LEGISLATIVE COUNCIL

Friday 25 June 2004

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

STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I seek leave to move a motion without notice concerning the conference on this bill.

Leave granted.

The Hon. P. HOLLOWAY: I move:

That the sitting of the council be not suspended during the continuation of the conference on this bill.

Motion carried.

HEALTH AND COMMUNITY SERVICES COMPLAINTS BILL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I seek leave to move a motion without notice concerning the conference on this bill.

Leave granted.

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

That the sitting of the council be not suspended during the continuation of the conference on this bill.

Motion carried.

STANDING ORDERS SUSPENSION

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

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

Motion carried.

STATUTES AMENDMENT (BUDGET 2004) BILL

Adjourned debate on second reading.

(Continued from 24 June. Page 1832.)

The Hon. IAN GILFILLAN: In speaking to this bill, I will make a couple of observations but will not undertake a detailed analysis of the budget, at length, understanding that the Appropriation Bill is the more fitting place for that. As honourable members have probably already noticed, I have some amendments on file, and I will comment on those in my second reading contribution.

This bill amendments the Debits Tax Act 1994, the Payroll Tax Act 1971 and the Stamp Duties Act 1923. It contains the tax changes as announced by the Treasurer in his budget speech delivered on 27 May. It is my intention to deal with the proposed changes to each of these three taxes in turn. First, I will discuss the proposed abolition of debits tax, which was originally collected by the commonwealth. However, in 1990 the commonwealth relinquished debits tax with the intention of leaving it as an area from which the states could raise revenue. Interim measures were put in place with the South Australian Debits Tax Act 1990, which, effectively, made the commonwealth our debits tax collection agent. This changed in 1994 with the establishment of the South Australian Debits Act 1994. The abolition of this tax is in line with the intergovernmental agreement on the reform of commonwealth-state financial relations, which sought the removal of the tax by 1 July 2005. As such, this does not affect the coming financial year. However, it will have a significant impact on future budgets.

The intention of the government in regard to payroll tax is to decrease the payroll tax rate marginally from 5.67 per cent to 5.5 per cent. Treasury estimates show that this will cost $20.3 million in the 2004-05 financial year and will grow to $25.7 million by 2007-08. The impact on individual businesses of a 0.17 per cent drop in the payroll tax rate is small—and I emphasise that it is particularly small. A business on the threshold, with a wage bill of $540 000 per annum, would receive relief of only $850 a year, whereas a business that has a $90 million wage bill will receive tax relief of some $150 000.

The government has chosen not to adjust the threshold at which the tax is paid, and I signal that I will move a suggested amendment in relation to that issue. The payroll tax threshold was last adjusted in 2001, with the Statutes Amendment (Taxation Measures) Act 2001, which raised the threshold from $456 000 to $504 000. In speaking to that bill, the now Treasurer stated (and the chamber would do well to take note of what he said at that time—only three years ago):

> The payroll tax threshold, I might be wrong, but it is my recollection that this is the first time that it has been lifted. That is disappointing for small business and medium-sized enterprises, not to mention large businesses, and, because the payroll tax threshold has not been lifted in the past seven or eight years, more firms have been caught in the net. At some point a government was going to have to lift that threshold.

And lift the threshold it did. In speaking to the same bill, my former colleague the Hon. Mike Elliott indicated:

> The cut in payroll tax is supported by the Democrats. In fact, the abolition of payroll tax has been Democrat policy since the party's inception, so the government will find that any cuts in payroll tax will be supported by the Democrats because, ultimately, payroll tax is a tax on employment and a disincentive to employ.

He also offered some sage advice, as follows:

> These cuts are fairly marginal and I have no doubt that, in the next couple of years, pressure will be well and truly upon us.

The cuts were fairly marginal and, today, the pressure is well and truly upon us. However, the 0.1 per cent we are being asked to agree to today is even more marginal. If one were cynical, one might be inclined to suggest that the change to payroll tax is just big enough to give the South Australian community a government press release and not much else. I am prepared to be that cynical.

I repeat what the Democrats made clear last time, as it is just as relevant now, that this payroll tax cut is very marginal and I have no doubt that in the next couple of years pressure will be well and truly upon us again. In an attempt to relieve some of that pressure, we are proposing some amendments to this bill and, because it is a money bill, the amendments take a curious form. Section 10 of the Constitution Act 1934 provides:

> Except as provided in the sections of this Act relating to money bills, the Legislative Council shall have equal power with the House of Assembly in respect of all bills.

This precludes us from amending a money bill, but we are well within our rights to suggest a possible amendment to the other place. It is our hope that this chamber will send the

Statutes Amendment (Budget 2004) Bill back to the other place with a suggestion that the bill be amended to raise the payroll tax threshold.

By raising the threshold from $504 000 to $864 000, we will not be giving small and medium businesses a tiny few hundred dollars but substantial relief and an opportunity to make a real difference to the local community. To those businesses that fall within that bracket, if our amendment were successful, they would be absolved from payroll tax in its entirety. The chamber may be curious as to why we chose the figure of $864 000. It is based on a recommendation of Business SA some time back. We felt that that would be a very good indicator as a form of amendment to the current legislation. So, we hope the other place carefully considers our suggested amendment, if it is successful in this chamber.

Moving to the issue of stamp duty, that is a particularly hot issue at the moment. Strong increases in property values across the nation have made home ownership less and less affordable. A number of attempts have been made to address this, but it still remains a problem. The Productivity Commission report on first home ownership that was released this week made a strong case for reform of negative gearing, capital gains tax rules and the first home owners scheme to reduce the growth in house prices and help the low income earners. Full negative gearing and the federal government's halving of the capital gains tax rate has resulted in an explosion of speculative investment in housing. The Productivity Commission report highlighted that the percentage of home loans that are for investment properties sky rocketed from 20 per cent to over 40 per cent of new loans over the past decade, with the percentage of taxpayers taking up negative gearing opportunities rising from 9 per cent to 17 per cent

It is the Democrats' belief that, with 40 per cent of new housing loans now relying on negatively geared concessions, it is clear that housing prices will not move to more sustainable levels while these tax concessions remain. This, I realise, rests with the federal government. However, it is important to recognise that, while the measures proposed by the state government in this bill are commendable, they are not a definitive solution to the problem faced by first time home buyers.

The measure currently before us includes the extension of the first home buyer stamp duty concession, providing a partial stamp duty concession for first homes between $80 000 and $250 000. I note that the Leader of the Opposition rather scathingly identified the relevant insignificance of that capital adjustment because of the substantial hike in average home prices right throughout the metropolitan area. I note also that more than 80 per cent of first home buyers will receive some kind of concession, full or partial, under this bill. We welcome that as well as mortgage duty exemption for the purchase of first homes. So, we will be supporting the second reading of this legislation and urging the chamber to support our suggested amendment in the committee stage.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank all honourable members for their contributions. There is just one matter I need to place on the record. I believe the Hon. Ian Evans raised a matter during debate on this bill in the House of Assembly. The honourable member's question specifically related to those questions related to lifting the payroll tax threshold, and I would like to use this opportunity to provide the answers to those questions. The estimated cost of lifting the payroll tax threshold from $504 000 to $552 000 is $9 million. Lifting the threshold from $504 000 to $600 000 has an estimated cost of $17 million. Because payroll tax is collected monthly, it is desirable that, for administrative reasons, the threshold be increased in multiples of $12 000 (in other words, $1 000 per month). For this reason the first costing above is for a threshold of $552 000, not $550 000. I will make further comments during committee, particularly in relation to the amendment moved by the Hon. Ian Gilfillan. Again, I thank members for their indication of support.

Bill read a second time.

In committee.

Clauses 1 to 8 passed.

New clauses 8A, 8B and 8C.

The CHAIRMAN: I have an amendment in the name of the Hon. Mr Gilfillan, but members should be aware that these are suggested amendments that, if carried, will be suggested amendments to the House of Assembly for its consideration.

The Hon. IAN GILFILLAN: I move:

Page 3, after clause 8—

Insert:

8A—Amendment of section 11A—Deduction from taxable wages

Section 11A(1), definition of prescribed amount, (a)—delete subparagraph (iv) and substitute:

(iv) commencing on or after 1 July 2002 and ending before 1 July 2004, means $42 000;

(v) commencing on or after 1 July 2004, means $72 000;

8B—Amendment of section 13A—Meaning of prescribed amount

(1) Section 13A(2)(c)—delete 'a financial year commencing on or after 1 July 2002' and substitute:

a financial year commencing on 1 July 2002 or 1 July 2003

(2) Section 13A(2)(c)—after the second dot point in A insert:

· in relation to a financial year commencing on or after 1 July 2004—$864 000

8C—Amendment of section 18K—Interpretation

(1) Section 18K(2)(c)—delete 'a financial year commencing on or after 1 July 2002' and substitute:

a financial year commencing on 1 July 2002 or 1 July 2003

(2) Section 18K(2)(c)—after the second dot point in A insert:

· in relation to a financial year commencing on or after 1 July 2004—$864 000

I move these amendments in my name as suggested amendments, as clearly identified in my second reading contribution and, Mr Chairman, in your advice to the committee.

I did outline the purpose of the suggested amendment in my second reading contribution. It is an amendment to bring the threshold below which employers would be exempt from payroll tax up to what we believe is a reasonable figure. It reflects to a certain extent the suggested amount by Business SA—and that was some time ago; they may be suggesting a higher figure now. As my colleague the Hon. Julian Stefani remarked in conversation, were this threshold to have been indexed, even on a modest CPI basis (which has applied in most government charges), it certainly would have risen quite substantially above the $540 000 that pertains currently.

The figures and some of the detail may look a little confusing. I am advised that Treasury requires that the amount be calculated on a monthly basis. Therefore, the suggested amendment for new section 8A is based on an alteration of the monthly figure dealing with payroll tax

thresholds. I leave it now to the committee to consider this suggested amendment, and I urge support for it.

The Hon. P. HOLLOWAY: The government opposes the amendment. Obviously, we all would like to see any form of taxation reduced to the minimum amounts. However, we do need sources of income to pay for the services provided by government. As one of the ministers who has just been through the estimates committee process for the House of Assembly in recent days, there were plenty of calls from members of parliament in relation to areas where they think additional expenditure should be incurred. Obviously, there are limitations. Were the government to give large amounts of tax relief, obviously that would cost revenue and could be paid for only by removing surpluses into deficits (which will have an impact on this state's financial standing), other additional tax increases or reductions in expenditure somewhere else.

Government is all about using the resources available to it in the best possible manner. I point out, in relation to the Hon. Ian Gilfillan's proposal, which is to lift the payroll tax threshold to $864 000 per annum, that the estimated revenue cost is something like $53 million in a full year, so it would have a significant budgetary impact. There is no capacity to provide additional relief of this magnitude. I point out that in this budget the government assessed that it has the capacity to provide taxation relief of $42 million per annum commencing in 2004-05; that is the cost of the payroll tax, stamp duty, lease duty and cheque duty measures in the budget. In addition, we have the abolition of the debits tax in the 2005-06 budget; and part of this legislation is to remove debits tax. That has an estimated full-year cost of $61 million. From 2005-06 the estimated annual cost of the measures in this bill would be over $100 million. As much as one might like to add another $50 million tax relief, unfortunately we do not have the capacity to do so.

The government with its package of tax relief measures in this budget has given priority to first home buyers and business. In addition to payroll tax, the government's view is that business will be assisted by reducing the payroll tax rate rather than by lifting the threshold. The proposed reduction in the rate from 5.67 per cent to 5.5 per cent has an estimated full year revenue cost of $22 million.

In summary, whereas we would all like to give tax cuts where that is possible, the government believes that the measures it has in this budget do provide significant tax relief. It is tax relief that the government can afford and that the budget can afford. As much as we would like to provide another $50 million plus of tax relief, as suggested by the Hon. Ian Gilfillan, we simply do not have the capacity to do that. For that reason the government opposes the amendment.

The Hon. R.I. LUCAS: The opposition's position was broadly outlined in the second reading contribution, that is, that the opposition will not be opposing the package of tax relief measures that are going through. However, it is not the package of tax measures that the opposition would have brought down should it have been in charge of the Treasury benches at this time. Our position was outlined as being that it is modest relief, and we do not accept the proposition put by the Leader of the Government that the government had no other alternatives. In our second reading contribution we outlined—and, again, the leader has not addressed this issue—that there is some $750 million in additional revenues coming to South Australia over the forward estimates that is over and above what the state would have received had the pre-GST federal funding arrangements prevailed. So, the GST deal provides an additional $750 million over and above the old federal arrangements.

As I outlined in my second reading contribution, all other state governments use a combination of some of the GST surplus coming into their coffers as well as some of the moneys received from the property tax boom (although we acknowledge that in other states, as in South Australia, we are unlikely to continue with the peaks we reached in the current financial year) to provide additional targeted relief, as I said, to the property tax area in particular. If the opposition had been in charge of this budget and if we had made a judgment that there was the capacity to provide an additional $53 million in tax relief—which is, evidently, the cost of the Hon. Mr Gilfillan's amendment—we would not have taken the view that all $53 million would be provided by way of an adjustment to the payroll tax threshold. We have consistently argued that the property tax area is an area where relief should be targeted. Land tax is projected to be an additional $60 million next year compared to this year. The first home owners stamp duty concession, as I outlined in my second reading contribution, is $792 on the medium priced home in South Australia. In New South Wales it is $8 000. In most other Labor states, their pre-budget announcements—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: But the point I am making is that in most of the other Labor states the relief is of the order of around $4 000 to $5 000 for the first home owner on a $250 000 home. If as a state we were in a position to provide relief of $53 million—as is being sought by the Hon. Mr Gilfillan—in relation to the payroll tax threshold, it would certainly be the opposition's view that that relief would be spread over a range of tax relief measures. It would include some relief in relation to the threshold for small businesses, but we would also be looking at areas such as first home owners and, in particular, the area of land tax.

For those reasons, and as outlined in the second reading debate, we will not be supporting the amendment currently before us. The only other point I would make in relation to the payroll tax threshold is this: as I said during the second reading debate, the former government acknowledged that, when one makes changes to payroll tax, it is sensible to make changes to both the rate and the threshold. I think it was the budget of 2000 or 2001, certainly the last one prior to the election, where the former government put in place phased reductions in the rate over two financial years but also increased the threshold by approximately 10 per cent from, I think, $456 000 to $504 000.

The opposition's position is similar to the general principle that the Hon. Mr Gilfillan has been putting: that when one introduces changes to payroll tax it does make sense to address not just the big and medium sized businesses but also the issue of small businesses. If any government ministers delude themselves into thinking that just looking at the rate is the way to go, they are obviously not in touch with small business people. Each of us in opposition would know of a small business person who is currently just underneath the threshold and who is making decisions in relation to future employment in part dictated by whether or not he or she goes over the threshold, that is, having the capacity to take on one additional employee. That decision by a small business person is being influenced in part by this decision as to whether or not they trip over the threshold.

As this government continues to ignore this issue—and this is now the third budget in which it has chosen not to look at this issue after the last government had increased the

threshold by 10 per cent—it is ignoring the reality of the problems that confront small business. As I have indicated on a number of other occasions, this government is not in touch with small business, right across the spectrum of policies in relation to the structure of the trade and economic development department; the abolition of the small business advocate and the abolition of other services provided to small businesses; and the removal of very small marketing grants to small businesses to assist them to access export markets. In all those areas this government is demonstrating that it is out of touch with the needs of small business people in South Australia, and in the area of targeting payroll tax it is again demonstrating that it is out of touch with small business.

In summary, for the reasons outlined—this is a budget measure and we have indicated that we will not be voting against a budget measure that has, in this case a potential $53 million impact on the budget bottom line—we will not be opposing the budget measures going through and are therefore not in a position to support the amendment that has been moved by the Hon. Mr Gilfillan.

The Hon. T.G. CAMERON: I indicate my support for the government, despite the eloquent case outlined by the Hon. Ian Gilfillan. The arguments that he uses to support his amendments to this bill are absolutely correct: it nearly always seems to be the case that government taxes are indexed but concessions are not. But I do accept the comments made by both the leader of the house and the opposition leader. I would like to go a little further than the opposition leader in relation to the situation in which many young people here in South Australia are now finding themselves in relation to home ownership, and I would like to endorse the call for further stamp duty relief.

It is a fact that housing prices in South Australia have risen considerably over the last two or three years. That, combined with fewer full-time jobs for young people, and the banks' nervousness about a downturn in the real estate industry, as well as the possibility of housing values declining, means that they are reducing their valuations of property. Although when looking at each of those things together they might not mean a lot, cumulatively, with the inevitability of further increases in interest rates, it means that many young people are being frozen out of home ownership.

I would be interested to see if the government has any figures on what is happening to the rates of home ownership here in South Australia, particularly with the under-30s. So, if there is one area at the moment and in the foreseeable future where government relief is needed, it is for first home buyers. That additional stamp duty cost that they have to bear can often make the difference between whether or not the bank will give them a loan. I urge the leader of the house, the next time he is having discussions with the Treasurer, to raise that as an area that urgently needs attention.

The Hon. J.F. STEFANI: I rise to indicate my support for the Hon. Ian Gilfillan's amendment and, for the record, I will indicate my reasons for doing so. Payroll tax was introduced after the war, and I can remember, as a pay clerk, doing the payroll tax at 2.5 per cent for some 180 plumbers. Payroll tax has been an easy target for governments to bolster their coffers and this, to my mind, has been a very easy touch on employment—a tax on employment—which obviously affects many business proprietors. When I ran my business, payroll tax was a consideration. The threshold of payroll tax has never been much of an incentive for people in business to employ others. In fact, it has been stagnant at a very low level and has had a negative effect on employers who have considered expanding their businesses and employing moe staff. In fact, if we look at the wage increases over a period of time, we see that the wage adjustments have put many employers over the threshold.

