. This is still in place.

3. The signage as requested by the Department of Health has been erected where the rived meets the beach.

I am informed that the EPA is satisfied that the council is taking all reasonable and practicable measures to address this issue.

WORKCOVER CORPORATION ANNUAL REPORT

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (15:31): I table a copy of a ministerial statement relating to WorkCover 2007-08 Annual Report and Financial Results made earlier today in another place by my colleague the Hon. Paul Caica, Minister for Industrial Relations.

WATER (COMMONWEALTH POWERS) BILL

In committee (resumed on motion).

(Continued from page 524.)

Clause 3.

The Hon. P. HOLLOWAY: Before we adjourned for lunch today, I mentioned some comments that Professor Sandford Clark had made some years ago in relation to the future of the Murray. For the record, I will provide the correct quotation. He was talking about issues from some 20 or 30 years ago now, but it still applies. He said:

> The present wrangle stands as wry testament to the fact that, for all the acknowledged water management expertise accumulated by Australia in the last 80 years, there has been no notable genetic revolution in our political stock.

That is the quotation in full that I was paraphrasing before lunch.

Before lunch the deputy leader of the opposition asked a question in relation to legal advice, and I can provide some more information. I have a statement here, which I will read out and it can then be tabled. It is from the acting assistant crown solicitor, Advising, and the subject is 'Proposed Amendment to the Water (Commonwealth Powers) Bill 2008', dated 30 October. It states:

> I understand that an amendment to the Water (Commonwealth Powers) Bill 2008 (SA) has been proposed. The amendment seeks to alter the definition of 'critical human water needs' contained in the bill. You seek advice as to whether the proposed amendment may affect the operation of the Water Act 2007 (Commonwealth).
>
> Altering the definition of 'critical human water needs' in the bill may give rise to an argument that South Australia is not a 'referring state' for the purposes of the proposed section 18B of the Water Act 2007 (Commonwealth). If that was so, then the water Act would not operate in South Australia in many important respects.
>
> The proposed amendments to the Water Act rely on the adoption of a uniform approach across the various basin states. Deviation from the agreed uniform approach necessarily creates a level of legal uncertainty and risk. In light of the very short time frame in which you requested this advice, I have merely stated my conclusions on these issues. Fuller advice, setting out my reasoning for arriving at these conclusions, will be provided in due course on request.

I table that document. Clearly, that is the advice, suggesting that it may well create issues in relation to the referral of powers. I can also advise the council that the commonwealth Solicitor-General, I understand, has provided advice. Of course, it is not our prerogative to provide that advice, but I can inform the committee that the commonwealth Solicitor-General has provided similar advice in relation to this particular matter, so that is the legal question.

In relation to the Hon. Mr Brokenshire's amendment, I can also provide some other information, just from having discussions with some of my colleagues over the lunch break. The Hon. Mr Brokenshire's amendment seeks, under the definition of human needs, to elevate permanent plantings within the hierarchy of essential human needs. At the moment, there are a number of irrigators, for example, who have permanent plantings of valencia oranges which are no longer required. In fact, a number of them have been pulled because there simply is no longer a market for them. In relation to oranges, of course, navels have taken over the market.

Are we seriously suggesting that those plantings should take priority over or be of equal priority with human consumption needs or industry or, indeed, other forms of agriculture like vegetables, for example? If you are talking about the need for food, why should a valencia orange tree be elevated above the growing of vegetables or other food crops?

The Hon. R.L. Brokenshire interjecting:

The Hon. P. HOLLOWAY: Yes, I know what you are saying; if it was navel oranges that were being produced. However, why would you protect trees like valencias which people are pulling out because there is no longer a market for them? It just does not make sense.

The Hon. R.L. Brokenshire interjecting:

The Hon. P. HOLLOWAY: The honourable member can argue it in a moment, but I simply make the point that this motion, quite apart from the legal threat it poses, is illogical even in terms of what it is seeking to do. Although, what I suppose it is really seeking to do is to play politics in the Riverland. Perhaps, on that level alone, it might make sense.

The Hon. R.L. BROKENSHIRE: On a point of order, twice now the minister has said to this chamber that I am playing politics and referred specifically to the Riverland. I ask that that be withdrawn because I have never referred specifically to the Riverland. I am talking about the River Murray where there are permanent plantings right along the river. That is an offensive comment by the minister and I ask that it be withdrawn.

The CHAIRMAN: I remember that the Hon. Mr Lawson referred to the good politics of it, but the honourable member did not ask that that be withdrawn. I think there is a lot of politics in this bill.

The Hon. P. HOLLOWAY: Indeed, and that is really what we are talking about here. However, let me also develop an argument in relation to this particular idea that, somehow or other, we elevate permanent plantings for crops whether they are in vogue or not. If we accept this principle, that somehow or other we elevate crops to the level of essential human need that we are reserving water for, Victoria could say, 'Okay, South Australia's doing it, so let's do it, too. We've got far more permanent plantings in this state, and we've got limited water so we will store it in our reservoirs because we've got so much more than South Australia.' Will we then have this massive volume of water presumably stored for what will now become essential human need?

I would suggest that that would be very much against the interests of South Australia. While it might sound wonderful to have this particular proposal for South Australia to refer these extra powers because we want to help our irrigators—some of whose permanent plantings will be under threat unless we can get at least 30 per cent of the water allocation this year—if this were to come about, what will be the ultimate outcome?

I would suggest, given the politics that will almost certainly apply to this (Victoria has not yet passed its legislation but is expected to do so very soon) that there is a very real threat in relation to what might happen here given that those upstream states have far more permanent plantings than we have. If we change this bill, we might well be the losers.

I want to make some other comments, now that I have tabled that legal advice from the acting assistant crown solicitor. The opposition has been calling for the commonwealth to have the power to manage the system as a whole in the national interest and to apply water-sharing rules equitably. If we specifically prescribe permanent plantings as critical human water needs—and therefore accord them the highest priority use of water in the basin without any bounds or consideration of equity, viability or socio-economic impact—then any permanent plantings would be provided with water regardless, and this makes a mockery of the definition of what is critical.

I remind members that the current definition provided in the bill is sufficiently broad to encompass consideration of permanent plantings that are truly critical—that is, they have a prohibitively high social, economic or national security cost. It is only appropriate that the authority develop the detail in the basin plan based on independent scientific expertise and in a way that considers all the social, economic and environmental implications.

This amendment would prescribe that such plantings were to be included in relation to critical human needs water, regardless of the severity of the drought situation or priorities for protecting communities and economies in any given circumstance. If South Australia proceeds with this amendment, you can be sure that Victoria and other states would seek to replicate and extend

the effect of this to apply to their significant permanent plantings, many of which could not be called family farms and are, in fact, owned by managed investment schemes.

To highlight this fact, I give an example from yesterday's *Weekly Times* where it is reported that Timbercorp has 120,000 megalitres of high security water for its permanent plantings in Victoria, worth apparently $300 million. This is just one company and hardly a family farm. There are many more such examples, particularly in the Sunraysia, and the effect of this would undoubtedly lead to less water in the bucket for South Australia.

This amendment will only further entrench the past 100 years of parochial interests and divisiveness across the basin. The amendment will not provide certainty for irrigation communities in the Riverland as promoted by the Hon. Robert Brokenshire. For a start, it would apply only if the commonwealth government in future chose to make changes to the critical human water needs sections of its Water Act 2007.

It would not apply under the initial reference of powers, and the authority would not need to take into consideration South Australia's definition in developing the basin plan. It is likely that the commonwealth would be limited in making future changes because it would not be able to make uniform amendments that apply to all jurisdictions. That is against the cooperative spirit of reform.

I remind members that this government has already put in place measures to provide a critical water allocation to viable businesses with permanent plantings as a contingency measure under this drought. This state would continue to have the power to put in place these kinds of measures under extreme circumstances regardless of this legislation.

So, in a number of respects, this is an ineffectual amendment that poses unintended consequences both legally and politically, and puts at risk those family farms that the honourable member now seeks to protect.

The CHAIRMAN: I will give the Hon. Mr Brokenshire the opportunity to respond and then I intend to put the amendment. We have had a fair bit of discussion.

The Hon. R.L. BROKENSHIRE: I appreciate your allowing the indulgence. I have just two more things and then I am happy to pull those matters that I was going to raise in further clauses. If I can just have some indulgence on this important clause: first of all, as a member of a small Independent party, I am not privy to information concerning the Attorney-General's Department and Crown Law, but I have actually had further legal advice from a person who is an expert in constitutional law. My advice in summary is that what we are putting forward is right and proper, the way the bill has been drafted. Indeed, if the drafting, in turn, is wrong, the whole bill should be withdrawn and fixed.

I have two questions for the minister, based on everything he said. First, does the same situation apply to all the industry in Adelaide? The minister has indicated that industry would certainly come within the purview of critical human need. Does the same situation then apply to industry as applies in relation to permanent plantings, in that there would not be the guarantee that he indicated earlier in response?

Secondly, I am still waiting on an answer from the minister. The minister has not answered a question specific to this matter, which I raised in my second reading speech, namely: how did this definition come to be and what did all the ministers consider it to be, given that it has specifically been put in there for a purpose? I think the committee needs some answers to this question. Again, mine is a small Independent party, but another piece of constitutional legal advice says that what we are putting up here is right and proper if the parliament wants to pass it and not rubber stamp the dictatorship of premiers and executive government.