This is one of the things to which the Hon. Ian Gilfillan and I wish to refer: if the government had adjusted the threshold by the increases that have occurred in the wage movements of the nation and the state, we certainly would have a very different threshold than $540 000. The government is crying poor and coming into this chamber with some sort of platitude about its position. I do not believe the government's platitude about its financial position. Sewerage rates for 2001-02 were $208.2 million, and the projected figure for 2003-04 is $231.7 million. The fact is that there has not been an additional requirement to upgrade sewerage and other charges. This gift of $24 million has occurred solely because of an increase in the valuation of properties, of which the government is the beneficiary without doing a damn thing.

This increase is not only applicable to sewer rates, as I have just pointed out, but is projected on the basis of the increases in land tax and in the increases, as we have heard from other speakers, in the rate of stamp duty collected where properties are sold and people are moving to another property and those property values, without anything to do with the government, have increased in value and the government is reaping hundreds of thousands of millions of dollars without any input whatsoever.

I have no sympathy for the government bleating about the position in which it finds itself financially and not being able to assist small employers. I say this with sincerity because running a small business is not a nine to five job. It obviously requires a lot of effort and many small business proprietors feel that the government gives them no incentive to employ more people, and that is one of the fundamental reasons for my supporting this measure: it would show a great deal of faith in small business to keep on trying to run their businesses efficiently and expand employment at a time when the economic indicators of the state are very much poised on a question mark and a balance, with an indication of a possible downturn.

With those few remarks, I support the efforts of the Hon. Ian Gilfillan to provide some further incentive and relief to small business and in so doing I indicate that, while I consider the points put by the government and the opposition, it is time the government showed some proper consideration with the money it is collecting substantially from small businesses through land tax, increased sewer rates and above CPI increases throughout its tax collection. The government should give something back to small business people.

The Hon. IAN GILFILLAN: I indicate appreciation of support from the Hon. Julian Stefani and to remind the house what I observed in the second reading contribution that the current Treasurer, in speaking in opposition in 2001, said:

> It is disappointing for small business and medium sized enterprises, not to mention large businesses [because the threshold had not been lifted] and because the payroll tax threshold has not been lifted in the past seven or eight years, more firms have been caught in the net.

I emphasise this:

> At some point the government was going to have to lift that threshold.

Now is that point. The government had the opportunity and has frequently stated its desire to attract the increase of businesses in South Australia in competition with other states.

This is a clear way of signalling to enterprises in Australia that South Australia is serious, that it does want to make a particularly soft landing for businesses that may consider coming into South Australia and encouraging businesses that are currently in the state to increase their employment.

I thought the Hon. Robert Lucas, speaking to the amendment, made the point very effectively that fear of going over the threshold and the financial penalty of having to pay payroll tax would certainly deter potential employers from taking on new employees in what could be thriving businesses. It is interesting that the amount quoted by the government of $53 million cost was found quickly enough when it was going to attempt to rebut our suggested amendment. I had advice from the Hon. Robert Lucas that a request from the opposition as to what would be the effect of lifting the threshold by $100 000 was left with a nil response. There had been no answer and no calculation done on that. I also indicate to the committee that my staff have made every effort to try to get the figure which has come so glibly from the leader of the house. It is interesting that that figure was made available so quickly to him.

However, to be daunted by the $53 million I think is most unfortunate from the government's point of view; but also I suggest that the opposition may rethink its position on this, because it is a signal and it can only be a suggested amendment which goes to the other place. It does challenge the government on its sincerity not only to show token gestures (such as it has done in reducing the rate) but also to make a substantial gesture to that cohort of businesses which would fit between the current threshold and that which is proposed in the amendment. It does not have to be locked at that, but at least put a ratchet under it to get it on its way up.

I find it totally inexcusable that the government has refused not only on its own initiative to have lifted the threshold but also to be apparently so steadfast as to totally rebut rethinking this through because of the amendments before the committee. I hope that the committee will, by a majority, support the amendment.

The Hon. P. HOLLOWAY: I will just make some brief comments about the many statements made in relation to this, firstly, from the Leader of the Opposition. Again, I remind him that the small business advocate's position has not been abolished: that position will be filled by the new director of the Office of Small Business. Also, there are a number of changes in the way small business support has been organised in this state. I provided significant details of those supports, both to this parliament and estimates committees, and I certainly reject the argument that in some way this government is antipathetic to small business.

There are some other points that were raised during the debate by the Hon. Terry Cameron, who talked about the provision of housing for young people in this country, and I think we would all agree with his comments. We have just had a Productivity Commission report in relation to that. I have not read that report in any detail but, certainly from the press reports, it is quite clear that it identified that the various taxation concessions that exist at a federal level in this country have been responsible for driving much of the property market that, in turn, has been responsible for putting property outside the reach of many people. As long as those tax concessions exist (negative gearing, capital gains and so forth), it is quite clear that the investment will drive up housing prices, which will be to the detriment of first home buyers. Unless one is to address that fundamental issue, I would suspect that very little will be done in the longer term to help first home buyers. But I think all of us would share the concern but I understand that the federal government has rejected out of hand the recommendations of the Productivity Commission report. Perhaps the federal government again needs to look at what its actions are doing in relation to the affordability of housing.

The Hon. R.I. Lucas: Are you supporting removing negative gearing?

The Hon. P. HOLLOWAY: No, I am just talking about the report of the Productivity Commission. As I said, the commonwealth government should look again at the impact of those measures. I am not suggesting it should necessarily—

The Hon. R.I. Lucas: Are you supporting it?

The Hon. P. HOLLOWAY: No, I am not suggesting they should be necessarily removed. I am saying the commonwealth government should look at the overall package.

The Hon. R.I. Lucas: Well, what is the position?

The Hon. P. HOLLOWAY: That is up to my federal colleagues, and I am sure they will be putting forward their views. What I am saying is that, from a state point of view, the Productivity Commission has belled the cat quite clearly and that the impact of those factors is driving up house prices. Therefore, to argue—quite dishonestly, in my view—as the commonwealth government is doing, that the state should take all the load in relation to this when the Productivity Commission makes it quite clear that it is driven by federal taxation concessions is I think an entirely fallacious argument.

I reject the fact that the states, and the states alone, through stamp duty concessions, should take the entire load of dealing with the problem of housing affordability. It is a nonsense argument, and I think that the Productivity Commission effectively refutes that argument, and obviously other measures. It is up to the commonwealth to deal with those issues and not try to palm them off to the states, and the Productivity Commission makes that quite clear. The Hon. Julian Stefani quite rightly described payroll tax as a tax on employment. I think that we all would agree with that. It is an argument that has been around for a long time. Then, again, it probably reflects the problems of vertical, fiscal imbalance that exist in the Australian federation whereby the commonwealth government has access to taxes such as income tax, which, of course, goes up by more than the CPI rate every year.

The fiscal drag provides massive increases every year to the commonwealth government. The state does not necessarily have that because, while land prices may have increased rapidly in the past year or two, prior to that they were static for many years—for most of the nineties. I think that that needs to be taken into account if one is looking at the overall fiscal position of the states. The commonwealth has the luxury that wages go up steadily, year in year out, and it has that rising pool of revenue through fiscal drag, income tax and the tax systems. The states do not have that luxury and that is why the states' capacity to provide taxation relief in these areas is obviously much more restricted.

The Hon. Julian Stefani also indicated that there might be some signs of a downturn in the economy. If there are signs of a downturn, as he indicates, then it makes, I would have thought, good financial management even more important at this time. If one is looking at other states, the New South Wales budget, which was brought down in the past few days, has gone into deficit. I think, again, that indicates that,

contrary to what the Leader of the Opposition was indicating, the capacity of the states to provide relief in these areas is not as great as they might advocate.

In summary, again we would all like to provide greater levels of tax relief, but we can do so only by affecting the budgetary fundamentals, and the budget, which we will be debating in the Appropriation Bill over the next couple of weeks, the last remaining weeks of this parliamentary sitting, will provide all members with an opportunity to debate how this government has set its budget priorities. We can trade off tax cuts with expenditure cuts or other financial measures, and I invite those members who think that this government has greater capacity to provide tax relief in these sorts of ways to perhaps tell us during that debate what expenditure they believe we could cut to provide us with that capacity.

The Hon. J.F. STEFANI: I have some questions for the minister. I do not expect him to have these answers, but I indicate that I am prepared to proceed with the vote and cast my vote accordingly. However, I do want these answers in a reasonably timely manner, and they will be reasonably complex. I would like the minister to provide the following figures. First, how many employers were registered for payroll tax purposes and paid payroll tax in the years 2001-02, 2002-03 and 2003-04 with the following thresholds: up to $600 000; $600 000 to $700 000; $700 000 to $800 000; $800 000 to $900 000; and $1 million to $1.1 million? Secondly, will the minister provide the number of sporting organisations that were subject to payroll tax payments for those years and the amount of payroll tax paid relevant to the periods that I have indicated?

The Hon. P. HOLLOWAY: The honourable member seeks extensive information. I will endeavour to provide what information we can in relation to that in writing.

The committee divided on the suggested new clauses:

AYES (3)

Gilfillan, I. (teller)	Kanck, S. M.
Stefani, J. F.	

NOES (12)

Cameron, T. G.	Dawkins, J. S. L.
Gazzola, J.	Holloway, P. (teller)
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Roberts, T. G.	Sneath, R. K.
Xenophon, N.	Zollo, C.

Majority of 9 for the noes.

Suggested new clauses thus negatived.

Remaining clauses (9 to 12) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

APPROPRIATION BILL

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

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

That this bill be now read a second time.

On 27 May, the 2004-05 budget papers were tabled in the council. Those papers detail the essential features of the state's financial position, the status of the state's major financial institutions, the budget context and objectives, revenue measures and major items of expenditure included under the Appropriation Bill. I refer all members to those documents, including the Budget Speech 2004-05, for a detailed explanation of the bill. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the Bill to operate retrospectively to 1 July 2004. Until the Bill is passed, expenditure is financed from appropriation provided by the *Supply Act*.

Clause 3: Interpretation

This clause provides relevant definitions.

Clause 4: Issue and application of money

This clause provides for the issue and application of the sums shown in the schedule to the Bill. Subsection (2) makes it clear that the appropriation authority provided by the *Supply Act* is superseded by the Bill.

Clause 5: Application of money if functions or duties of agency are transferred

This clause is designed to ensure that where Parliament has appropriated funds to an agency to enable it to carry out particular functions or duties and those functions or duties become the responsibility of another agency, the funds may be used by the responsible agency in accordance with Parliament's original intentions without further appropriation.

Clause 6: Expenditure from Hospitals Fund

This clause provides authority for the Treasurer to issue and apply money from the Hospitals Fund for the provision of facilities in public hospitals.

Clause 7: Additional appropriation under other Acts

This clause makes it clear that appropriation authority provided by this Bill is additional to authority provided in other Acts of Parliament, except, of course, in the *Supply Act*.

Clause 8: Overdraft limit

This sets a limit of $50 million on the amount which the Government may borrow by way of overdraft.

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

NATURAL RESOURCES MANAGEMENT BILL

In committee.

(Continued from 3 June. Page 1800.)

Clause 108.

The Hon. SANDRA KANCK: When we last debated this bill I had also given provisional support to the amendment, and then I asked whether anyone had spoken to the Auditor-General about it and found that, in fact, no one had. I have subsequently contacted the Auditor-General, and his view is that, through audit, he has an opportunity to cast his eye over this anyhow and that it would probably be inappropriate for him to have input at this point—in effect, having two bites of the cherry. Although I had provisionally given my approval to the amendment when we last met, I now indicate that we will not support it.

The Hon. T.G. ROBERTS: The government opposes the amendment. I am not sure whether it has been withdrawn, or whether members are just not supporting it. I have received advice from the Auditor-General in relation to the proposal that the Auditor-General should determine the guidelines for costs incurred in collecting water levies. The Auditor-General advises the following:

The mandate given to the Auditor-General is to independently conduct and report on audits and examinations as set out in the Public Finance and Audit Act 1987. It would be inimical to these responsibilities, and the statutory independence of the Office of the Auditor-General, for the Auditor-General to have a role in establish-

ing any guidelines or charging regimes which would then be subject to audit.

To ensure there is a separation of the roles of the Auditor-General and the Executive, there is no provision in the Public Finance and Audit Act 1987 for the Auditor-General to participate in responsibilities of executive government. Determination of guidelines of costs to be paid by an agency to Executive Government is a matter for the Executive.

Therefore, it is inappropriate for the Auditor-General to set the guidelines, as there is then no independent review.

The Hon. CAROLINE SCHAEFER: I put the opposition's arguments previously, and my views have not changed. I think we should put this to a vote and see where people's opinions lie. Previously, I had the support of the Democrats and the Hon. Mr Xenophon and, unless the Hon. Mr Xenophon wishes to express his view, I will call for a division.

The Hon. T.G. CAMERON: This is one of those rare occasions when I agree with the Auditor-General.

The Hon. NICK XENOPHON: This is one of those not so rare occasions where I agree with Mr Cameron.

The Hon. CAROLINE SCHAEFER: That being the case, I do not have the numbers, so we will not divide.

Amendment negatived; clause passed.

Clauses 109 to 115 passed.

Clause 116.

The Hon. CAROLINE SCHAEFER: I move:

Page 97, lines 37 and 38—Delete 'Consolidated Account' and substitute:

NRM Fund

This amendment seeks to ensure that penalties for taking excess or unauthorised water go to the natural resource management fund to further the cause of this bill, rather than to consolidated revenue. If, indeed, this bill is about integrated natural resource management, why would penalties not go towards that cause rather than, as is the case with this piece of legislation (together with many others introduced by this government), simply topping up the coffers of the government?

The Hon. T.G. ROBERTS: The government opposes the amendment. Currently, funds from the penalties for the overuse of water by irrigators above the allocation goes to Consolidated Account, as do many other fines across government. The Department of Water, Land and Biodiversity Conservation's budget allocation is supplemented by the equivalent amount paid into the Consolidated Account to administer the process of monitoring the water use to ensure a separation between fines and administration. This includes reading meters, sending out notices, collecting penalties and negotiating terms and conditions of payment and debt recovery. This is a cost-effective method of managing the determination of overuse of water. The government's aim is to reduce the incidence of overuse over time, and it has struck penalties at a slightly higher rate than leasing to encourage irrigators to lease rather than to overuse their allocations. The government, therefore, opposes the amendment as it could encourage the authorities to be overzealous in applying penalties and provide an incentive for them to encourage overuse, which is a practice that we need to reduce for good water management.

The Hon. T.G. CAMERON: You got it word for word, minister. I am a little concerned about the last dot point: 'The government, therefore, opposes the amendment as it could encourage the authorities to be overzealous in applying penalties'. I would be interested to know how that process could take place.

The Hon. Sandra Kanck: And which authorities?

The Hon. T.G. CAMERON: There was an echo there, I think, so I had better repeat it: and which authorities?

The Hon. A.J. Redford: And where it has happened before.

The Hon. T.G. CAMERON: And where it has happened before. Are there any more suggestions? The minister also went on to say, 'and provide an incentive for them to encourage overuse'. Can the minister provide answers to those questions?

The Hon. T.G. ROBERTS: I am advised that, if the penalties go into the Consolidated Account, there is no incentive for individual departments to revenue raise through encouraging overuse of water. I am not saying that anyone has done that in the past, but it is to prevent it in the future.

The Hon. T.G. CAMERON: With respect, there were three other parts to the questions that I put to the minister and he has answered only the first part. He knows what I am like on these issues.

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: I raised a question about being overzealous in applying penalties, then the Hon. Sandra Kanck chipped in with 'What departments?' and the Hon. Angus Redford chipped in—and I cannot quite recall what his—

The Hon. A.J. Redford: Examples of where this has happened before.

The Hon. T.G. CAMERON: Can the minister give us some examples of where this has happened before?

The CHAIRMAN: I inform the minister that interjections across the floor are not normally accepted as questions.

The Hon. T.G. CAMERON: I accept what you say, Mr Chairman, but the minister is not being asked to accept them as interjections. I framed them as part of my questions—and I thank the interjectors for their suggestions.

The Hon. T.G. ROBERTS: There was an aggregation of interjections in the form of multiple questions from the honourable member, and I apologise for not answering the other two questions. In respect of the issue of not encouraging the overuse of water to raise revenue by particular departments, it is not a matter of what departments have done in the past or whether they have done it in the past or what examples there are in the past: it is what we hope to prevent in the future. It is a philosophical thing in not giving that sort of encouragement to allow it to happen when the bill becomes the act.

The Hon. CAROLINE SCHAEFER: I have put my argument forward and tried to desist from arguing with the minister, but when the minister talks to me about a philosophy of not having their officers being overzealous and imposing unnecessary fines at the same time as he has quadrupled and, in some cases, increased the penalties applying in this bill by up to 400 or 500 per cent, I am not won over by his argument. As appealing as it might sound, given that it sounds so reasonable, it is a total hypocrisy considering what he has argued for in the preceding part of this bill.

The Hon. SANDRA KANCK: The government appears to be arguing that we should retain the status quo for no other reason than it is the status quo, which is hardly a convincing argument. The point on which the Hon. Terry Cameron has asked his question has also failed to win me over. I indicate that I think it is a sensible idea for the penalties to go into this area rather than general revenue. If some time down the track the government gains convincing evidence that its bureau-

crats are being overzealous and it is unable to control those overzealous bureaucrats, I suggest the minister comes back to the parliament with an amendment to the act, and I will consider it at that stage.