The Hon. P. HOLLOWAY: No-one is suggesting that the state cannot amend its act. We could have done it with the cooperative companies scheme or with terrorism. We could have had a different reference: it is just that it would have run the risk of potentially undermining it. Back in the 1980s when we referred powers in a way similar to this, we could have gone our own way in relation to the companies scheme and made our reference different to those of other states, putting some additional references in that legislation. What would that have done for the companies? It is not that one cannot do it, I would suggest: it is just that it is very unwise to do it, for the reasons I have outlined. I do not think anyone is saying that you cannot do it.

A future government, if it wishes, can take the reference back just as it could in relation to terrorism powers or company powers. The very fact that states have not done it some 20 or 30 years later I think acknowledges that they have been good moves in the national interest, that

what has come out of those national schemes has been very much in the public interest, and I have no doubt that that will be the case here.

The other matter the honourable member raised was the background to why the states had put in this definition. In a period of severe drought, as we are, if you have less water than you would like to have, you have to start dividing it up. What we need, and what this program is all about, is developing a basin plan. We have this independent scientific body to do that. Clearly, some recognition is given of the huge social impact that would result should water not be available for essential industries within Adelaide, but that should be incorporated in the measure.

When this basin plan is worked out, the independent scientific experts will need to take into account relative importance. While all of us accept that we need to do everything we can to ensure that permanent plantings are maintained, that is much higher up in the hierarchy than other uses and, if we have a water shortage, any government here is going to ration water across the community, as is being done in this state. There has to be some rationing which states will do. Ultimately, in the allocation of that, this clause essentially provides that, in a situation where you do not have the water that you would like to have, you have to split up the priorities.

I am quite happy to defend the definition that is in there. As I said, it covers some aspects of non-human consumption, but you would expect the independent people to weigh up the relative benefits of that to other uses such as industry in Adelaide. I guess we would know that industry in Adelaide would have a very high level of employment relative to water use compared to some agricultural uses. That is why one would expect that, on that social index, it might be higher up the hierarchy. Clearly, that is what will have to be worked out in the basin plan.

The Hon. M. PARNELL: My question is to you, Mr Chairman, and it is about process. We are debating the honourable member's amendment. I do not want to disrupt the flow of the debate, but I do have some other questions that relate to this clause. So, once the amendment has been dealt with, will I still have the opportunity to ask those additional questions, or should I defer them to a different clause?

The CHAIRMAN: No; you will have the opportunity to ask further questions. If you have any questions for the mover of the amendment, you should ask them now.

The Hon. M. PARNELL: No; they are on a different topic but within the clause still.

The Hon. R.D. LAWSON: First, I thank the minister for tabling that legal advice, although, as he readily acknowledges, as does the author, it is very preliminary advice, but I understand its import. I have a question for the mover so that I can better understand his motivations behind the amendment. The Hon. Mr Brokenshire, as everyone knows, has been a vocal champion of the dairy industry and of dairy farmers in South Australia who have been put upon in recent years.

If one elevates the preservation of permanent plantings to the status of critical human need, that would necessarily mean that, as allocations come out of the South Australian allocation, those dairy farmers who do not maintain permanent plantings as defined but maintain pastures would actually lose water and entitlements. Has the honourable member given thought to that, and how does he justify preferring Plant Corp and other owners of large permanent plantings ahead of dairy farmers?

The Hon. R.L. BROKENSHIRE: It is not at all a matter of putting permanent plantings ahead of dairy farmers. The fact is that the global amount of water would have to be divided with absolute priority. At the moment, the bottom line is that right now a large number of dairy farmers do not have any irrigation water, and I refer to areas in the Lower Lakes and the Narrung Peninsula, and around that area. In fact, I have been down there and had a look, and they are not irrigating at all.

The point I make with this is that, when it gets to the two most critical human need factors—and I am not talking about the industry the minister is talking about, an industry that could be quickly weaning itself off using River Murray water if the government had the intestinal fortitude to make that happen—I am talking about, first, the critical human need for potable water for human beings and, secondly, the need for food.

The question is: how are those dairy farmers producing that milk? I feel for them and I would love to see them with a water allocation, but they are still in a situation where they have stayed there producing milk because they can buy in grain, they can buy in fodder and they can grow a cash crop if they get a half reasonable winter. Likewise, with vegetables; vegetables are a three or four month crop.

In the case of permanent plantings, it takes up to five years for permanent plantings to produce anywhere near an economic crop, and it has to be kept alive. The citrus up there has died primarily for one reason, and that is that there has not been enough water for production. Also, just to survive, they have also had to select, within the water allocation at the moment, the most healthy plantings. The bottom line is that I have moved the amendment because, first, there is no room to move when it comes to permanent plantings because of the length of time it takes to produce. The second point is the absolute input cost to get to that time. The third point is that there is no other option to keeping those permanent plantings alive from Paringa through to Currency Creek and Goolwa, other than to give them enough water to keep them alive—and that is what this is about.