The Hon. T.G. CAMERON: Can the minister outline what the position is in relation to the payment of fines and penalties? Is it normal practice that they are paid into the Consolidated Account, or do they normally go all over the place? I can recall on previous occasions raising the question of speed camera fines being put into driver education and into a road management fund, and that has always been opposed. Do fines and penalties normally go into the Consolidated Account? If there are examples where fines and penalties do not go to the Consolidated Account and they go into another fund, can we hear what they are?

The Hon. T.G. ROBERTS: Most governments, including this one, have a policy of not hypothecating fines but putting them into general revenue. In my experience, there has been the odd occasion where there has been an hypothecation over time, but most governments try to sunset them and not encourage the hypothecation of fines. The honourable member is right in relation to speeding fines, but there are no examples I can provide of any significance where fines are hypothecated in this state.

The Hon. NICK XENOPHON: I am convinced by the strength of the government's argument to support the opposition's amendment.

The Hon. A.J. REDFORD: How much money are we talking about here, does the minister think?

The Hon. T.G. ROBERTS: About $1 million.

The Hon. A.J. REDFORD: A year?

The Hon. T.G. ROBERTS: Yes, a year.

The Hon. A.J. REDFORD: So, is the minister suggesting that we will get $1 million of fines out of people for overusing or taking too much water?

The Hon. T.G. ROBERTS: Information provided to me is that, in a drought year, that is quite possible.

The Hon. A.J. REDFORD: What sort of people are likely to be subjected to these fines?

The Hon. T.G. ROBERTS: I am advised that irrigators who overuse their allocation can be fined.

The Hon. A.J. REDFORD: What sort of measures will be taken by the agency to educate irrigators so that they are not caught with these fines? I assume that in most cases it will be done by way of inadvertence.

The Hon. T.G. ROBERTS: The argument for the encouragement of leasing is to prevent the use of fines. When the bill is enacted, the options will be explained to irrigators, namely, if they overuse their allocation, fines will apply but, if they lease, they will not go into excess water.

The Hon. A.J. REDFORD: I understand that, but what I do not understand is how many water users, such as irrigators, might be subjected to these fines because of inadvertence? If I can put it this way, it is one thing for an irrigator to say, 'I am too mean and too tight to buy or lease a water licence from someone else. What I'll do is just help myself and cop the fine.' That is one category, and I am not so concerned about those people because they are making a conscious decision. However, I am concerned about the category of people who might be going about their business and find out afterwards that they have used too much water. What happens to them?

The Hon. T.G. ROBERTS: It is the government's view that the method of volumetric allocation and water meters will make the process a little more scientific than it has been in the past. I understand the honourable member's question, because there have been cases of burst water pipes, or of people going away for a weekend and inadvertently leaving on a disconnected pump, or of pressure rising and blowing out pipes. There is always an argument, but we are talking about a new system that will have more technical policing aspects in relation to the system to prevent some of these issues from arising.

The Hon. T.G. CAMERON: The minister indicated that it is expected that $1 million will be collected in fines. Obviously, they have done some calculations on the number of people they expect to catch and how much they expect them to be fined. Will the minister advise the committee of how many people they expect to catch under this clause and the government's estimate of the fine they are likely to receive?

The Hon. T.G. ROBERTS: Building on what I have already said, the number of breaches is less than 100, and continuous correspondence between the irrigators and the department occurs. Reminders are sent out in relation to their responsibilities and the availability of the leasing arrangement. As a method of not going into excess is one of those issues, that is discussed when contact is made.

The Hon. A.J. REDFORD: My understanding is that you have one category of inadvertent finees, if I can use that term, with burst water mains and they are away or whatever. Is there a risk that people who are subject to the irrigation equivalent regime could be subjected to fines in relation to clause 115? Perhaps, for the benefit of the minister, I will give an example. Irrigation equivalents for pasture, as I understand it (I am only going from memory), is different from irrigation equivalents for potatoes. If I have a water licence to irrigate pasture and I change it to potatoes, then I could be accused of overusing the water. In those circumstances, would I be subject to these fines?

The Hon. T.G. ROBERTS: I am advised that, if you go into an expanded area or a different regime, there is no penalty, but you would be subject to the licence conditions that were set in the original licence. There might be penalties set for that if you breach your licence arrangements.

The Hon. T.G. CAMERON: If the government has estimated that they are to collect $1 million and roughly 100 people a year infringe this clause, that means they expect to get a fine of $10 000 per person. That cannot be correct, can it? The maths does not add up.

The Hon. T.G. ROBERTS: The honourable member is correct. Some will be more than $10 000 and some will be less, but the total income expected would be $1 million from previous—

The Hon. T.G. CAMERON: You are expecting an average fine of about $10 000?

The Hon. T.G. ROBERTS: Yes.

The CHAIRMAN: I draw members' attention to the fact that this amendment is about where the fines go; whether they go to the consolidated account or the NRM fund. I am sure members will take that into consideration when framing their questions.

The Hon. A.J. REDFORD: As I read this clause, it has a levy under division 2, which is a levy in respect of water which goes to the NRM board, and a penalty under section 115 goes to an NRM fund. Where do penalties in relation to late payments of levies go?

The Hon. T.G. ROBERTS: If it is a penalty within the catchment board, it would go to the catchment management

fund. If it was a penalty for overuse, it would go to consolidated revenue.

The Hon. A.J. REDFORD: If a penalty for late payment goes to the board, does that not undermine the government's argument that a penalty for overuse of water should not be dealt with in the same fashion?

The Hon. T.G. ROBERTS: It is slightly different in that it is a penalty for late payment. You would not be encouraging late payment. Reminder notices would be going out. The same applies to fines. You would hope to eliminate all fines for overuse by education and information. You would hope to eliminate late payment by reminder notices and consultation.

Amendment carried; clause as amended passed.

Clauses 117 to 122 passed.

Clause 123.

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

Page 102, line 15—Delete '$20 000' and substitute:
$10 000

This amendment reduces from $20 000 to $10 000 the maximum penalty for the offence of failing to implement an action plan to address land degradation. This reduction is proposed to achieve consistency with similar categories of offences and amendments. To achieve this consistency, amendments have already been passed by this council.

The Hon. CAROLINE SCHAEFER: We have had a number of test votes on this. The opposition's consistent view was that penalties should be increased by 10 per cent across the board, but we have not been successful with any of those amendments. The government offers this compromise to reduce the maximum penalty in these cases from $20 000 to $10 000, which is considerably more than the $5 500 which the opposition moved. However, given that we have been unsuccessful with our amendments, and given also that the government has met us, if you like, halfway, we will be supporting this amendment.

The Hon. A.J. REDFORD: I am not clear as to what is meant by the term, 'action plan'. For those avid readers of *Hansard*, clause 123(1) provides:

A requirement to prepare an action plan under this chapter is to be imposed by notice in a form approved by the minister.

What sorts of things will be in these action plans?

The Hon. T.G. ROBERTS: My advice is that it is a plan for remediation of degradation that might convince others that the plan drafted by the land-holder would fix the problem that they have incurred on their land, after it has been discussed and pointed out. The action plan will describe how the issues are to be dealt with.

The Hon. A.J. REDFORD: I notice in the scheme that the action plan is delivered to the land-holder. A person has 21 days after receiving a notice to apply for a review of the notice, and the person responsible for the review is the chief officer. If the chief officer makes a decision and the land-holder is still dissatisfied, where can the land-holder go?

The Hon. T.G. ROBERTS: The landowner would go to the ERD Court.

Amendment carried; clause as amended passed.

Clause 124.

The Hon. SANDRA KANCK: I move:

Page 103, after line 28—
Insert:

(5a) Despite a preceding subsection, subsection (1) does not apply to the taking of water from a watercourse that is not prescribed and that is running through local government land under the Local Government Act 1999 unless—

(a) the council for the area is taking the water; or
(b) the person taking the water is acting under (and in accordance with) an authorisation issued by the council for the area where the watercourse is situated; or
(c) the person taking the water is the occupier of land that adjoins the watercourse and—
  (i) the water is to be used by the person for domestic purposes or for watering stock (other than stock subject to intensive farming); and
  (ii) the rate of taking of the water does not exceed the rate prescribed by the regulations.

(5b) A regulation cannot be made for the purposes of paragraph (c) of subsection (5a) unless the minister has given the LGA notice of the proposal to make a regulation under that paragraph and given consideration to any submission made by the LGA within a period (of at least 21 days) specified by the minister.

I believe that this amendment was put on file yesterday in my absence, and I am sorry I was not around to explain or give prior notice of it. I have had an issue drawn to my attention relating to land within the Alexandrina council area. I point out that clause 124(1) provides:

Subject to this act and to any other act or law to the contrary, a person who has lawful access to a watercourse, lake or well may take water from the watercourse, lake or well for any purpose.

What has been raised with me is that, in this particular instance, a landowner who lives at the top of a steep hill has gained access to a watercourse using an unmade road reserve. He has even established a pumphouse on the road reserve and laid irrigation pipes along that road reserve.

This clause may mean that in the future, given that we are trying to keep control of the way in which our water resources are used, anyone can access a watercourse in an unprescribed area where it flows through an unmade road reserve. And also, arguably, via community land, which would appear to be contrary to what the government is trying to do with this particular bill. My amendment puts some boundaries on the taking of that water so that it is allowed if the local council is using the water or if the person has been authorised by the council to use that water. I commend the amendment to the house because it puts some restrictions in place and, surely, this is part of what this bill is about.

The Hon. T.G. ROBERTS: The government recognises the intent of the amendment proposed by the Hon. Sandra Kanck but is unable to support it for technical reasons. This clause is an existing provision in the Water Resources Act that has been directly transferred into the Natural Resources Management Bill. The government does not believe that it is necessary to change the rights to access water in the Natural Resources Management Bill. The proposed amendment appears to seek to address circumstances where a person accesses water from watercourses by using local government land even though that person may not have been granted the right to the use of the land by a local government council. The reason for having subclause (1) is to ensure that all persons who might have lawful access to land—indigenous people, campers, people driving travelling stock, etc.—would be able to access water. Rights to access water would only be restrained where the resource was proscribed and even then would not prevent stock and domestic use. This is considered to cover native title issues as well.

The amendment may have confused issues about taking water with issues about installing infrastructure on council land for the purposes of taking water. The latter is an issue of the lawfulness of the occupation of the land. The occupation of council land is a matter for a council under the Local Government Act and one that it has a responsibility to manage. Attempting to fix the issues of lawfulness of access

and occupation of the land through the water access rights provisions is not appropriate. Subclauses (5a)(c) and (5b) are directed at fixing a council's inability to regulate occupation of their land. As the owner of the land, the council can restrict, through conditions on the occupation of the land, the access to water resources on that land. Subclause (5b) is not appropriate as it implies that a council may authorise the taking of water. The proposed subclause (5a) might also cause native title and other difficulties for persons who now have a right to access water while they are on local government land.

The Hon. CAROLINE SCHAEFER: While I understand what the Hon. Sandra Kanck is trying to do, the opposition will not be supporting this amendment. It is our belief that these matters are taken care of when an area becomes a prescribed area, and I think that prescribed areas have sufficient difficulty, even though the department goes through a long planning process which, hopefully, allows for fair and equitable access. The areas which are not yet prescribed are those areas which have the least threat as far as water access is concerned. I do not really believe that this is an activity which should be proscribed to local government and, as I say, I think it is an issue that needs to be taken care of in the greater scheme of prescribing actual areas.

The Hon. NICK XENOPHON: The Hon. Sandra Kanck has raised an important issue but I support the government's position, principally in respect of attempting to fix the issues of lawfulness of access and occupation of land through the provisions of the Water Resources Act. I do not believe that is appropriate and, therefore, I do not think it is an appropriate vehicle for the Hon. Sandra Kanck's concerns, even though I acknowledge that they are important issues. I do not believe that this is the way to deal with it in the context of dealing with it via water rights.

Amendment negatived; clause as amended passed.

Clause 125.

The Hon. SANDRA KANCK: Some weeks ago, representatives of the forestry industries came to meet with me to talk about this bill. As a consequence, I ask the minister: in declaring a prescribed water resource, how will he determine what will be the surface water prescribed areas?

The Hon. T.G. ROBERTS: In all cases where areas are to be prescribed, broad consultation with the community takes place, submissions are taken and acted upon or negotiated. In those areas where prescribed areas are either in place or going to go in place, there is always a lot of attention being paid to it by landowners and you get full participation. There is a process going on in the east Mount Lofty Ranges at the moment that is taking submissions, and discussion is going on.

The Hon. SANDRA KANCK: The process that the minister has just described is about what happens once the government gets it in its mind that an area is going to be prescribed, but what is going to happen in the lead-up to that point that makes the minister decide 'I think this area should be prescribed: let's have a consultation'?

The Hon. T.G. ROBERTS: The best scientific evidence that is available is discussed, as has been done in other areas, and the evidence then is discussed amongst the stakeholders as to what is going to happen with the information that is gathered. That needs to match whatever the government's plan is, whether it is going to be prescribed or not.

The Hon. SANDRA KANCK: I take it from that that the local NRM groups would probably be aware of this occurring before the minister suddenly announces something and says, 'We're going to have a consultation.'

The Hon. T.G. ROBERTS: That is generally correct. The initial approach was made by landowners for the government to collect the best scientific evidence in conjunction with the East Mount Lofty Ranges community and the water catchment management board. There are a lot of alert individuals, groups, organisations and corporate bodies out there, and it is important to connect them all. I have attended meetings, as the honourable member probably has, where you have a wide range of vested interests, but all have an interest in knowing exactly what the resource is that they are dealing with before there is any talk about allocations. Finding out what you are dealing with is usually the unifying factor amongst all the competitive use groups, and then the arguments start after the best scientific evidence has been collected as to how that water resource can be best used.

The Hon. SANDRA KANCK: How long would this whole process take?

The Hon. T.G. ROBERTS: The information provided to me is that it could take as long as 18 months to two years to collect the information for doing drills and tests, etc. It could take six to nine months after the intentions are known as to what is going to happen, and then it could take up to two years for the water allocations to be finalised. So, it is quite a long process.

The Hon. A.J. REDFORD: I would like to clarify an earlier answer to the Hon. Sandra Kanck's question. I think she asked a question about what events or issues might cause a minister to initiate a consultation process.

The Hon. T.G. ROBERTS: Again, in relation to the East Mount Lofty Ranges, it could be based on the scientific evidence collected by the government or land owners; it could be the mapping of the biodiversity of a particular area that warrants—

The Hon. A.J. Redford: Who is collecting the scientific evidence?

The Hon. T.G. ROBERTS: The department, universities and conservation groups in some cases, I guess, including 'friends of' groups.

The Hon. A.J. Redford: They are all out there as we speak?

The Hon. T.G. ROBERTS: Yes; they are all wandering around out there doing their thing. It could be a stakeholder who fears that there may be changes in the wind that would impact on their operation. They might want certainty.

Clause passed.

Clause 126.

The Hon. CAROLINE SCHAEFER: I move:

Page 105, line 5—delete 'or (f)'.

I foreshadow that I am also speaking to my next amendment to clause 127, page 106, line 16. These amendments seek to refer regulatory powers for water affecting activities back to the parliament. An example in case is the highly contentious plan for notification of forestry within the South-East, currently proscribed by regulation. This amendment would require such matters to be referred back to the parliament. I was advised when being briefed that I could have a conflict of interest with regard to this amendment, given that the Clare Valley water scheme could be affected by it and I am a shareholder in a property that will be seeking Clare Valley water. I make that clear now. However, the amendments are those of the opposition and not mine personally.

The Hon. T.G. ROBERTS: The government opposes both these related amendments. The amendment would remove the ability to define additional water affecting activities by regulation. This is an existing provision of the Water Resources Act, section 9(3)(f). Currently there are existing regulations with respect to the equivalent provisions in the Water Resources Act, for example, regulation 13A. These regulations need to continue under the Natural Resources Management Bill. For example, a current regulation under the Water Resources Act provides for the salinity effects on local Clare Valley water resources to be controlled by requiring permits for the use of River Murray water in the Clare Valley.

Conditions attached to the permits are designed to minimise the impacts of the use of River Murray water on Clare valley water resources. Water affecting activities are controlled through the issue of permits. Permits provide for conditions to be attached to the permit approval so that the activity is undertaken in a manner that will minimise the impact on water resources.

This clause enables permits to be required for water affecting activities not listed in the principal legislation where a consistent statewide approach is necessary. Without these provisions the principal legislation would need to be amended whenever it was necessary to control an activity which is subsequently found to have significant effects on water resources but is not listed as a water affecting activity in the legislation.

Progress reported; committee to sit again.

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

HEALTH, MOBILE COUNSELLING SERVICE

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to funding for a mobile counselling service made on 24 June in another place by my colleague the Minister for Health.

NURSES ENTERPRISE BARGAINING AGREEMENT

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to the nurses' enterprise bargaining agreement made on 24 June in another place by my colleague the Minister for Health.

QUESTION TIME

ANANGU PITJANTJATJARA LANDS

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

Leave granted.