The final point is that, within all of this, it is already implied under the critical needs that they would be able to access water for their cows. That is the reason the government is spending mega bucks at the moment to build pipelines to the Narrung Peninsula, etc. to provide water to keep the stock alive, and I commend the state and federal governments for this initiative.

Another point is that they are spending money putting pipes down to Currency Creek and Langhorne Creek—using our taxpayers' money—on behalf of the constituents we represent in this place. The fact that we are here as members in a democratic parliament has nothing to do with the executive. It is spending money putting pipes in for permanent plantings. This clause allows us to tighten it up and ensure that water is going through the pipe to keep those permanent plantings alive, but at this point the government is refusing to support the amendment.

The Hon. P. HOLLOWAY: Whether or not we have enough water to put down the pipes depends, ultimately, on whether the water is there. The broader the number of ways you distribute it, the less water there will be. It is just a logical deduction. In broadening this out, what the honourable member is seeking to do is move away from what is accepted broadly as the definition of critical human needs. As the honourable member said correctly, it includes water for stock and the like, but what about vegetable growers? Although their crops are perennial, they require significant infrastructure associated with their production. If they do not have water, obviously their long-term viability is just as vulnerable as well.

That is the whole problem: if we start picking winners, we are going back to exactly what we were trying to move away from. Members must remember that the whole purpose of this bill is to refer powers to the commonwealth so that there can be an independent body to determine such things as the basin plan, which will cover such matters as the allocation of water in times of severe need. The more you play around with this, the more there will be the legal risks we talked about that might bring undone the whole fabric of the arrangement. There is also the opportunity for other states to exploit this in ways that might damage South Australia. Again, I urge members to oppose the amendment.

The CHAIRMAN: I have a question for Mr Brokenshire. Does this take in irrigated pastures, such as lucerne and other permanent pastures for dairy farmers?

The Hon. R.L. BROKENSHIRE: No, it does not. Because of critical human needs, and the amount of water needed to grow pasture, it does not take in any annual or cash crops at all; it is only permanent plantings.

The CHAIRMAN: Lucerne is hardly an annual crop, is it? If it is irrigated, it is a continuous crop and can yield more than one crop after planting. Does it come under this?

The Hon. R.L. BROKENSHIRE: Under the permanent plantings amendment, we are only talking about keeping these trees alive. We are not talking about production.

The Hon. P. HOLLOWAY: As an additional comment, some plantings that are obviously permanent plantings under this definition will be less valuable than others. It may be a variety of grapes, for example, or a variety of oranges, such as Valencias, that may be out of vogue for all sorts of reasons. They are obviously a lot less valuable than crops that may be in vogue.

In any case, often the productivity of these permanent plantings will decline after a period of time. Oranges have a finite life, so does that mean that, if someone has an orchard that is near the end of its life, and productivity is down, do they keep producing, rather than do what would be sensible economically, that is, replace that crop?

The point I make is that there are all sorts of distortions and anomalies that will come into this once we start moving away from the basic principles that this bill seeks to achieve, namely, to have an independent body to develop the basin plan in accordance with the agreement that has been drawn up by the states.

The Hon. R.D. LAWSON: I certainly do not pretend to be an expert in this field, especially in relation to the operation of the irrigation system. Can the minister confirm that currently South Australia's allocation for critical human needs is 291 gigalitres, with a further 196 gigalitres to deliver the 291 gigalitres to South Australia?

The corresponding critical human needs allocation for Victoria is only 53 gigalitres and New South Wales 75 gigalitres, and they do not have any additional allocation for delivery. Will the minister confirm that those figures are correct? If this amendment were to be adopted in Victoria, what would be the additional claim of Victoria upon the critical human needs?

The Hon. P. HOLLOWAY: If we go back to where we were, I understand that the passage of this amendment would not of itself do anything; it would be only if the commonwealth chooses to do it. If Victoria were to move a similar amendment, the commonwealth may or may not seek to amend it at some stage in the future. It certainly would not affect the initial round, as I understand it. Clearly with the critical human needs of this state the agreement recognises that Adelaide alone amongst the capital cities has been dependent on the Murray, along with a number of other towns in the Murray Valley itself but also in the Upper Spencer Gulf region. That is a reflection of that. We need a much higher allowance for delivery because we are further downstream and that water will be consumed in bringing the water down here.

The point the honourable member is making is that, if we open up this debate and Victoria sees that South Australia is trying to get some advantage in relation to additional supply, it might well open it up for further claims. It is pure speculation with regard to what might happen politically, but all of us are capable of working out what the politics might be. Legally the risk is that the whole agreement, which has those sorts of understandings on the figures the honourable member gave, could be at risk if we go down the track of supporting this amendment.