The Hon. R.D. LAWSON: There was laid on the table of this chamber on 2 June, by the minister, a copy of the report to the South Australian government Department for Aboriginal Affairs and Reconciliation prepared by the social policy research group at the University of South Australia. The particular project was entitled 'A project to review the findings of the Coroner's Inquest 2002: deaths of Anangu Pitjantjatjara lands people and a report on strategies for community capacity building in the AP lands'. The authors of the report were Ms Deirdre Tedmanson and Ms Christine Maher. The report is a very comprehensive document containing a number of recommendations, most of which, regrettably, have not been acted on. My questions to the minister are:

1. Was the project reflected in this report let to tender?
2. How were the authors of the report selected?
3. Did the minister have any discussions with Ms Tedmanson before she or her policy research group were engaged to complete this project?
4. What was the amount of money paid by the South Australian government for the report and associated project?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Some of the questions I can answer directly; others I will have to get details of the report. The report was commissioned by the department. On my understanding, the process for selection was that the University of South Australia has a section which is turned over to aboriginal advancement. It is a specialist area in relation to academic research. It has been my policy to deal with non-profit organisations in the academic area in respect of issues associated with the important matter of gathering information from which the government can draw policy. That is not the only way information from which the government or departments can draw policy, but in terms of Aboriginal affairs there is a lot of specialist information residing in the South Australian universities.

I have worked with the Flinders University on health projects and with the University of South Australia on matters relating to capacity building and the collection of information on education and training. ANTEP has been operating in the lands for some considerable time and it has a lot of information that is useful for working out the needs and requirements of ANTEP and future education and training needs. It is a sad tale in respect of education and training that in 1993 the TAFE system within the lands was dismantled, and there was no avenue for the collection of information in that important area.

The Hon. R.D. Lawson interjecting:

The Hon. T.G. ROBERTS: The situation in relation to tender, as I understand it, is that, if there are special circumstances relating to specific information within this narrow field, there are ways in which that specialist information can be sought and dealt with by government. I will return to the house with a report on the process in which the University of South Australia was engaged. I will include in that report the final cost of the report and the action that has been taken on its recommendations. We must bear in mind that the recommendations contained in that report tragically reflect the recommendations of many other reports that I have been able to find, reports which were commissioned as far back as the mid-1980s and in some cases the 1970s. All those reports recommend the same things. Regarding the recommendations for the prioritisation of funding streams within government, the University of South Australia's report, the reports of Mick Dodson and Bob Collins and the Coroner's report are all reports on which we are basing our funding streams and priorities to rebuild the lives of people on the lands.

Inherent in the question is the attitude that this government is not carrying out the responsibilities of government in relation to the people on the AP lands. That is not correct. The fact is that there was a low starting base in relation to a

whole range of service provisioning within that geographical zone. The policy of the previous government was to take away services, whereas we are replacing them. We have been criticised for criticising the philosophical direction of self-determination, but that has been changed to one of partnership. We are acting on the recommendations contained in not only the University of South Australia's report but also the other reports to try to eliminate some of the aspects that are leading to the early and tragic deaths of a lot of members of this community.

We are also working on building up the community through education and training so that employment opportunities are made available. We are also acting on the recommendation of the report to look into the stores policy, which was drafted, from memory, in 2000. That policy is now being put in place.

The Hon. R.D. LAWSON: I rise on a point of order. The minister is not responding to the question, which related to the commissioning of a report. He has run off on issues about the way in which he says the government is responding to a certain situation, but he is not at all responding to the substance of the question, which was the commissioning of a particular report, not the implementation of its recommendations.

The PRESIDENT: The minister has a fair amount of flexibility in the way he answers his question, but there is a responsibility on ministers to answer the question that has been asked, and not necessarily to debate the issue. I am not sure that there is a point of order that I can uphold, but there are some points of principle that are worth remembering.

The Hon. T.G. ROBERTS: The point that I am making in answering the question is that a number of reports have been commissioned by government. A number of reports that were commissioned by the previous government were never acted upon and gathered dust. I am drawing heavily on a report that drew to the attention of the previous government the issues surrounding petrol sniffing. I am drawing heavily on that to devise programs and policy in conjunction with our cross agencies. This is another initiative of this government: to pull all the agencies together to make sure that the moneys that the government is allocating are directed and spent properly.

As to the issues raised by the honourable member in relation to the commissioning of the report—the cost of the report I will bring back to the parliament, as I have already stated. As to the issues in relation to the authors of the report, my understanding is that the authors were determined by the faculty or the department within the university. That is an independent decision made by that organisation. The University of South Australia is an independent body that determines the way in which those sort of reports are compiled. In relation to whether I spoke to the authors of the report prior to the report being commissioned or put together, I must say that I speak to a lot of people over a lot of time, including people from whom I will possibly be commissioning reports within the University of New South Wales and the ANU in relation to this issue.

There is an impact on this state caused by unemployment, drug and alcohol abuse, family violence and petrol sniffing and, rather than reinventing the wheel in a whole range of areas, we will be working with cross agencies, other states and the commonwealth to try to eliminate the curses which exist up there and which are bringing about the tragic conditions of so many people on the lands. We hope to be able to change them.

I hope that I am not breaching standing orders, but I am able to report that the commonwealth is starting to involve itself in freeing up funds for the lands through the COAG trial. It was a recommendation in a number of reports that the commonwealth and the states cooperate. We have also been able to engage the Northern Territory and the Western Australian governments, which I was highly critical of the previous government for not doing and for confining the problems to our side of the border. We cannot do that. We must share our resources and our funding, and we have to make sure that those programs hit the target.

The Hon. R.D. LAWSON: My supplementary question arising out of the answer is: did the minister have any personal discussions with Ms Deirdre Tedmanson about this project prior to her being commissioned to undertake it? Did the minister receive any proposal from Ms Tedmanson about this project prior to her being commissioned to undertake it?

The Hon. T.G. ROBERTS: I did speak to the author of the report prior to its being commissioned. As far as the way in which the report was to be drawn up and how the recommendations were to be given, that was a matter for the faculty. It was commissioned to DAARE for DAARE to use as it wished. We made the report public when it was completed, and we will draw on the report to implement some of the program recommendations. There are some recommendations in there that we will not pick up. We will pick up recommendations from other reports that are more suited to the style of programs and the way they are implemented. But there will be a combination of actions and activities from all the reports that we can draw on that will help those people in their lives.

REGIONAL DEVELOPMENT

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about regional development.

Leave granted.

The Hon. D.W. RIDGWAY: One of the Rann government's key election promises—in fact, it was distributed on its pledge card—was 'We will cut government waste and redirect millions now spent on consultants to hospitals and schools; they are Labor's priorities'. Looking through the recent budget papers, on page 2.16, I note that the regional development portfolio has a massive projected increase in consultancy fees. In fact, in the 2002-03 budget papers the government had an estimated result of $23 000 spent on consultants within the regional development portfolio. In the 2004-5 budget papers the budget has a protected figure of $214 000 to be spent on consultants. If all the allocated funds are spent, this is an increase of 830 per cent. My questions to the minister are:

1. How many consultants are currently employed by the department, and what are their titles and tasks?

2. Why is there an 830 per cent increase in budgeted funds for consultants, given your government's election promise to redirect millions to hospitals and schools?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I think it is unfortunate that, given that the House of Assembly has estimates committees, the honourable member did not read through those estimates committees, because he would have seen the answer provided there quite clearly. I do not have the budget

papers in front of me, but I do know the page by heart. If the honourable member looks at page 2.22 of the Portfolio Statements for the Department of Trade and Industry Development, he will see the aggregate consultancy spend for that department. It is of the order of $1.6 million, which is comparable with the estimated amount to be spent in 2003-04. If one looks across the department, the amount spent on consultancies is broadly similar to the amount spent in 2003-04 which, in turn, is of the same order as what was allocated in the budget for 2003-04. As was pointed out during the estimates committees—

Members interjecting:

The PRESIDENT: Order! Honourable members will cease to make interjections.

The Hon. P. HOLLOWAY: —of the House of Assembly the reason why there are significant changes in those figures for particular programs is that, with the restructuring of the department, there has been some 'pro rata-ing' of the overall costs across individual programs. So, it is essentially that accounting measure and changes in it. But, if you look at the overall spending for the department in the aggregate figures on page 2.22, you will see that the spend on consultancies for 2004-05 will be very similar; it will certainly be well within what would be an indexation of the amount that was allocated and spent in 2003-04.

The Hon. D.W. RIDGWAY: I have a supplementary question. Does the minister acknowledge that there has been an 830 per cent increase in consultancy fees within the regional development part of his department?

The Hon. P. HOLLOWAY: Again, the honourable member does not understand accounting. He needs to understand that the figures are 'pro rata-ed' across the whole department. Regional development activities will not be entirely in that particular program, because the programs are not necessarily the same compared with last year. There has been restructuring of the department. What is funded under each of the (I think) seven programs of the department will not be comparable with the figures spent in previous years. We have already had questions in this place on small business, for example, when I pointed out that there are parts of small business spending which are within different programs. For example, the Office of Small Business expenditure is under program 1. That is an example that I have given to this parliament.

It is not accurate to talk about those sorts of increases by making comparisons within individual programs, because what is being funded for 2004-05 is not necessarily comparable with what was spent in previous years. If one looks at the aggregate figures, one will see that the figure of about $1.6 million is very similar to the figure spent and allocated in the 2003-04 year.

SMALL BUSINESS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about small business.

Leave granted.

The Hon. CAROLINE SCHAEFER: The minister recently announced the closure of the Office of the Small Business Advocate, which was an 'at arm's length' advice, mentoring and mediation service for small business throughout the state. The advocate had a similar role to that of the Employee Advocate. What is left of that office has now moved to the government Office of Small Business under the directorship of a public servant appointed by the minister and under the direct control of the minister. So, the arm's length nature of the advocacy has gone.

At the same time, the government is currently circulating a draft industrial law reform bill. There are some 87 000 small businesses in South Australia and, if the industrial law reform bill passes, it is estimated that some 1 700 jobs will be lost within three years. That is part of the Business SA response to this bill: its figures are worked out by Access Economics, and it is about one in every 400 jobs. At the same time, the minister announced yesterday that the government would continue funding the Business Helpline, at a cost of $110 000 (which is not, I think, a great deal), under the auspices of UnitingCare Wesley Adelaide. We have looked at its web site, and the services offered by the Business Helpline include providing free confidential telephone counselling and a referral service to people who are having trouble with their small business. My questions are:

1. Does the minister agree that there is now no 'at arm's length' support offered to small business until they reach the stage where they need counselling and are having trouble?

2. Does the minister believe that, if the industrial law reform bill gets through in its current form, the UnitingCare Wesley Adelaide group may well be overworked?

3. Does the minister agree that this charity has been chosen because divine intervention might well be needed for small business in South Australia?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I certainly think that divine intervention would be necessary to get the current opposition to win the next election, because it will certainly have to do a lot better than that. In relation to the question about the Small Business Advocate, I do not know how many times I have to repeat it in this parliament—it seems to be almost a daily, or a twice a day occurrence. The Director of the Office of Small Business will be the Small Business Advocate, who will have the powers that were previously available. The Director of the Office of Small Business is a much more senior person within government—is at a much higher level—than the previous Small Business Advocate was. The point is that the Small Business Advocate has access—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: The Small Business Advocate always was. The only difference between the Small Business Advocate and any other public servant was that they had direct access to the minister. I can assure members that the Director of the Office of Small Business will have that access to me, as the Minister for Industry, Trade and Regional Development, in relation to those matters. I reject this argument.

Members interjecting:

The Hon. P. HOLLOWAY: I do not make it up as I go along at all. The fact is that there will be no difference at all in relation to the powers the Director of the Office of Small Business will have. However, what I can say is that he will have more staff at his disposal than was the case previously and, as I have said, he has a more senior position in government. He will also sit on the Small Business Development Council, so he will have a much greater input to small business in general. Again, in relation to industrial reform, that was a matter which was canvassed during the recent estimates committees. As I understand it, the Fair Work Bill

was put out for consultation some time late last year, and submissions have been received, including those from the Small Business Development Council, Business SA, and anyone else who wanted to have an input. The minister is presumably considering those submissions at the moment, and we will see what comes out of the process. It is entirely mischievous of members opposite to try to raise this issue in the way in which they are doing now.

SEISMIC SURVEYS

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about seismic surveys.

Leave granted.

The Hon. A.J. Redford interjecting:

The Hon. R.K. SNEATH: That is good, coming from a simple fellow such as yourself. I am told that last year PIRSA began a deep crustal seismic survey in the Curnamona province of South Australia. The opposition would not know where Curnamona is. I have noted that the government's plan for accelerating exploration makes mention of plans to infill gaps in seismic knowledge. When will the seismic work recommence and what are the likely benefits of the survey?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his question and for his continuing interest in the economic welfare of the regional areas of the state.

Members interjecting:

The Hon. P. HOLLOWAY: I could not have said that better. In answering this question, I would like to provide some background information. The seismic reflection method is normally used by the petroleum industry for oil exploration. However, the use of seismic for deep crustal profiling has been successfully utilised by the mineral industry in regions throughout Australia. The major advantage of this exploration method over other geophysical methods is that it can image crustal structures from near the ground surface down to the base of the earth's crust up to 50 kilometres deep, and it shows a real snapshot of the crustal structure rather than a model section.

Although the cost of the seismic method can be higher than other geophysical methods, the resolution and quality of the information gained can be used accurately to define crustal scale structures. The information can be combined with other geological and geophysical data to create a three-dimensional model of the crust that will lead to the formation of potential mineralisation models. By looking at the relationship between the structures associated with the known mineralisation at Olympic Dam and then similar characteristics exhibited in other regions that may be recognised as potential mineralisation targets.

The deep crustal seismic program will recommence in early July and seeks to determine the relationship between the geological provinces that contain the Olympic Dam and Broken Hill mines. Faulted and folded rocks of the Flinders Ranges obscure the contact between these two provinces. By determining the nature of this relationship, it will be possible to hypothesise as to the position of these two crustal blocks at a time when South Australia and the Northern Territory formed the eastern-most coast of Australia and the many significant ore bodies were being formed. This understanding could guide explorers to search in previously under-explored areas. The results from this exciting seismic program will be used to underpin the construction of the three-dimensional model of the geology of South Australia, as planned in theme 7 of the plan for accelerating exploration—next generation data delivery. As I mentioned in the council earlier, techniques such as this will enable this state to remain at the forefront of the provision of pre-competitive geological data for the mining industry.

KANGAROO ISLAND RESORT

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for Urban Development and Planning, a question about a mooted six-star eco-resort on Kangaroo Island.

Leave granted.

The Hon. SANDRA KANCK: An item on the NEWS Travel web site in January this year advised that Mr James Baillie, formerly of P & O Resorts, has branched out with his own business, Baillie Lodges, and that 'plans are afoot for a six-star lodge on South Australia's Kangaroo Island.' Last week, on the Travel Impact Newswire service, item No. 46 asserted most confidently that in 2005 the six-star Southern Ocean Lodge on Kangaroo Island will open as South Australia's new icon. As 2005 is only six months away, that seems to be a very assertive claim, given that no planning application is yet before the local council.

In March, I drove close to the proposed resort, which would be located in low heathland near Hanson Bay on the south-west of the island. That area is exposed to very strong winds from the Southern Ocean. As a consequence of the proposed location, any resort would require significant amounts of heating during winter, and there is no electricity to the site. Further, there is no obvious source of fresh water. The construction would obviously involve destruction of native vegetation, both at the site and to enable land access to the area. My questions to the minister are:

1. What knowledge does the government have of this proposed new icon?

2. Has the minister, or her department, been involved in any negotiations with the developers? If so, has the government been asked to provide any infrastructure support or other assistance to the developers in building this resort?

3. Will the proposed development comply with zoning requirements for that site? If not, will the government take a strong stand in support of the environment and not bend the rules to support any such application?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will refer that question to the Minister for Urban Development and Planning and bring back a response.

HOUSING TRUST, ASBESTOS

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Administrative Services, questions about asbestos removal in Housing Trust properties.

Leave granted.

The Hon. NICK XENOPHON: Yesterday I asked questions directed to the Minister for Housing related to asbestos removal and Housing Trust properties and made reference to the June 2003 report prepared by McLachlan Hodge Mitchell, business advisers to the Department of Human Services, entitled 'Review of management of asbestos

related risks in the SA Housing Trust'. Pages 41 and 42 of that report make reference to the interrelationship between the Department of Administrative and Information Services and the South Australian Housing Trust. At page 41, the report states:

> The Department of Administrative Services has established an Asbestos Management Unit (AMU) for the purpose of handling asbestos matters for the Whole of Government. While AMU does work for numerous Government Departments, Government Agencies are not mandated to use the DAIS Asbestos Management Unit.

The report continues:

> The Trust has progressively delegated the responsibility for sampling and removal to (AMU) because of the potential risks to its field officers. The AMU has never been advised and is not aware of any Trust policy stating that all samples will be taken by the AMU. Generally an Officer of the AMU takes most samples, however, there are instances where Field Officers of the Trust take the samples and forward or hold them in their office for collection by an AMU Officer.

It also states:

> This confidence on the part of the Trust is not always borne out in practice with complaints concerning contractors—

This is about a number of matters, including, not enough notice given to tenants about removal of asbestos and appropriate barriers not being erected around affected areas. Contractors are advised by the AMU to erect bunting, where appropriate, on external removals in compliance with the code of practice and the approvals as granted by Workplace Services.

The report also states that appropriate practices are not followed whereby removal contractors are required to comply with the codes of practice, the regulations and the approval as issued by Workplace Services when removing asbestos. It also states that correct disposal methods are not always adopted, and the report makes a high priority recommendation that the trust develops and adopts policies and procedures in conjunction with the ANU and its contractors to ensure that compliance with the act and regulations is undertaken by all parties.

In summing up, the report is quite damning that the Department of Administrative Services has not undertaken or has not ensured that all matters are complied with in respect of asbestos removal. The flow chart for the recommendations indicates that the specific recommendations that are referred to as R3 should have been implemented almost immediately from the publication of the report in June 2003. My questions to the minister are:

1. When did the Department of Administrative Services or the minister become aware of the McLachlan Hodge Mitchell report of June 2003?

2. Given the important public health and safety issues involved, what steps did the minister take to release the report publicly?

3. To the extent that the report makes recommendations affecting the asbestos management unit and any other responsibilities of the Department of Administrative Services, what steps have been taken to comply with the recommendations and when? If the recommendations have not been implemented, why not? If not, when will the implementation take place?

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

GARRAND, Mr R.

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

Leave granted.

The Hon. R.I. LUCAS: Members will be aware that I have expressed my concern publicly about the close associations of the new Chief Executive who was appointed by the Leader of the Government to the Department of Trade and Economic Development, making him the most senior economic development bureaucrat in South Australia. I indicated on a previous occasion Mr Garrand's connections, including his work as a personal economic adviser to Labor Party Senator Graham McGuire and his being the senior economic and financial adviser to premier Bannon and premier Arnold, and I have highlighted the quality of the work that he was able to offer that administration in relation to the State Bank.

I have listed his work for Mr Wayne Goss and a series of consultancies which attracted considerable controversy in the Queensland parliament and the Queensland media with respect to the current Labor administration in Queensland. I also indicated in that contribution the information that I have been provided with whereby Mr Garrand had provided advice to the labor opposition, Mr Rann and Mr Foley, prior to the 2002 state election, and that he had also been working for the administration in some form in the period March-April 2002.

Earlier this week, the minister or the government provided an answer to my colleague, the Hon. Mr Stefani, which conceded that Mr Garrand had provided economic advice to the Hon. Kevin Foley in late 2001 (I note that that was prior to the state election) and subsequently worked for a brief period in the Deputy Premier's office in March and April 2002 to assist in assessing the state of South Australia's finances and providing economic advice to the Treasurer. My questions to the Leader of the Government are:

1. Was Mr Garrand paid for the work he did for the Labor opposition prior to the state election? If he was not paid, was he given prior to the election any commitment or promise by the Labor opposition of future employment if a Labor government was installed after the state election?

2. In relation to the work the Deputy Premier has conceded was undertaken in March and April 2002, what was the term of that appointment, what was the payment, the total employment cost of any contractual arrangement with Mr Garrand and the requirements for Mr Garrand during that particular period?

3. Was Mr Garrand employed under a ministerial contract during that period and, if he was not, what was the nature of the employment, and were all Commissioner for Public Employment guidelines followed in the appointment of Mr Garrand?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will refer those questions to the Treasurer or—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I will take those questions on notice. However, I would remind the council that, two weeks ago, the Leader of the Opposition asked me whether I would give an assurance that we would not be appointing Mr Stephen Hains (Chief Executive Officer of the Salisbury council and the former head of the department of business, manufacturing and trade) to the position. Of course, that is when I informed the leader that Mr Garrand had been

appointed, and immediately the attack that he had launched against Mr Stephen Hains (saying that he was not suitable) was directed at Mr Garrand and that he was not suitable.

The Hon. R.K. Sneath: You have to remember that you are in opposition.

The Hon. P. HOLLOWAY: Yes; but there was a time, though, when the Leader of the Opposition was in government. I understand that, at one stage, the leader's chief of staff or an employee of his was Mr Denis Ralph; and, of course, that Mr Denis Ralph was subsequently appointed by the then minister for education as the Chief Executive Officer of the Department of Education and Children's Services. When the leader moved on to become treasurer and the member for Light took over as the minister for education, the member for Light decided that he wanted to get rid of Mr Ralph.

And we all know, through the pages of the Auditor-General's Report in the year 2000 or 2001, what became of that and how taxpayers were required to fund that position. As I have pointed out on a number of occasions, this state is very fortunate to have a person of the intellectual calibre, and with the knowledge of economics, of Ray Garrand as the director of that department. Mr Garrand was appointed to that position on the basis of merit, unlike what happened in the days of Mr Denis Ralph's appointment. We now have an Office of the Commissioner for Public Employment, and proper processes were followed in relation to the appointment of Mr Garrand. However, I will refer the specific questions to the Treasurer or to the Premier.

The Hon. R.I. LUCAS: As a supplementary question, will the minister check the record and satisfy himself that when the question was asked about Mr Stephen Hains it was not as a criticism of his being a wholly-owned subsidiary of the Labor Party? The question related to the commitment the former minister had given that Mr Stephen Hains would be appointed for a period of only six months and that he would not be reappointed by the Labor government?

The Hon. P. HOLLOWAY: The point still remains that the Leader of the Opposition's question sought assurance that Mr Hains would not be appointed. I am sure that the Leader of the Opposition would find reason to attack whoever was appointed to this position. I really do not think that the leader is doing himself or the Liberal opposition in this state any good at all by attacking senior public servants. As I and other ministers have indicated to this council on a number of occasions, this government has appointed a number of people who have been prominent within the Liberal Party.

Stephen Baker did not write our policies and David Wotton did not write our environment policies, but both of those former members of this parliament and ministers in the Liberal government have been given important key positions under this government. I do not think that anyone could argue that there was not a fair representation of political views covered within the Economic Development Board.

As I said during estimates, this government will use whatever expertise is available. We do not have such a surplus of talent within this state that we can afford to overlook people of their ability, regardless of their political background. This government will get the best people, whatever their background and however they vote. We will get the best people, and we are fortunate indeed to have a person such as Mr Ray Garrand in such an important position.

The PRESIDENT: Stop the clock. I want to make an observation to members who have enormous flexibility in this council to raise matters of public interest. With that comes a responsibility to act in what I believe to be a decent way. I find attacks on public servants who do not have the opportunity to answer most unedifying. It is fair enough to ask questions and probe the government, but character assassination of people who have no ability to answer in the council amounts to something like cowardice, in my view. I ask all members to maintain the dignity of this place, as I have requested from day one, and resist the sometimes overwhelming impulse to attack someone's character under the privilege of parliament. I emphasise that I do not promote the situation that members cannot ask reasonable questions about decisions or public servants, but character assassination under parliamentary privilege is cowardice.

BRENNAN'S JETTY

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about Brennan's Jetty.

Leave granted.

The Hon. J.M.A. LENSINK: Today I received correspondence (as did other members) from the CEO of the City of Port Lincoln, Mr Ian Burfitt, regarding the threat to public access to Brennan's Jetty at Port Lincoln. It has been discovered that 48 of the 60 piles beneath the jetty are 30 per cent solid or less. The need for repairs, which will cost some $350 000, was described in correspondence on 18 November 2003 as 'immediate'. Under the recreational access agreement between the council and Flinders Ports, which was required as part of the sale, Flinders Ports carries public liability risk insurance to the value of $50 million. The letter states that the council was advised that the state government had accepted public liability on structural maintenance, as well as lighting, safety barriers and fencing.

An agreement was reached between the state government and Flinders Ports to ensure access for 100 years, and this would ensure compliance with section 17(2) of the South Australian Ports (Disposal of Maritime Assets) Act 2000, which provides:

> The purpose of a recreational access agreement is to preserve or enhance access by the public, free of charge, to land and facilities to which the sale/lease agreement applies.

My questions are:

1. Does the minister agree that the government has a responsibility to provide public access for recreational fishing and other activities?

2. Is he concerned about the potential impact upon the community of Port Lincoln of a closure of the wharf?

3. Does he agree that this will have a negative impact on tourism potential?

4. What action will the minister take to fix this problem?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will refer that question to my colleague and bring back a reply. However, I am certainly aware of the need for such measures because it was an opposition amendment—I think I moved it—when the bill supporting the sale of the ports was before the council. I think we moved amendments to ensure that there would be reasonable access in relation to activities such as recreational fishing. We actually moved those amendments. I will refer the question to the minister and bring back a reply.

ABORIGINES, BRINGING THEM HOME PROGRAM

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about Bringing Them Home—Family Reunion.

Leave granted.

The Hon. J. GAZZOLA: I am aware from answers to previous questions that the establishment of the South Australian link-up program was a direct response to the 1997 'Bringing Them Home' report, and it is currently the only program in South Australia providing reunion services which are culturally respectful and sensitive to the specific needs of indigenous people. In last year's budget, the government allocated funds to Aboriginal family reunion initiatives for the following four financial years. Will the minister inform the council of the success of these initiatives in 2003-04 and on plans for the coming 12 months?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): On 9 August 1995, the Human Rights and Equal Opportunity Commission launched a national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families. This resulted in the release of the 'Bringing Them Home' report on 28 May 1997. DAARE convenes the 'Bringing Them Home' key advisory group to monitor and report on the progress made by state government against commitments and recommendations of that report. In 2003, the South Australian government committed $412 000 over four years to assist Aboriginal people affected by past government policy, with a specific focus on those people who were fostered, institutionalised or removed from their family and their country. This was in addition to the ATSIS funding of 2002-03 of $403 846.

The reunion process for Aboriginal and Torres Strait Islander people who have been separated from their family and country is an often painful and distressing journey, and this support allows appropriate grieving to take place towards progressing healing and the general improvement of the health of those individuals who have been affected by those past policies. For the period July 2003 to December 2003, the South Australian link-up program coordinated 19 reunions, both locally and interstate, at a cost of nearly $60 000. The total number of South Australian link-up clients reunited for this period was 975, making the cost approximately $60 per client. A further outcome report is due in July 2004, and I am sure that the honourable member will avail himself of the report as soon as it is printed and delivered.

The state government will continue to fund the South Australian link-up program in 2004-05 for Aboriginal reunion services. It is anticipated that $100 000 could assist as many as 1 500 clients, and this government has given an ongoing commitment to carry out the policy direction within that report.

The Hon. KATE REYNOLDS: I have a supplementary question. I have in front of me some papers from a constituent who has come to see me recently. I do not have the entire list in front of me but, given that he has been to about 45 different agencies at both state and federal levels in an attempt to resolve some of his issues about being a member of the stolen generation—

The PRESIDENT: The honourable member is debating the question. The honourable member needs to ask the question.

The Hon. KATE REYNOLDS: Will the minister undertake to investigate how this man might be further assisted?

The Hon. T.G. ROBERTS: I will confer with the honourable member, obtain the details and assist where I can.

CRIME PREVENTION

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question relating to crime reduction.

Leave granted.

The Hon. IAN GILFILLAN: I direct the question to the minister because he obviously has a vital interest in crime reduction in South Australia in his area of ministerial responsibility. It is a question based on a paper put out by the Australian Institute of Criminology dated 9 March this year entitled 'The Whole of Government Approach to Crime Prevention'. It is of significance that the former director of the Australian Institute of Criminology, Dr Adam Graycar, has now been appointed as Executive Director of Cabinet Office, so it is with some expectation that I ask the question on the basis that the government and the minister will be well aware of the matters in this paper.

The whole of government approach to crime prevention 'requires a high level of policy, program and organisational integration.' The paper goes on to say:

> There is a common emphasis on the 'whole of government' approach because the causes of crime are complex and multi-faceted. Successful crime prevention action requires the coordinated effort many agencies in partnership with community and business groups.

The paper recommends that there needs to be some substantial changes in processes. Some important areas outlined are pooled budgets; partnership between non-government/voluntary sector, private sector, other levels of government, such as local government—and I emphasise local government—integrated planning, innovative community consultation and joint databases. The paper continues:

> This means that the adoption of a 'whole of government' approach to crime prevention must be thoroughly planned across all the program delivery levels. It also means that the policy and program process must be seen as a single integrated system rather than a series of discrete or loosely connected parts. A strong and responsive crime prevention agency is essential to guide this process—

and I emphasise that—

> crime prevention cannot implement itself.

In light of that very significant and constructive paper, my questions of the minister are:

1. With the emphasis of this government being tough on crime and, one assumes, therefore, very enthusiastic on the prevention of crime and reduction of crime, how does the government's cut in funding for crime prevention to local government fit in with the general momentum and, in particular, with this reference in this paper?

2. Has a crime prevention agency, as so strongly recommended by this paper, been established yet in South Australia?

3. What is the government doing to implement the whole of government approach to crime prevention that we are told by this paper is very widespread in Australia? Is it widespread in South Australia or has South Australia missed that bus?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his questions and his emphases that he has placed on a number of important parts of his question. There is an emphasis on cross-agency cooperation in many of the issues raised in the honourable member's emphasised, highlighted areas that he has an interest in. I will take the question on notice and refer it to the Minister for Police and other agencies involved, including justice, and bring back a reply.

The Hon. IAN GILFILLAN: As a supplementary question, has the minister's own department been involved in any move for a whole of government approach to crime reduction?

The Hon. T.G. ROBERTS: The Department for Correctional Services has recently been involved in working with programs for drug strategies for exiting prisoners, to follow the lives of those people to at least work with them to try, through health programs (which is another cross-agency involved), to deal with the problems associated with drug addiction, alcohol addiction and family violence. The honourable member will be pleasantly surprised with some of the work that is being done across agencies and connected to a whole of government approach in relation to dealing with prevention. The drug strategy deals with that.

Many of the people who enter prisons for which I am responsible are there for either drug-related crimes or crimes committed while under the influence of drugs. While we can link health exiting programs and continue then to education training programs for exiting prisoners within prisons and outside, then the whole of government approach can have a good ground for success.

STATE WIRELESS NETWORK

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Administrative Services, questions about the security of state government wireless network computers.

Leave granted.

The Hon. T.G. CAMERON: A recent study conducted by UniSA's Enterprise Security Management Laboratory has found that both government and private sector computers using wireless networks are under potential serious threat from malicious users. As wireless technology becomes cheaper, commercial and private users are increasingly adopting it as an alternative to traditional wired networks. However, many people appear to have little security knowledge, so there is a growing risk of unauthorised access. Wire-equivalent Privacy (WEP) is a standard security mechanism for wireless computers. The UniSA study found that WEP encryption is lacking in at least 54 per cent of the 729 networks detected, while another 15 per cent are failing to make use of even the most basic security measures. The report states that many networks are leaving themselves wide open to attack by hackers who could easily gain confidential information, delete material or wreak havoc with potentially devastating results. My questions are:

1. Currently, how widespread are wireless computer networks within state government department agencies? Are they protected by WEP security? How secure are they from attack by hackers?

2. Have there been any recorded instances of unauthorised outside access of state government wireless computers? If so, what action did the state government take?

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

LAND TAX

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Administrative Services, questions about increases in land tax charges.

Leave granted.

The Hon. J.F. STEFANI: Honourable members would be aware that in the past few years the land tax charges on all properties have increased dramatically. Land tax is payable on the aggregate value of properties owned by an individual and not on a property by property basis. For example, an individual who owns three properties with an aggregate value of $1.2 million will pay tax on all three properties at the highest rate rather than paying the applicable marginal rate for each individual property. Many South Australians believe that the sky-rocketing land tax bills are yet another impost for businesses both big and small. The increases in land tax charges by the Rann Labor government are considered to be a disincentive to further employment and will lead to reduced investment and employment in our state. My questions are:

1. Will the minister advise the actual amount collected by the Labor government for land tax charges for the following years: 2001-02, 2002-03, 2003-04?

2. Will the minister advise the total value of all properties upon which land tax was levied for each of the above years under the following categories:

(a) exceeding $50 000 but not exceeding $300 000;

(b) exceeding $300 000 but not exceeding $1 million;

(c) exceeding $1 million?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): Those questions ought to be directed to the Treasurer, so I will take them on notice and bring back a reply.

REPLIES TO QUESTIONS

DRINK SPIKING

In reply to **Hon. SANDRA KANCK** (24 February).

In reply to **Hon. NICK XENOPHON** (24 February).

The Hon. P. HOLLOWAY: The Minister for Police has provided the following information:

1. The Commissioner of Police advises that the National Drink Spiking Project is being managed by the Australian Institute of Criminology (AIC), which conducted a Drink Spiking Hotline between 17 November and 17 December 2003 across Australia. A total of 204 calls were received with the final in-scope sample comprising 197 victims and 201 incidents. Of those, 10% or about 20 incidents occurred in South Australia. Due to the nature of the research being conducted in this project by the AIC the details of these incidents have not been provided to SAPOL.

2. SAPOL provides the following information (where there has been inadvertent use of drugs or alcohol) for the last three years:

Financial Year	No of Reports
2001–02	60
2002–03	84
2003–present	34

4. The Commissioner of Police advises that SAPOL meets with interested external groups to define, discuss and respond to issues in relation to 'drink spiking' and drug and alcohol related sexual

assault. This involves members from the Office of the Liquor and Gambling Commissioner (OLGC), Yarrow Place, Department of Human Services and Drug and Alcohol Service Council (DASC). The primary focus is on protective behaviour and harm minimisation. In conjunction with these agencies, crime reduction strategies for reducing victimisation have been developed which involve community education in relation to responsible alcohol consumption and service and the criminality of acts including sexual assaults where drugs (including alcohol) are a factor. The future direction of these meetings is awaiting the findings from the National Drink Spiking Project.

SAPOL promotes and encourages the involvement of Yarrow Place and ShineSA in Drug Action Team (DAT) activities, improved communication between the community and these organisations especially where drug and alcohol facilitated sexual assault has been identified as a risk eg School leaver celebrations. The aim is to increase contact by members of the public with these agencies as a harm minimisation approach and to provide an opportunity for indirect data re drink spiking to be provided to SAPOL.

DAT Sergeants have been encouraged to address broader issues with appropriate agencies in relation to harm minimisation issues re alcohol and drug use, "safe sex" and responsible relationship strategies.

DASC in partnership with SAPOL and OLGC, and in consultation with Australian Hotels Association and Clubs SA, developed and distributed an 'illicit drugs and licensed premises' package. This package targeted licensees and their duty of care and illicit drug use within licensed premises.