The committee divided on the amendment:

AYES (10)

Bressington, A.	Brokenshire, R.L. (teller)	Hood, D.G.E.
Lawson, R.D.	Lensink, J.M.A.	Lucas, R.I.
Ridgway, D.W.	Schaefer, C.V.	Stephens, T.J.
Wade, S.G.		

NOES (9)

Darley, J.A.	Finnigan, B.V.	Gago, G.E.
Gazzola, J.M.	Holloway, P. (teller)	Hunter, I.K.
Kanck, S.M.	Parnell, M.	Zollo, C.

PAIRS (2)

Dawkins, J.S.L.	Wortley, R.P.

Majority of 1 for the ayes.

Amendment thus carried.

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

Page 3, after line 3.

Insert:

Permanent plantings means any trees, bushes, vines or palms, maintained for the purpose of the production of food for human consumption, that yield more than one crop after planting if properly maintained.

This amendment is consequential on my first amendment.

The Hon. P. HOLLOWAY: I will not bother wasting time on a division. Clearly, the amendment is totally unacceptable to the government. What can one say? It is making South Australia a laughing stock of the country, and this chamber in particular. Nevertheless, we must move on. We will not waste the time of the committee dividing on it because it is consequential.

Amendment carried.

The Hon. M. PARNELL: I have a couple more questions on this clause. I think this is the appropriate place to raise these questions because it is the clause which refers to the tabled text and which ultimately refers to the agreement between all the states and territories. I note that, in his second reading explanation, the minister states:

> These reforms will, for the first time, ensure South Australia has access to the upstream storages of its choice, including Hume and Dartmouth dams, to store water to meet its critical human water needs and for private carryover. This would allow the state to carry over and store around 300 gigalitres of water for critical human needs (18 months supply) and to deliver this water in times of low flows, reducing the risk of a major failure in the supply of potable water to South Australia. Without these reforms, South Australia has no ongoing access to storage.

My question to the minister is in regard to the relationship between that statement and the government's proposal to double the storage in the Mount Lofty Ranges and, in particular, doubling the size of Mount Bold. It seems to me that, if this bill passes and these arrangements between the states come into effect, what we are effectively doing is acquiring additional storage capacity outside the Mount Lofty Ranges; we are acquiring it in these upstream dams and, therefore, I would imagine that the expansion of the Mount Bold reservoir is no longer needed. Will the minister confirm that that is the case; and, on the passage of this bill, will the government abandon plans to increase the Mount Lofty Ranges storage?

The Hon. P. HOLLOWAY: In relation to that latter matter, that is something that I suggest is not related to this bill. The government will make a decision on that at the appropriate time, given the finances of the state and given, ultimately, any environmental impact statement, and so on, should it proceed. The state government is considering the issues about what will happen to the storages at present. We have charged the Water Security Council, through the Adelaide Desalination Steering Committee, with looking at those issues and providing advice to the government, so that it is a work in progress.

Clearly, how we would apply that (where that storage would be) is something that obviously we will have to consider. I would have to say that, given the amendment that has just been applied in Victoria, if we were to adopt a similar attitude and say, 'Okay; we want our share of critical human needs now for permanent plantings', they would probably get at least 1,000 gigalitres extra, and we would not have the capacity up in Dartmouth. This is the sort of nonsense involved in the amendment that we are considering.

Whereas it sort of made sense before and it is a real plus that has come out of this agreement—and the minister who has negotiated it deserves all the credit for it—it is a huge advance that we now have access to storage capacity interstate but, as I said, if this critical human needs allocation is to go to Victoria, with the thousands of extra gigalitres that it would require, then it could well be worthless. Of course, I guess politics in the Liberal Party always come before good policy; always come first.

The Hon. D.W. RIDGWAY: I have a question that is not related to this topic, but the minister did talk about the Mount Bold reservoir and the Adelaide Desalination Task Force in answering the last question. The minister some months ago said that the government was looking to store water from the desalination plant in Mount Bold. Will the minister provide some clarity on that?

The Hon. P. HOLLOWAY: The honourable member knows that I was referring to the Happy Valley reservoir as obviously the appropriate place. From my understanding, Happy Valley reservoir is supplied from Mount Bold and it has the filtration plant there. That is where water is distributed and that is the closest distribution storage, as I understand it, from Port Stanvac.

The Hon. D.W. RIDGWAY: I have a further question: is the government intending to store water from the desalination plant (whether it is 50 or 100 gigalitres) in the Happy Valley reservoir?

The Hon. P. HOLLOWAY: These are matters that have nothing at all to do with this bill. If the honourable member wants a briefing on it, I am sure my colleague, the Minister for Water Security, would be happy to brief him on matters relating to the desal plant and storage, but it has nothing to do with referring our powers over the River Murray to the commonwealth.

The Hon. M. PARNELL: Just to pursue that line of questioning: if the bill goes through and the plans come into effect, does this government have any plan to reduce Adelaide's reliance on the River Murray?

The Hon. P. HOLLOWAY: If we have a desalination plant that is producing whatever the capacity is—50 or 100 gigalitres of water a year—to the extent that it is producing water that might otherwise come from the Murray then, clearly, we will be reducing our reliance on the Murray.

The Hon. M. PARNELL: In relation to the Murray-Darling Basin plan, is it correct that wetland management plans, such as those for Ramsar wetlands—for example, the Coorong and the Lower Lakes—will not be incorporated into the Murray-Darling plan? If that is correct, what capacity does the state government have to insist that such plans be incorporated?

The Hon. P. HOLLOWAY: My advice is that the wetland management plans will not be incorporated into the basin plan but that it will need to take into account various matters. The basin plan will set sustainable limits on the quantity of water that may be taken from the basin's water resources. This will ensure that there is a greater quantity of water available for environmental needs. The plan will provide for a comprehensive environmental watering plan that will coordinate management of environmental flows throughout the basin and ensure environmental assets are protected.

The watering plan must specify flow and health targets. This includes environmental water recovered by the commonwealth and basin states under water recovery programs such as the Living Murray initiative and Water for the Future program. Ramsar sites, such as the Lower Lakes, the Coorong and the Murray Mouth, will be a priority for environmental watering under the basin plan. Section 21(3)(b) of the Water Act 2007 specifically states that the basin plan must promote the conservation of declared Ramsar wetlands in the basin.

The commonwealth Water Amendment Bill 2008 also proposes an addition to this section to emphasise this requirement under clause 47 of the amendment bill by including an additional requirement that the basin plan take account of the ecological character descriptions of (1) all declared Ramsar wetlands within the Murray-Darling Basin and (2) all other key environmental sites within the Murray-Darling Basin, prepared in accordance with the national framework and guidance for describing the ecological character of Australia's Ramsar wetlands endorsed by the Natural Resource Management Ministerial Council.

The Hon. M. PARNELL: Following on from that answer from the minister, does that effectively mean that South Australia is no longer ultimately responsible for the health of the Coorong? Will the decisions that we have been making up until now—such as decisions to pump water from one lake to another—and perhaps future decisions to pump hypersaline water from the southern lagoon of the Coorong into the sea (decisions that previously have been the domain of the state) no longer be so under these arrangements?

The Hon. P. HOLLOWAY: While water operations in the Lower Lakes are traditionally under the control of the Murray-Darling Basin Commission and funded accordingly, it is my understanding that South Australia has been the authority responsible for undertaking those particular works. Clearly, we have an independent body that will prepare the basin plan, but one presumes that the state will still be responsible for the operation of that plan, certainly within the Lower Lakes area. My advice is that decisions have been made under the auspices of the Murray-Darling Basin Commission, and we have been implementing the decisions. That is what will happen into the future. It will possibly be a new authority that will have independence in respect of the plan that South Australia would remain the operating authority.

The Hon. M. PARNELL: If the minister could please tell us: what is the government's latest understanding of when the preparation for the Murray-Darling Basin plan will commence; and how long does the government expect it will take to prepare?

The Hon. P. HOLLOWAY: Now that we have this amendment, one can scarcely risk the temptation to say, if that is insisted upon, who knows? If common sense prevails and we are able to get all of the states with a common transference of powers, the plan is due in 2011. Of course, a lot will happen in the meantime until that is formally adopted. Existing drought contingency planning will continue, obviously.

The authority will work with the basin states as a priority to establish the three-tier water sharing arrangements under the Murray-Darling Basin Agreement to address low water availability in extreme drought conditions. This will include establishing triggers for when the different management arrangements will apply.

There are initiatives underway to address overallocation, improve irrigation efficiency and provide environmental flows. These include the Living Murray Initiative, which aims to recover 500

gigalitres of water for the environment and $3 billion to purchase water, and $5.8 billion to improve irrigation efficiency under the Water for the Future program. This is in addition to state water projects, including the $610 million Murray Futures program in South Australia.

The Hon. M. PARNELL: I thank the minister for his answer. Does the government expect that, as a consequence of the plan being drawn up and implemented, the dredging of the Murray mouth will no longer be required?

The Hon. P. HOLLOWAY: I would have thought that that would depend on how much rain we get and whether we have inflows into the basin. The mouth has not flowed for possibly five years because we have had some very dry years. Clearly, for the mouth to flow again, we would have to return to the sorts of flows that we have had in previous decades.

If the honourable member is talking about an average year, even then it is difficult to say because it depends where rain falls, whether it falls at the right time, whether it falls in the right areas for catchments and so forth. Clearly, the intention of the Living Murray Initiative is to return water to the river for environmental flows and, obviously, the chances of the mouth opening and remaining open will be much greater than if we do not have those initiatives. A lot will depend on the $3 billion to purchase water and the money for irrigation efficiency and how quickly and efficiently that money is spent.