SAPOL thoroughly investigates drink spiking incidents, even if it is not 'officially' reported by the victim, to ascertain if any offence has occurred, the nature and extent of the problem. Where no specific offence is identified a problem solving approach is taken involving the local DAT Sergeant and members of the local DAT network (including licensees) along with other SAPOL members e.g. Field Intelligence Officers, Crime Scene Prosecution and Community Programs Sections.

As a result of the Government response to the South Australia 2002 Drugs Summit, a sentinel monitoring system will be established, where information will be collected from those presenting with drug related toxicity at the accident and emergency departments of the Royal Adelaide Hospital and Lyell McEwin Hospital. This information will enhance health and law enforcement activities in reducing harms including that from 'drink spiking'. This initiative may identify issues relating to 'drink spiking' and thereby assist in the development of specific prevention and intervention strategies.

SAPOL refers victims of drug (and alcohol) assisted sexual assault to counselling by either Yarrow Place or Victim Support Services.

5. The Commissioner of Police advises that SAPOL's Sexual Assault Unit has an 'Anonymous Victim Questionnaire' which is available at Yarrow Place and Royal Adelaide Hospital for victims of sexual assault who do not want police involvement. The victim can nominate 'drink spiking' if they believe it was an issue. To date, no forms have been submitted under this system.

SAPOL monitors incidents of Stranger Rapes. In the past three years, less than 10 percent of stranger rapes reported are associated with drink spiking (drugs and/or alcohol.) However, on average, in the last three years between 30 and 40 percent of all stranger rapes have been related to alcohol or drug use. Many drug or alcohol assisted incidents occur between acquaintances.

SAPOL monitors reports by victims of alleged rapes where they suspect 'drink spiking'. This recording occurs at the time of reporting the offence. The following table is provided:

Financial Year	No of Reports
2002-2003	25
2003 to date	20

The Minister for Health has provided the following information:

3. Testing for specific drugs is generally not performed as the immediate clinical management of the patient in the Emergency Department is not influenced by the result of the screening tests.

If a clinician suspects drink spiking, screening tests can be done for:

- Ethanol (alcohol);
- Cannabinoids;
- Benzodiazepines;
- Opiates;
- Cocaine;
- Amphetamines (including Ecstasy);
- Methadone;
- GHB (gamma hydroxy butyrate or Fantasy);
- Ketamine;
- LSD;
- Barbiturates;
- Narcotic analgesics;
- Tricyclic antidepressants; and
- Propoxyphene.

The results of such tests are generally not available until 7 to 14 days later. There are very few specific antidotes available for these compounds. Clinical management is therefore usually based on the presenting symptoms rather than definitive knowledge of the causative drug.

A recent estimate by the State Forensic Science Centre of the cost of analysing 500 patients for these drugs was in the order of $100 000.

4. Prevention of drink spiking incidents

The Drug and Alcohol Services Council has been working with the SA Police and other agencies on identifying and responding to drink spiking incidents

Multiple strategies have been identified to ensure appropriate and effective prevention strategies to drink spiking:

- the provision of information about reducing the risk, through both environmental and behavioural factors, have been incorporated within the broader health promotion activities addressing alcohol use; and
- local action to support the undertaking of national research project on drink spiking and subsequent recommendations.

Increased reporting of such incidents

SA Police have convened a small working party to identify effective reporting mechanisms of drink spiking incidents.

A national study, being conducted by the Australian Institute of Criminology, is researching the issue of drink spiking including the level of reporting within Australia. The results of this research will inform the development of appropriate interventions.

Provide effective treatment to victims

The complexity of treatment for the physical effects of drink spiking can differ depending upon the substance, environment and individual involved.

The substances used to 'spike' a person can be licit or illicit. The most commonly used substance is alcohol which can result in a person experiencing intoxication in excess of what would normally be expected for their perceived level of alcohol consumption. In such cases, supervision and minimising the risk of potentially risky activity is the most common response, generally provided by friends of the victim.

The extent of drink spiking with illicit substances remains unknown and problematic in assessing. The most effective response is ensuring the victim is provided with immediate medical assistance to monitor their condition, obtain toxicology samples to screen for the substance and administer medical intervention where required.

Information has been provided to all licensed venues highlighting that immediate responses to the negative health effects of drugs are vital. The information continues to be conveyed through responsible service of alcohol training and the Illicit Drugs and Licensed Premises Kit available from the Drug and Alcohol Services Council.

One of the most significant aspects to treatment for victims may be associated with the harm they experience as a result of the drink spiking incident. The trauma associated with being a victim of rape, sexual assault or violence may be the immediate factors addressed when someone presents to a service after a drink spiking incident

5. All hospitals refer people who have been sexually assaulted to Yarrow Place Rape and Sexual Assault Service.

Yarrow Place Rape and Sexual Assault Service do not record 'drink spiking', but record alcohol related sexual assault incidents as these are the most common.

From 1 July 2001 to 31 December 2003, 662 people were seen (617 females and 45 males). 82 (13.3%) of the 617 females and 5 (11.1%) of the 45 males reported possible alcohol assisted sexual assault.

In response to the supplementary question, patients who present with symptoms from suspected drink spiking are stabilised medically and given supportive treatments until their symptoms resolve. They are actively encouraged to seek follow up with the police regarding the suspected drink spiking incident. If the patient has been sexually assaulted they are referred to Yarrow Place Rape and Sexual Assault Service.

If a person presents to Yarrow Place Rape and Sexual Assault Service, believing that they have been drugged, then generally urine testing (screening and specific drug testing) is requested as part of

the forensic examination and/or as part of that person's health care. A blood test will be done in addition to the urine testing if the person has a forensic medical examination.

Where the person presents a significant amount of time after the alleged drink spiking/drugging, (eg several days later) drug testing is generally not offered because many of the drugs of concern are undetectable within hours to a day.

REGIONAL DEVELOPMENT BOARDS

In reply to **Hon. CAROLINE SCHAEFER** (31 March).

In reply to **Hon. J.S.L. DAWKINS** (31 March).

The Hon. P. HOLLOWAY: The Economic Development Board's clear desire in making that recommendation is to increase the effectiveness of the Regional Development Board (RDB) structure for improved planning and delivery of regional development programs. It recognises that the existing RDB framework, comprising 13 Regional Development Boards, has been operating for more than ten years and that, over this period, there have been changes that potentially offer new opportunities for improvement. It is important to note that the Regional Development Board model reflects a partnership between State and Local Government, and has operated under successive state government of both persuasions.

Rather than impose a new framework on the Boards, Government has encouraged the boards to follow a self-determination approach and report back to Government what they consider would be the most 'workable' framework taking account of a whole range of relevant issues including current best practice examples in regional development and the appropriate size of a regional development board taking into account geographic, community of interest and population.

The RDBs peak body, Regional Development South Australia (RDSA) has proposed that an independent consultant be engaged to facilitate a formal review process but for the process to be owned and managed by the three key stakeholders – the Boards through RDSA, the State Government (through the Office of Regional Affairs) and Local Government (through LGA). The State Government will be financially contributing up to $20 000 through RDSA to support this review.

The Terms of Reference for the project has been developed and a consultant has now been engaged by the RDSA membership base to facilitate the project. At the conclusion of the study, a joint communiqué including recommendations related to the future role and functions of the Boards and to regional boundaries will be provided to all stakeholders, which includes the State Government.

FREEDOM OF INFORMATION

In reply to **Hon. R.I. LUCAS** (25 February).

In reply to **Hon. NICK XENOPHON** (25 February).

The Hon. P. HOLLOWAY: The Minister for Administrative Services has provided the following information:

1. The guide titled, *Processing FOI Applications*, which describes the protocols for processing FOI applications, was distributed to all accredited FOI officers in every agency bound by the *Freedom of Information Act 1991* in early 2003.

The guide is available on the website of State Records.

2. Step 11 described in the guide suggests to staff processing FOI applications that it may be necessary to seek opinions to ascertain whether the disclosure of the document in question might affect intergovernmental relations, whether it was created as a result of another piece of legislation that contains a secrecy provision, whether disclosure will affect the business affairs of the agency or affect the economy of the state. These matters may not be within the knowledge of the FOI officer and it is necessary to establish this information from those who would be aware of these specific considerations.

The source of the opinion may include the chief executive of the agency and other public servants, and it might be necessary to seek the opinion of the staff of a ministers office or a Minister. It must be noted, however, that direction cannot be given by any person to the accredited FOI officer in relation to the conduct of the application.

In response to the supplementary question the Crown Solicitor's office was approached and provided comment on the FOI process guide.

ANANGU PITJANTJATJARA LANDS

In reply to **Hon. R.D. LAWSON** (23 March).

The Hon. P. HOLLOWAY: I am pleased to provide information in response to a supplementary question regarding the provision of financial assistance to APY for the appointment of a law and culture coordinator.

Sponsored by the Senior Management Council (SMC), an Economic and Resources Development Task Group has been established to provide strategic and planning support to APY. This Group (formerly known as 'TIER 2') has allocated funding of $265 000 to proceed with strategies to build capacity on the Lands to take up economic development opportunities. In order to proceed with the strategic actions agreed to and funded by SMC, PIRSA has obtained a signed agreement from APY outlining the agreed outcomes and accountability for this funding.

To date, $71 000 has already been paid to the Executive of the APY to fund the logistics and preliminary business discussions for the newly established Tjukurpa APY Law and Culture Corporation. PIRSA officers attended these successful discussions that resulted in the establishment of the framework for the Law and Culture Corporation.

An additional portion of this funding package ($60 000) has been granted for the employment of a coordinator to work with the traditional elders of the Law and Culture Corporation.

APY have advertised for the position of the Law and Culture Coordinator and are currently conducting interviews for the most appropriate candidate. It is understood that this position will report to the Chairperson of the Law and Culture Corporation, Mr Murray George.

PETROL DISCOUNTING

In reply to **Hon. IAN GILFILLAN** (1 April).

The Hon. P. HOLLOWAY: The Minister for Consumer Affairs has received this advice:

The Office of Consumer and Business Affairs (OCBA) and the Australian Competition and Consumer Commission (ACCC) have investigated the matter of advertising unleaded petrol on the price boards of Woolworths and Coles petrol stations offering discounts of four cents a litre to customers who have appropriate dockets from their supermarkets.

From their investigations, neither OCBA nor the ACCC found there was any evidence of misleading or deceptive advertising.

Officers looked at both Woolworths and Coles petrol outlets and found that the advertising boards clearly showed that the price-per-litre of unleaded petrol was for eligible customers who had dockets from their supermarkets.

The ACCC found that although the price on the advertising board for Woolworths outlets clearly showed that the price was discounted by four cents on presentation of a discount docket, the price-per-litre for all grades of petrol was correctly displayed for customers at the petrol pump and the discount price was calculated at the point of sale.

The ACCC concluded that there was no evidence of misleading advertising and there was no breach of the Trade Practices Act and officers from OCBA also concluded that there was no breach of the *Fair Trading Act 1987* or any other legislation administered by them.

NATURAL RESOURCES MANAGEMENT BILL

In committee (resumed on motion).

(Continued from page 1843.)

The Hon. NICK XENOPHON: What will be the implications of this amendment in the context of defining additional water affecting activities by regulation? In particular, in terms of the implications for local Clare Valley water resources, the point made by the opposition is that this provision mirrors the provisions of the current Water

Resources Act. Will the minister elaborate on that, as it needs to be considered before this matter is voted upon?

The Hon. T.G. ROBERTS: I am advised that, in cases such as the importation of water into an area such as the Clare Valley, it would be difficult to set up regulations around issues such as salinity. It would make it difficult to manage.

The Hon. CAROLINE SCHAEFER: Why would it be impossible to have the scrutiny of the parliament in the same way as planning amendments are currently referred to the ERD Committee? If such a proposed measure ended up being a regulation, why would it be impossible or impractical for that to go before the scrutiny of the parliament priority its being regulated?

The Hon. T.G. ROBERTS: I am advised that you would have to put a prescriptive bill into the house to pick up all the conditions that would apply, and it would get very messy. As it stands, a regulation can be considered by either house, but that is 'post', not 'pre'.

The Hon. SANDRA KANCK: As this amendment stands, the Democrats do not support it, because we have the regulations that come before parliament. What is proposed in this amendment would require an amending bill to the natural resources management act which, to my mind, unnecessarily complicates things. However, if the member was to consider putting it in another form that reflected what she said a short time ago—that the draft regulations would go to one of the committees of the parliament (and I think that committee would be the Natural Resources Committee) before the regulations were ever promulgated—I would consider that favourably.

The Hon. A.J. REDFORD: I would like to make a couple of comments before I ask questions about this, and I am dealing specifically with the proposed amendment. This amendment before the committee is conditional upon clause 127(3)(f), an activity prescribed by regulations. It seems to me that there are a number of different ways in which the parliament can achieve the outcomes that are alluded to in this bill. One way is the way in which the government seeks to do it here, that is, by prescribing an activity by way of regulation. There is an alternative, and that is to impose a condition on a licence; that is, a person who is engaged in these activities obviously needs certain licences. Could the minister give me some indication as to why that is not an appropriate method by which these sorts of activities might be better regulated?

The Hon. T.G. ROBERTS: As explained, it is a matter of bringing water in between catchment areas rather than allocating it within an area that makes the issuing of permits difficult or impossible. I think the Hon. Sandra Kanck's suggestion is probably a better one in relation to how to deal with it.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I note the honourable member's—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Well, the point is you do not have any power to do it.

The Hon. A.J. REDFORD: With respect, there is a range of regulatory things that you can use to control an activity: you can do it by regulation; you can pass a law; and you can put a condition on a licence. I wonder—and this is fairly specific and not a trick question—when you might consider using a condition on a licence as opposed to using some legislative instrument. Can the minister explain why that is not a more preferable way of dealing with the sorts of issues that the government might perceive it might be confronted with, as opposed to passing a regulation?

The Hon. T.G. ROBERTS: I am advised that it would be very difficult to do it in that form because you have to define an activity before you can do that.

The Hon. A.J. REDFORD: You have to do that with the regulation as well. You have to define it.

The Hon. T.G. ROBERTS: That is part of the regulation.

The Hon. CAROLINE SCHAEFER: The minister's argument appears to be couched around the fact that this legislation is based around catchment areas and that it is difficult to change a catchment area, but we have living proof in last week's *Gazette* that, by gazettal, the government can change a catchment area at any time it wishes, and it has just done so by extending the Clare Valley catchment area.

The Hon. T.G. ROBERTS: As has been explained to me, it is difficult to define the head powers of the catchment areas, and if you are moving water between two different catchment areas, it makes it impossible to carry out.

The Hon. A.J. REDFORD: I go back to where we were. If I understand the minister's answer correctly—and he can correct me if I am wrong—the reason why it is difficult to put a condition on a licence is that it is hard to define the activity. If it is hard to define the activity in relation to putting a condition on a licence, is it not the case that it is also hard to define an activity in relation to a regulation?

The Hon. T.G. ROBERTS: The regulations will help define the activity.

The Hon. A.J. REDFORD: As will the conditions of a licence. What is the difference? I ask the Hon. Nick Xenophon to listen to this, because he gets a critical vote on this. You can prescribe or constrain an activity by way of regulation. We all know from a practical perspective, regulations go to the Legislative Review Committee (ably chaired by the Hon. John Gazzola) and we look at the principles, but that is about the level of scrutiny that regulations get. You can pass a regulation pursuant to this power which can substantially infringe upon the person's property rights or their capacity to generate an income. That is a substantial intrusion on private activity. In terms of making laws, the normal way in which you intrude upon that particular right is to do it by way of condition on a water licence. That enables a holder of a water licence to do a couple of things. First, they can deal with the condition of the licence through an appeal process, ultimately potentially leading to the NRM court. What they cannot do, if there is a regulation—with some exceptions (and short-term exceptions albeit with the examples in relation to the fishermen on the River Murray)—is challenge a regulation in the court.

What we have here is a substantial intrusion on people's individual rights (or potentially) by way of regulation. One of the principles endorsed by the Hon. John Gazzola (and many other members of this parliament) is that we will always strike down regulations that are a substantial intrusion on a person's property rights, their liberty, etc. It would seem to me that the more appropriate way of regulating the conduct, or some conduct that cannot yet be defined, might be to put a condition on a licence, rather than using a regulation making power, which, with the greatest of respect to the minister, is a fairly crude means of administering something such as this. That is the first point I make.

The second point is that it is so broad. There is no constraint on the sort of activity that might be prescribed by the regulations. If I draw the Hon. Nick Xenophon's attention to the whole clause (page 106), he will see that it does not

contain any purposeful provision which says that it should be exercised for a particular purpose. You might go back to the general objects of the act—I recognise that—but it just provides that, subject to this act, a person must not undertaken any of the following activities unless authorised to do so by a water licence. Then it sets out some specific activities, which are broad enough in themselves, and the last one is: 'an activity prescribed by the regulations'.

If there is a specific purpose or, if there is something that the Legislative Review Committee and this parliament could measure it against, maybe this might be appropriate, but there is none of that. It seems to me that the best regulatory means by which you can prevent someone engaging in an activity that might be harmful to the environment or the resource that we are seeking to protect would be by putting a condition on a licence. By doing this, an individual who is constrained by that condition has certain legal rights which they can exercise. If you do it by way of regulation, you remove those legal rights: you take those legal rights away from people.

For those reasons, I think what the government is seeking to include here is simply too broad. We are dealing with commercial activities and people's private rights. The minister cannot sit there and say that they can do this by way of regulation, with the only supervision being Executive Council, because we all know—and the Hon. Nick Xenophon I am sure would be familiar with this—that they use section 26AA on every occasion. So, by the time the parliament gets around to fixing it, 12 months might have elapsed between the time that they had their rights and the time that they did not. It seems to me that, in the absence of a very clear statement as to why a condition on a licence is ineffective or will not work in this case, it is not appropriate to give the executive arm of government the power to make regulations in such broad terms as set out here. It is simply too broad and, with the greatest of respect to the minister, it is simply unchallengeable by individuals who will be affected in any meaningful way.