Clause as amended passed.

Clause 4 passed.

Clause 5.

The Hon. M. PARNELL: Clause 5 talks about a termination of reference, in particular, by our state. What would the consequences be for any one state withdrawing its reference; would it, effectively, hold the remaining states hostage?

The Hon. P. HOLLOWAY: If the state terminates, management of the system will become more complex; however, those aspects of the Water Act that do not rely on state referral would remain in place because termination would not mean withdrawal from the Murray-Darling Basin Agreement. This means that the authority will remain in operation. The basin plan still applies, setting sustainable caps that can be enforced by the authority and states must not act inconsistently with the basin plan. South Australia's access to storage is retained—that is, that which has been established under the agreement. The authority will continue to manage river operations under the Murray-Darling Basin Agreement in that state (the one withdrawing, I assume). The ACCC would have limited powers with respect to water charging and water market rules, increasing the complexity of water trading.

The state that terminated would not be required to apply the provisions of the basin plan that provide for conveyance water and other arrangements to meet critical human needs under tier two water sharing arrangements. However, the ministerial council is able to make a schedule under the agreement setting out how state water shares will be determined, delivered and accounted for under tier two water sharing arrangements. This would still apply to the terminating states. Notice of the termination is required which would allow the jurisdictions to have notice of a state's intention to withdraw from the scheme and negotiate an outcome and, importantly, the state would lose benefits of the wider scheme. For example, the commonwealth would no longer take responsibility for any reductions in allocations due to new knowledge and the commonwealth would no longer contribute to additional costs to the states of water reform associated with the management of the Murray-Darling Basin. This includes funding for priority projects.

As I said earlier, just as with the ministerial arrangements for dealing with terrorism or those in the mid-1980s in relation to the companies scheme, I have no doubt once this agreement is in place, if all the states agree on the terms of their reference, I think history shows it is highly unlikely that these sorts of agreements would unravel once they have been in place.

Clause passed.

Remaining clauses (6 and 7) and title passed.

Bill reported with amendments.

Bill read a third time and passed.

WATER RESTRICTIONS

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:28): I table a copy of a ministerial statement relating to water restrictions made earlier today in another place by my colleague the Minister for Water Security.

MURRAY-DARLING BASIN BILL

In committee.

Bill taken through committee without amendment.

Bill read a third time and passed.

[Sitting suspended from 16:32 to 18:03]

STATUTES AMENDMENT (PROHIBITION OF HUMAN CLONING FOR REPRODUCTION AND REGULATION OF RESEARCH INVOLVING HUMAN EMBRYOS) BILL

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

PARTNERSHIPS (VENTURE CAPITAL) AMENDMENT BILL

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

WATER (COMMONWEALTH POWERS) BILL

The House of Assembly disagreed to the amendments made by the Legislative Council.

Consideration in committee.

The Hon. P. HOLLOWAY: I move:

That the Legislative Council do not insist on its amendments.

We have had a long debate today in relation to the particular amendments that were moved in this place and, at this time of day, I do not believe it is appropriate to repeat all of the issues involved. I will simply state that the legislation before us which refers powers to the commonwealth in relation to water is a very historic bill. It has taken 120 years since this issue was first discussed in the pre-Federation conferences until the actual referral of power from the states to the commonwealth government.

I believe it is imperative that that reference of powers be done in a uniform way from all the states to minimise any risks that could lead to this whole issue being opened up again. We have a very difficult situation in relation to the River Murray at the moment. We are facing one of the worst droughts ever recorded. It is imperative that we take this opportunity to ensure that we have this referral of powers, so I urge the committee to not insist on the amendments.

The Hon. J.M.A. LENSINK: The Liberal Party will be supporting the motion to not insist on these amendments, and I will briefly outline our reasons. During the period from when we first placed our position on the record and in the meantime, a couple of us have spoken to the community liaison, the Hon. Dean Brown, who provided the explanation that unfortunately we did not receive on the record in this place. He has outlined the difference between critical human water needs and high security water needs and explained that, if we were to insist on the amendments, some of that water would be the equivalent of what is nationally high security water. We also do not wish to hold up the passage of the bill. We continue to support the sentiments behind the honourable member's amendments but we will not be insisting.

The Hon. R.L. BROKENSHIRE: I understand that it is late but I will spend a few minutes summing up if I may. First, I can count—that is one thing I did learn—and, clearly, the numbers will not be there for me to insist on the amendments. I place on the public record first and foremost my appreciation of the opposition and the Hon. Ann Bressington for supporting the amendments; it is appreciated.

I am disappointed at the way the government has gone about almost holding a gun at the head of many people in relation to the debate in another place (which I did sit in and listen to) with respect to what I reckon was a pretty pathetic reason for not allowing the amendments.

The government has an exit package to say goodbye to permanent plantings for those who want to pull them out. However, this state government has failed, unlike Victoria and New South Wales, to have a proper irrigation plan and a proper food bowl plan for South Australian irrigators. I am very disappointed about that. The irrigators with permanent plantings in particular, but all irrigators, deserve at least a plan. What I heard today was a government that is on the run and scared to upset number one—its federal colleagues. It is very unfortunate that a government—and, particularly, a minister and a Premier—will put the idealistic approach of a partnership between the federal government and itself before the best interests of South Australians.

Family First supports industry, but I find it pretty frustrating that no pressure and no initiatives have been put forward to address water savings by industry, whether it is stormwater harvesting, catchment, recycling or whatever else. Industry has had no restrictions placed on it whatsoever, yet people are bleeding big time right along the River Murray system. I know how some government ministers and members work, and, because I am a dairy farmer, I noted with interest that the ministers in both houses were happy to highlight the fact that my amendment was not doing anything for dairy farmers.

Well, let me say this: I will do a lot for dairy farmers, all South Australians and all industry sectors as best I can for as long as I am in this chamber without fear or favour and without doing deals with the federal government, which tries to get a press release out as quickly as it can to say that, through legislation, it has championed for 100 years to hand back the powers. It is rubbish. Every member who has spoken knows that these powers are a joke, that this legislation could have been much stronger and that the Premier and the minister could have fought so much harder for a better deal for South Australians than they have.

It is about a quick fix, it is about spin and it is about getting to the next election hoping that the government will jump over the line. That is how government has been operating, and that is not good enough for people in the Riverland and along the River Murray. I will be highlighting to those people how pathetic the government really was in working for the best interests of water allocation entitlements. I want to reinforce the fact that New South Wales and parts of Victoria have a 95 per cent allocation or high-security water, yet it is 15 per cent here. When it comes to dairy farmers and vegetable growers, the fact and the truth of the matter is that the amendment I was hoping to get through meant there would not be any irrigation for dairy farmers but they were guaranteed stock water to keep their stock alive.

There was not going to be any water for vegetable growers, and that is most unfortunate. This was an amendment to at least ensure that the permanent plantings could be kept alive. It is a very disappointing situation as far as I am concerned. Again, I thank the opposition and the Hon. Ann Bressington for their support. This is not the bill that it could have been. There are a lot of question marks over whether South Australia—when we finally do see a plan—is going to get any better go than it has in the past. I feel less than confident with the way in which the government has gone about this whole approach. I have been pretty strong, but it is from the heart. This is truthful stuff.

I have had a stomach-full of the spin, the rhetoric and just trying to get that front page story. In my opinion, today the irrigators along the River Murray who have got $1.5 billion worth of permanent plantings have been done over by the minister, the government and the Premier.

The Hon. P. HOLLOWAY: I have had a gutful of the Hon. Robert Brokenshire grandstanding in here trying to delude farmers in this state that he has some miracle cure for them. He has not. There is lot more one could stay about it, but it is high time that, after 120 years, we got this important piece of legislation passed.

The Hon. R.D. LAWSON: I agree with the Hon. Robert Brokenshire in saying that the Labor government, the minister and the federal government have failed to protect permanent plantings adequately in the agreement they reached in July this year. Having failed to secure an agreement, regrettably it is too late to achieve that same outcome in this legislation. South Australian growers with permanent plantings were sold down the river in that agreement, and it is a matter of regret that we cannot save the situation by this legislation.

The Hon. A. BRESSINGTON: I reiterate that I still support the amendments of the Hon. Robert Brokenshire for the reasons that he stated and also because this parliament is here for the people of this state. We are supposed to be the ones standing up to the federal government, where necessary, looking out for the best interests of this state. As was said in the second reading speeches, this bill could have been better. Just the fact that the minister could not answer a straight

question during the committee stage on whether or not we have a food bowl plan was of concern to me. Obviously, we do not. It is a case of taking it as it comes, flipping a coin and see who comes out of this at the end with land to work on and, for the rest of us, having local food to eat. I think it is a great shame.

The tactics used in this bill are no different from the tactics used in the WorkCover legislation, the legal practices bill and even, this week, also, the Hon. Rory McEwen's tactics to bend and break the cockle industry in the Lower Lakes and the Coorong. There is a pattern here, and we should all hang our heads in shame that we give in to the bullying tactics of this government every single time.

The CHAIRMAN: Order! I remind members that parliament does not always agree with a member's point of view, and I am confident that everybody elected to this council does their best endeavours for the South Australian community. That will be reflected in the vote–whatever the vote may be. I think that when members stand up to put their point of view across they should be prepared to listen to the other members' points of view and, if they are not, perhaps they should not play a role in democracy.

Motion carried.

At 18:22 the council adjourned until Tuesday 11 November 2008 at 14:15.