The Hon. NICK XENOPHON: Before the minister responds to the concerns of the Hon. Mr Redford—and I hope he does—I would like to pose some additional questions. From my understanding of the competing arguments, the Hon. Mr Redford says that this affects people's private rights in a fundamental way. I understand that, although it seems to me that this whole bill, to a large extent, affects people's rights in that it purports to introduce a new scheme or regime for managing natural resources which impinges on people's rights and the way in which they can deal with their resources. That is my understanding, but I take the honourable member's point.

My concerns are that, first, there is a competing interest of people's individual rights being affected, as distinct from the overall scheme in the bill which is about managing our natural resources. I think we all agree that there needs to be a cohesive approach to the management of our natural resources, but I think one part of the Hon. Mr Redford's argument is that, if the minister acts unfairly, unreasonably or capriciously (and I am not suggesting that this minister would), there is a potential for the regulation powers to be used in a way that is unfair.

However, on the other side of the coin, sometimes it is necessary to move in quickly to deal with an important issue in the context of managing natural resources in terms of the broader public benefit. Will the minister elaborate and explain his position with respect to that? How will the minister deal with these regulation powers? In what sort of instances will it be necessary to have these powers of regulation to deal quickly with matters as they arise? What safeguards are there to ensure that it will not be abused or used unfairly or unreasonably? We have the ability to disallow those regulations, but that may take a significant amount of time. They are the competing interests with respect to that. With respect to the sort of activities that would be prescribed by regulations, could the minister give some instances of that which would be useful for the committee in considering this particular amendment?

The Hon. T.G. ROBERTS: The regulations describe activities for which a permit is required, and the Legislative Review Committee would not want to look at areas such as drilling, plugging, backfilling, sealing a well, repairing, replacing, altering casing linings, screening and well draining—all the issues that are listed under clause 3.

The Hon. Nick Xenophon: Give us some examples of other instances.

The Hon. T.G. ROBERTS: The following areas for the purpose of subregulation include the Clare Valley area, which I mentioned before, the area of the Mallee proclaimed region, the area of the Musgrave proclaimed region, the area of the Southern Basin proclaimed region—

The Hon. A.J. Redford: We are talking about activities, not areas. What activities are we talking about?

The Hon. T.G. ROBERTS: We are talking about the separation of both. One is talking about water catchment areas and the other one is talking about activities.

The Hon. A.J. REDFORD: Describe the activity: give us an example. You have given one example in relation to the fact that Clare water users cannot use River Murray water because of salinity issues. I understand that and I recognise that. One might argue that you could put a condition on every Clare licence holder that they are not allowed to use River Murray water. You could do that and achieve exactly the same outcome. What the Hon. Nick Xenophon is asking, and I am interested in this, too, is what other sorts of activities, not areas, might be prescribed by regulation. I think we digressed about changing boundaries of catchment areas. What would be ineffective in doing it by way of condition on a licence as opposed to doing it by regulation? Does that help the minister?

The Hon. NICK XENOPHON: I would like to add to the potpourri of this. In terms of other acts dealing with environmental issues, can the minister advise whether there are similar powers for prescribing activities by regulation in similar legislation of an environmental nature, both that this government has introduced or that have been on the statute books for some time? I am trying to see how this works in a practical sense. Only a few weeks ago there was some controversy—and I will stand corrected in terms of the technical aspects of this—that the minister was going to introduce regulations pursuant to his powers with respect to water restrictions to stop people using their rainwater tanks to water their lawns at certain times of the day. There was such an outcry that it was shouted down pretty quickly and there was a backflip or at least a change of policy on the part of the minister.

What assurances do we have that we are not going to get that sort of approach again by having these broad regulation powers? What are the criteria for these regulations to be used? I am struggling with the competing interests to do something that needs to be done quickly in terms of environmental issues and water use management issues and the like but, on the other hand, how do we know that we are not going

to get a ridiculous situation like we saw a few weeks ago where people faced prosecution if they had the gumption to put rainwater tanks on their property and used that water at any time of the day that they wanted to?

The Hon. T.G. ROBERTS: There are no similarities in relation to the example given by the honourable member. The schedule in the Environment Protection Act provides protection of the environment of significance that requires a permit, and that needs to be changed by regulation. I think the discussions of permits and licences have become confused.

The Hon. A.J. REDFORD: I will repeat what I asked, because I still do not have an answer. Can you give me the sort of activities that cannot be done by way of a condition on a licence, permit or whatever, as opposed to doing it by way of regulation?

The Hon. T.G. ROBERTS: You cannot transfer water from the River Murray to Clare, for example.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I am told you cannot do it. If you then want to continue to take water from Clare to somewhere else, that would be a separate application for another permit.

The Hon. A.J. REDFORD: I am surprised at that answer because the clause provides that 'unless authorised to do so by a water licence or permit granted by the relevant authority'. One assumes that those permits and licences referred to in this clause are granted on a conditional basis. There is a set of conditions; I have seen it.

The Hon. T.G. ROBERTS: He has the permit; does he have a licence?

The Hon. A.J. REDFORD: The section refers to a permit or a licence. Does it matter? Give me an example of the sort of things you want to do?

The Hon. T.G. ROBERTS: He has a licence, but he may not have a permit. You have to have a permit to shift water between catchments.

The Hon. A.J. REDFORD: Why can you not put a condition on it? That is the point. Does it matter? It really is frustrating. Whether it is a permit or a licence is neither here nor there; you can put conditions on them. I am asking why it is that one needs a regulation making power when you can put conditions on a licence? This is the fifth time I have asked the question. It is not that hard.

The Hon. T.G. Cameron: It's a question that has been asked five times.

The Hon. T.G. ROBERTS: It has been answered in different ways. The advice that I have been given in reply to the honourable member is that conditions on the licence are about the taking and use of prescribed water, such as Clare; the Clare resource only. So, it is a water resource. A permit is for an activity that affects water, like dam construction, or some of the other ways in which you hold a resource.

The Hon. A.J. REDFORD: The lights are on but no-one is home. This is the sixth time now. What sorts of things would you seek to regulate where you cannot put a condition on either a permit or a licence?

The Hon. T.G. ROBERTS: Shifting water from one water catchment area to another.

The Hon. CAROLINE SCHAEFER: Mr Acting Chairman, I am having difficulty as I listen to this argument going to and fro about whether we are talking about licences or permits. In fact, the crux of the matter is that licences and permits are issued on an individual, one by one basis, with individual, one by one conditions placed upon them. At the same time, the government is arguing that it has to have a broad brush approach because there will be utter chaos unless it has a broad brush approach to introducing any sort of regulation at any time. We are simply seeking some transparency and for those licence/permit holders to be treated in the same way—in both ways, if you like. If a condition can individually be placed on that licence and/or permit, why is it necessary to have a broad brush approach in a regulatory sense?

The Hon. T.G. ROBERTS: With respect to the bill before us—the one we are discussing now—you cannot manage the impact of growing trees on a water resource by a condition on a licence because no licence exists on which to place a condition.

The Hon. A.J. REDFORD: With respect, the clause states, in relation to activities, 'unless the person is authorised to do so by a water licence or permit granted by the relevant authority. . . an activity prescribed by the regulations'. So, the activity is in conjunction with the licence or the permit.

The Hon. T.G. ROBERTS: The information that been given to me is that that is not the case.

The Hon. NICK XENOPHON: One of my concerns about this provision in its current form is that there could be a lack of transparency and accountability in the way in which it is implemented. That is why I have spoken to parliamentary counsel—and I apologise to members for the fact that it is handwritten; at least it is not my handwriting—

The Hon. Caroline Schaefer interjecting:

The Hon. NICK XENOPHON: —yes—to ensure a level of accountability. I would like to move my amendment and for it to be debated, because I would be interested in hearing from the Hon. Mr Redford, the Hon. Mrs Schaefer, the Hon. Sandra Kanck and, of course, the government and my colleague, the Hon. Mr Cameron. I foreshadow that I will seek to amend clause 127 (page 106) as follows:

Line 16—After 'the regulations' insert 'made on the recommendation of the minister'.

After line 16, insert:

(3a) the minister must not make a recommendation under subsection (3)(f) unless or until the minister has consulted with the Natural Resources Committee of the parliament in relation to the proposed regulation.

My understanding is that such an amendment would at least deal with some of the concerns which have been expressed in the chamber this afternoon. It would require a process of consultation that hitherto is not mandated in the legislation; it would require that anything the minister is required to do under subsection (3)(f) be the subject of scrutiny by the Natural Resources Committee of the parliament. At the very least, that would allow those who are potentially affected by these regulations to make representations to the committee and be the subject of that level of consultation for which the bill in its current form does not allow. Although I expect it will not satisfy a number of honourable members, I think it would be an improvement on the current position and at least address some of the concerns of honourable members with respect to the transparency and accountability of the minister's exercising his powers.

The Hon. A.J. REDFORD: I am concerned about doing this sort of stuff on the run. You cannot turn your back on these things. I remember that, last week whilst I was on a plane to Mount Gambier, we had one last minute handwritten amendment which put a sunset clause on water holding licences, which I think were being able to be charged for something such as three or five years. Anyway, there will not be such an animal by the time that goes through because

people have been rated, taxed and levied out of those licences, thereby undermining the work of two select committees, about four years of my work and a bit of other work that has been done in the meantime. That is what happens when you do things on the run. With this clause—

Members interjecting:

The Hon. A.J. REDFORD: I am very annoyed about that. That is why I am here. In relation to this clause, the specific question I raised was for the Hon. Nick Xenophon, because I think he has some understanding of the concept of private property. All this does is say that we have what might be a flawed process, in the sense that the Legislative Review Committee might not be able to manage it, so we will give it to another parliamentary committee. I am not sure whether another parliamentary committee, that is, the Natural Resources Committee of the parliament, will be able to cope with this in any different way than the Legislative Review Committee would cope with the regulation. It does not deal with the specific issue; namely, when you are dealing with people's property rights, if they are dealt with arbitrarily there ought to be some right for them to go to a third party (and the normal place is a court) to ensure that the proper procedures and so on have been complied with, because, at the end of the day, we are dealing with people's rights. So, that is my concern about this provision that has been drafted on the run.

The Hon. NICK XENOPHON: I will respond to the Hon. Mr Redford's points, and I hope I respond appropriately. My understanding is (and I will stand corrected by any honourable member) that the difference between this provision and, say, the Legislative Review Committee, and the very important role that it has in this place, is that once the regulations have been tabled they go to the committee to be reviewed and scrutinised. In this case, a regulation cannot be made unless it has been scrutinised by the Natural Resources Committee and there has been that level of consultation and scrutiny. So, the distinction is that, before the regulation is made, there has to be that level of scrutiny.

The Hon. T.G. CAMERON: I have read the Hon. Nick Xenophon's amendment and, after reading it four times, I have finally interpreted it. I am glad it is not in his writing. I have some reservations about just what the word 'consultation' means in this context. It provides:

> The minister must not make a recommendation under subsection (3)(f) unless or until the minister has consulted with the Natural Resources Committee.

You learn a little bit when you deal with lawyers, and the operative word in that sentence is 'consulted'. I am not quite sure what would constitute proper consultation. It seems to me that all the minister would have to do is notify the Natural Resources Committee. Once it has considered his notification, or submission, etc., irrespective of what decision that committee made, the minister would have complied with any or all of his obligations under the act and could make a decision, irrespective of whether the committee had fully considered the matter, agreed or disagreed with him.

Whilst we would be giving the Natural Resources Committee a role in the decision-making process, if you like, it would, in effect, be a role that meant nothing. It would have no real power. The committee could rant, rave and say whatever it liked but, at the end of the day, the minister would be free to make whatever regulation he wanted. It seems to me that, if the Hon. Nick Xenophon is serious in his desire to ensure that individual property holders are protected, they may well have more protection under a regulation system than under the system proposed by his amendment. For those of us who have sat in this place for some time, we have often seen situations where regulations have been promulgated and six months later they are disallowed, etc. So, that system has some problems with it, too, but I suspect that it provides more protections than the Hon. Nick Xenophon's amendment. I guess all I can say is, if I was the minister, you would almost welcome an amendment like this.

The Hon. SANDRA KANCK: I previously invited the Hon. Caroline Schaefer to consider an amendment exactly along these lines and indicated that the Democrats would support something like that, or consider it very favourably if she was to put that up as an alternative amendment. I indicate that, in the event that the Hon. Caroline Schaefer's amendment does fail, the Democrats would support the alternative amendment.

The Hon. T.G. ROBERTS: If the Hon. Caroline Schaefer's amendment fails, the government will support the alternative amendment as well. The only comment I make is that, if a regulation is formulated at the standing committee and is processed by the parliament, there is always the possibility that it will be disallowed, so it does not change anything. Either example does not matter. I just hope the honourable member does not hop on a plane today otherwise the whole of the parliament will collapse from the weight of his contributions.

The council divided on the amendment:

AYES (7)

Dawkins, J. S. L.	Lawson, R. D.
Lensink, J. M. A.	Redford, A. J.
Ridgway, D. W.	Schaefer, C. V. (teller)
Stefani, J. F.	

NOES (10)

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

PAIR(S)

Lucas, R.I.	Gago, G. E.
Stephens, T.J.	Evans, A. L.

Majority of 3 for the noes.

Amendment thus negatived; clause passed.

The CHAIRMAN: Is the Hon. Mrs Schaefer proceeding with her amendment No. 75?

The Hon. CAROLINE SCHAEFER: My understanding is that the Hon. Nick Xenophon has two amendments (No. 74) to clause 127. Given that my two amendments are consequential on each other, I assumed that the honourable member would be moving his two amendments consequentially. Given that we have lost one vote, we will not proceed with the second amendment. We will support the Hon. Nick Xenophon's amendment because it is marginally better than what is there now.

Clause 127.

The Hon. NICK XENOPHON: I move:

Page 106—

Line 16—After 'regulations' insert:

made on the recommendation of the minister.

After line 16—insert:

(3a) The minister must not make a recommendation under subsection (3)(f) unless or until the minister has consulted with the Natural Resources Committee of the parliament in relation to the proposed regulation.

I reiterate what I have said previously about this amendment when we were debating the Hon. Caroline Schaefer's amendment.

The Hon. SANDRA KANCK: I indicate the Democrats' support. I know a lot of canvassing was going on prior to the last vote about whether or not this would suffice. In fact, the Hon. Terry Cameron thought it was fairly wide open. I know there are a number of other references in this bill to the natural resources committee; for instance, clause 23(7) provides:

> The minister must, before varying the functions of a regional NRM board under subsection (3), consult with the Natural Resources Committee of the parliament.

It is the same wording about consultation. It is a matter of one's degree of cynicism about what ministers might or might not do but, nevertheless, it is a strengthening provision. This would see the regulations go to two committees of this parliament; first, the natural resources committee in the draft form and then the promulgation of the regulations, and, after that, they would go to the Legislative Review Committee. They will be viewed at various levels by various people in this parliament over a period of time. Given that, I think they will be given a good going over; and there are very few regulations that get this much attention.

The Hon. CAROLINE SCHAEFER: The opposition will be supporting this amendment. It does not go as far as we would like but, as has been expressed consistently in another place by the lead shadow minister and in this place, our desire is to make this terribly unwieldy piece of legislation as accountable and transparent as possible. While this is not as much as we would like, in my opinion it is better than what was there before.

The Hon. T.G. ROBERTS: The government will support the amendment. I understand the concerns of some members. We are dealing with a contract between best scientific evidence communities, bureaucracies, the government and, certainly, parliamentary committees. That is a formidable compact, if it all works. I understand the honourable member has some personal understanding of some of those compacts or compartments breaking down, but the minister has to have some sort of contact with the community. It must have the confidence of the department and the best scientific advice available, and the parliament is part of that process. In relation to the fears of some people about parliament's being by-passed or any part of that democratic process breaking down, that is up to individuals who are stakeholders or who have vested interests, or who represent stakeholders or vested interests, to be eternally vigilant. We will be supporting the amendment put forward by the Democrats and moved by the Hon. Nick Xenophon.

The Hon. A.J. REDFORD: I will not revisit the previous vote, but it is disappointing that this clause does not deal with the concept of private rights. However, it is better than it was. The honourable member alluded to the fact that there is considerable supervision, but I draw the honourable member's attention to some comments he made before the last election, before he had this complete transformation of his attitude towards these matters. Members may recall that we passed some legislation, following the reports of two select committees, where we set up something called a water holding licence. The first act of the people charged with administering these water holding licences was to charge exactly the same amount of money as a water taking licence.

The honourable member stood on this side of the chamber and howled from the ceilings about how outrageous it was, about how inconsistent it was with what a parliamentary committee had recommended—and quite rightly so. In fact, I joined with him in howling about that, and we dealt with it. I am not sure that we will not get a repetition: whatever parliamentary committees say to this particular government department, they get ignored. And they have got form. That is the disappointing thing about the outcome of the last vote and, indeed, what this particular clause fails to address.

Amendments carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 107, line 3—
Delete paragraph (k)

This is a similar amendment, except that this is with regard to 'a person must not undertake any of the following activities contrary to an NRM [regional] plan.' There are 10 activities listed and, in the hope that this will not go on as long as the previous amendment debate, I intend to read a number of those forbidden activities into *Hansard*. They include:

> (a) the erection, construction or enlargement of a dam, wall or other structure that will collect or divert water flowing in a watercourse that is not in the Mount Lofty Ranges Watershed and that is not prescribed or flowing over any other land that is not in a surface water prescribed area or in the Mount Lofty Ranges Watershed;
> (b) the erection, construction or placement of any building or structure in a watercourse or lake or on the floodplain of a watercourse;
> (c) draining or discharging water directly or indirectly into a watercourse or lake;
> (d) depositing or placing an object or solid material in a watercourse or lake;
> (e) obstructing a watercourse or lake in any other manner;—

I repeat: 'in any other manner'—

> (f) depositing or placing an object or solid material on the floodplain of a watercourse or near the bank or shore of a lake to control flooding from the watercourse or lake;
> (g) destroying vegetation growing in a watercourse or lake or growing on the floodplain of a watercourse;

So, by the time one thinks about that, there is not a lot left. It continues:

> (h) excavating or removing rock, sand or soil from—
> (i) a watercourse or lake or the floodplain of a watercourse; or
> (ii) an area near to the banks of a lake so as to damage, or create the likelihood of damage. . .
> (i) using water in the course of carrying on a business in an NRM region at a rate that exceeds the rate prescribed by an NRM plan. . .
> (j) using effluent in the course of carrying on a business in an NRM region at a rate that exceeds the rate prescribed by an NRM plan;

And, finally, we come to the hoary old chestnut, 'any activity prescribed by the regulations'. It is the belief of the opposition that there are 10 enunciated activities. Members will agree that there is practically nothing that you can do, other than drink a glass of water, and then you would probably need to get permission from someone if it is in an NRM plan. The opposition believes that there is no need for the final subclause (k), an activity prescribed by regulation, and we seek to delete it.

The Hon. NICK XENOPHON: In a sense this debate is similar to that which we had in relation to the previous subclause, and I foreshadow that I will be moving an amendment in virtually identical terms, although I am still waiting for that to be finalised and drafted. The effect of it would be to ensure that the minister is required to consult with the Natural Resources Committee. I know that does not go to the extent that members in the opposition want it to go

to, but I believe that would be an improvement on the clause and would ensure a degree of transparency in the process and, for that reason, I will be moving it, if members can just bear with me for a minute or two while that is being prepared. It will be virtually identical to the other amendment, so that it is consistent with the amendment to subclause (3).

The Hon. A.J. REDFORD: I am not sure this is necessary. We are taking the position as a matter of principle. You can drive a truck through this, anyway. All they have to do is change an NRM plan to put an activity in it. Frankly, I do not know that it is as significant as the previous clause, but I am happy to wait. While we are waiting, can I ask a question that relates to subclause (4)? Subclause (5) sets out a set of penalties for a contravention of subsection (1), (2) or (3). What are the penalties for a contravention of subsection (4)?

The Hon. T.G. ROBERTS: At the moment it has been lifted from the Water Resources Act. There is no penalty under the Water Resources Act, but you can apply for an order from the ERD Court to stop the activity.

The Hon. A.J. REDFORD: So, there is no penalty for any breach of subclause (4). The framework is that you go to court if you see someone obstructing a watercourse to get an order from the court to tell them to do what the act says in the first place. You go back to them and you say, 'You know that section in the act that says you are not allowed to do this, well the court also says that you are not allowed to do this'. If the person does not do it, what is the penalty?

The Hon. T.G. ROBERTS: The ERD Court would set the penalty.

The Hon. A.J. Redford: What is the range of penalties?

The Hon. T.G. ROBERTS: It would depend on the breach. We do not have the activity schedule with us.

The Hon. SANDRA KANCK: I indicate that the Democrats will not support the amendment. I heard what the Hon. Caroline Schaefer had to say about this being too broad. Nevertheless, I gave an example and, in fact, I was defeated on the amendment that I moved this morning on a little creative thinking where someone has used a road reserve to obtain water. Given that water is so precious in this state, I think that we will see people who want to gain access to water become very creative about the way they go about obtaining the water. I think that we need to have the power to catch those sorts of people. Again, it comes before the parliament and it goes before the Legislative Review Committee, which I believe will give adequate screening if people think that there is a risk of abuse of power.

The Hon. A.J. REDFORD: I am intrigued to know what the penalty is if people commit the heinous things set out in subclause (4). So far all I know is that the department will be busily going backwards and forwards to the court, but other than that I do not know what the penalty will be. I would be very intrigued to know.

The Hon. NICK XENOPHON: I will not support the amendment moved by the Hon. Caroline Schaefer. I have had a useful discussion with her. I am sure that she will correct me if I am wrong in any way, but I understand that the Hon. Caroline Schaefer is not resiling from her position in any way or from the arguments that she has put forward and, for that matter, from those put forward by the Hon. Mr Redford. I will not proceed with the amendment that I foreshadowed but did not move because with subclause (4) we are dealing with regional management plans as distinct from regulations that the minister prescribes for entire catchment areas. The amendment to subclause (3)(f) that has been passed is quite different from a similar amendment that would apply to subclause (4) because it would put in another layer of complexity without doing much effective work with respect to transparency and scrutiny of any regulations. For those reasons and for making clear that the Hon. Caroline Schaefer has not resiled from her position, I will not continue with that amendment, because it will not have the effect that the amendment to subclause (3) would have, at least providing some level of scrutiny.

The Hon. A.J. REDFORD: I apologise if I offend the Hons Nick Xenophon and Sandra Kanck, but here we are debating subclause (4) and, if you breach it, we do not even know what is the penalty. Before we came to a position on whether or not we agreed on a position in a clause we should know the sanctions for breaching it—it is an important issue. Perhaps I am just a lone voice in the wilderness, but I am intrigued to know from the minister what is the proposed penalty if you breach subclause (4).

The Hon. T.G. ROBERTS: I thank the honourable member for highlighting the circumstances, but we can move an amendment to make the section read 'contravenes subsections (1), (2), (3) or (4).

The Hon. A.J. REDFORD: I have a small problem with that and I could do a press release on it and would have some fun. If I leave a raft in a swamp or my fishing box in a creek bed, I am liable for a fine of $35 000. I know that we getting tough with the environment in this state, but kicking little kids around for leaving stuff in rivers and lakes is ridiculous. This is the problem when you legislate on the run. I do not think it has been thought through. I suggest that subclause (4) was left out for a deliberate reason, but there is no all-encompassing penalty provision further on in the bill that I can see, and that is probably what is missing. To impose a penalty of some $35 000—or $70 000 if the poor kid happens to be a company—for leaving his fishing box on a creek bed is ridiculous and absurd. I do not have any problems with the maximum penalties, although they are a little on the high side, for breaches in terms of taking too much water and so on. We have that debate earlier and probably will later, but I have a problem if you are going to simply seek to address this issue by adding subclause (4).

The Hon. T.G. ROBERTS: The other alternative will be to go back to the ERD Court and it will use the list it has for penalties.

The Hon. A.J. REDFORD: But what are they? Someone tell me a section in an act and I will go and look it up.

The Hon. T.G. ROBERTS: The Environment, Resources and Development Court has the ability to punish a contempt as follows: it may impose a fine, which would be variable, and it may commit to prison for a specified term until the contempt is purged. The whole of section 38(1)(a) and (b), 38(2) and 38(3) have variations on some of the—

The Hon. A.J. Redford interjecting:

The CHAIRMAN: I do not know about other honourable members, but this is not a state library where you can have a conversation. There are procedures. I know we are all trying to cooperate to get it finished, but—

The Hon. A.J. Redford interjecting:

The CHAIRMAN: Well, in fairness, the minister started to read the clause out while Hansard was busily doing their job; someone stopped, and the whole thing stopped and fell in a heap. I think we need some organisation in relation to who is running the bills. The minister.

The Hon. T.G. ROBERTS: Thank you, Mr Chairman. To share the clause, the ERD Court can impose a fine. That

is the important clause within the ERD Court's provisions. The fines are not specified but they could be determined by the court.

The Hon. A.J. REDFORD: As I understand what the minister is saying, no fine is envisaged in relation to a breach of subclause (4) but, if there is a breach, the procedure is to go to the court, get a court order and go back and serve that order on the individual. If the individual persists, the general content provisions in the other legislation would come into play and that would be a fine at large. So, my kid in his raft is fairly safe: I assume that the court would be reasonable in those circumstances.

Amendment negatived.

The Hon. CAROLINE SCHAEFER: I move:

Page 107, line 16—
Delete '$70 000' and substitute:
$55 000

I indicate that this is a test amendment. The opposition has consistently said that the penalties within this bill are inconsistent, all over the place and too high. We have consistently endeavoured to increase them by what is a reasonable amount. The maximum penalty in this case is $70 000. Frankly, you can commit some absolutely heinous crimes in this state and be fined less than $70 000. We seek to reduce the amount to $55 000. In the case of a farm, for instance, many of which are bodies corporate, that amount may well be the annual profit and the difference between remaining viable or not. As I say, this appears to not allow for the fact that many farms—and, I am sure, irrigation blocks—are run by companies. So, we seek to reduce the maximum fine in this case from $70 000 to $55 000. As I have indicated, this is a test amendment.

The Hon. T.G. ROBERTS: The government does not support the amendment. These amendments relating to reducing the penalties under chapter 7 are not supported by the government. The maximum penalties are necessary to ensure that the penalties match the potentially serious consequences for other water users and the environment of non-compliance with water licensing and allocation requirements. These maximum penalties are also required to ensure that the penalties provide a deterrent to potential non-compliance. We have seen too often where the fines are set too low in other areas and people have copped the fines and do the crimes. In sentencing remarks made in relation to a conviction in the Magistrates Court for taking water in excess of allocation in 2003, the presiding officer, Mr A.R. Newman—

The Hon. A.J. Redford: His title is magistrate.

The Hon. T.G. ROBERTS: Was he a presiding officer at the time?

The Hon. A.J. Redford: No, they are not presiding officers; they are magistrates.

The Hon. T.G. ROBERTS: Okay. Mr A.R. Newman commented as follows:

> What is obvious to me is that there has been a substantial saving to the defendants. There has also been substantial overuse of water, of a natural resource, that is very precious in this area; that being the reason why these allocations are made in the first place. It would seem from what has been put to me that if the defendants had been in a position to purchase the water they used in the first year, it would have cost them something in the order of $30 000 or more, and probably in the second year something like $50 000 or more. This is a fee that they have not been required to pay because they just effectively took the water without allocation.

Later in his remarks, presiding officer Newman said that the penalties—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Magistrate. I apologise profusely to the honourable member.

The Hon. A.J. REDFORD: I rise on a point of order. Standing orders require us to address judicial officers with their correct title. It is not mine. You do not have to apologise to me. Write a letter to Mr Newman, if you like.

The Hon. T.G. ROBERTS: Mr Newman also said:

> The penalties prescribed by the legislation, given the financial gains that can be made, seem to me to be grossly inadequate.

The maximum penalty prescribed for breaching a licence is a $5 000 fine. The maximum penalties of $70 000 for a body corporate and $35 000 for an actual person now provided in the NRM bill for taking water unlawfully better reflect the market value of water and provide a deterrent to taking water in excess of allocations. Maximum penalties need to be high enough to deter the taking of water without a licence and/or without water affecting activities being undertaken without a permit.

The Hon. SANDRA KANCK: We have had reference a number of times in the committee stage to the comments of magistrate Newman to the effect that land-holders are prepared to flaunt the laws because the penalties are too low. The Democrats therefore support a substantial increase in the penalties knowing that there is always a degree of latitude in the courts for decisions with these being the maximum penalty.

The Hon. T.G. CAMERON: My normal disposition is to oppose substantial increases in penalties for breaches, but I see this case as being a little bit different in that the fine is imposed as a result of somebody, perhaps, gaining a substantial benefit, and the words of magistrate Newman are fairly persuasive. A question to the minister: in the event that a magistrate found that there was a huge value of water used by somebody, are they able to impose any other fine, other than the maximum set out under the act? In other words, if somebody used a couple of hundred thousand dollars worth of water—and I cannot imagine anybody using a substantial amount of water without knowing that they were breaching their licence conditions—is the magistrate able to impose any other penalty other than the fine?

The Hon. T.G. ROBERTS: The honourable member raises a valid and interesting point. The maximum can apply plus, on top of the maximum, a penalty based on the volume of water and, for a serious breach, you could lose your licence.

The Hon. T.G. CAMERON: So, a person could be either fined by the magistrate or fined and have an additional penalty imposed because of the amount of water. The magistrate could say, 'I'm fining you $20 000, but you have used $500 000 worth of water, so I am imposing a penalty for that as well', and in addition to that they could take their licence away?

The Hon. T.G. ROBERTS: Yes.

The Hon. NICK XENOPHON: I do not support the amendment. The judgment of magistrate Newman is compelling. It is only a maximum penalty, and the court would need to take into account the circumstances and the gravity of the offence as well as any extenuating circumstances and a whole range of factors. I think that needs to be made clear. We are only talking about a maximum penalty, and I think the points made by the Hon. Mr Cameron with respect to the penalty regime and other factors are good ones.

Amendment negatived; clause as amended passed.

Clauses 128 to 145 passed.

Clause 146.

The Hon. CAROLINE SCHAEFER: I move:

Page 121, line 4—Delete paragraph (e).

This provision gives the minister too much latitude. However, I realise that discussions have taken place between the two houses, and I understand that the minister has a further amendment to add the words 'on any reasonable ground'. My view is that the decision as to what is not reasonable remains with the minister of the day. It is a bit sloppy but, if my amendment is not supported, I indicate that we will support the government's amendment.

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

Page 121, line 4—
Delete paragraph (e) and substitute
(e) on any other reasonable ground.

This amendment allows the minister to refuse to issue a water licence on any reasonable ground. Revision is required as there may be circumstances where it would be reasonable for the minister to refuse to issue a person with a water licence although the person has not been found by a court to have contravened this legislation. There is a right to appeal the decision of the minister not to issue a licence and this amendment ensures that the minister is required to have objective reasons for refusing to issue a licence, reasons that can be defended in court. This paragraph is included on the basis of the advice that the minister of the day is not able to refuse a licence to a person who has consistently acted outside the requirements of the legislation unless a contravention of the act has been proven in court.

The Hon. SANDRA KANCK: The Democrats agree that the existing wording is somewhat broad. We will, however, be supporting the government amendment rather than the opposition amendment. We believe that that will allow a refusal under (e) to be tested in court. It is clear that we need to have something in place in the eventuality that something is not described in (a), (b), (c) or (d).

The Hon. NICK XENOPHON: I support the position of the government with respect to this for the reasons outlined by the Hon. Sandra Kanck. I would like to hear from the minister what are the sort of grounds that would be considered appropriate. What sort of things could we expect to see under this paragraph (e), although I note that 'reasonable ground' allows for at least a judicial review or a judicial challenge to it?

The Hon. T.G. ROBERTS: Where it has been suspected that water taking has been made a lifestyle of or the taking of water has abused the rights and privileges of others and impacted on others, that would be a reason. The example given to me is of a person who had been taking water for some time. A licence was not given to that person when they applied but was subsequently given to a relative on application. It is difficult for justice to be seen after the act has been carried out.

The Hon. A.J. REDFORD: Surely in answer to that, that person falls into paragraph (d) so you do not need (e), because that is a person who has acted in contravention of the act.

The Hon. T.G. ROBERTS: I have been advised that there was no immediate proof that a breach had occurred, but there was general knowledge that it was occurring.

The Hon. A.J. REDFORD: So this is a clause which the minister intends using when he cannot prove anything but there are a few rumours about that might be besmirching someone's character. He will use this to prevent someone from getting a licence. Do I understand that correctly?

The Hon. T.G. ROBERTS: I think the reply I gave earlier in the debate about the way in which water is now taken, the way meters are being placed and a more scientific approach to the measurement of water makes it a little easier now than it was before, when people were just sinking bores all over the place without notification in a lot of cases. If this section of the act is to be acted upon, then I suspect that proof beyond reasonable doubt would have to be gathered.

The Hon. A.J. REDFORD: If I understand it, this enables the minister to refuse to grant a water licence on certain conditions. These include an environmental condition because it is inconsistent with the water plan, or because it would create a risk to the health of people or animals—pretty simple—or to a person who had a licence previously, but it was cancelled, obviously, because they were breaking a law, or to a person who has acted in contravention of the act. The minister has a discretion in each of those cases and on any other reasonable ground.

The Hon. Mr Xenophon suggested to the minister that it might be because someone has behaved in a manner which cannot be proved and which might be contrary to what the minister might think is a good thing. I am not going to participate in the process, but if we want to make laws like that I think it is disgraceful. Is the Hon. Mr Xenophon happy with the fact that the minister, if he has a suspicion that someone has not been playing the game appropriately, can use this as the basis upon which he could act reasonably in refusing a licence? That is the explanation the minister has given, and it seems that the Hon. Mr Xenophon is accepting that.

The Hon. T.G. ROBERTS: I did say that the cases that would come up now would be different from those which have come up in the past. Because of the way in which water has been used and abused in the past, there will be tighter controls over water, people will put more value on water and they will be more vigilant about the way in which they use water—we would hope—coming out of the finalisation of this bill.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: In explanation to the honourable member, the current position is that the case would have to be proved beyond reasonable doubt, because there are more stringent caveats on the way in which water is used.

The Hon. A.J. REDFORD: With respect to the minister, that is palpable nonsense. Beyond reasonable doubt is when you get charged with a crime. We are talking about a minister refusing to grant a water licence on any other reasonable ground. What are the reasonable grounds? That is the question the Hon. Mr Xenophon asked, and the response was that it would be if the minister had a suspicion that you were not a very good bloke, basically (that is the net effect, although I am probably verballing the minister there). It has nothing to do with reasonable doubt. That is the reason why the minister wants this clause inserted in the bill, as I understand it.

The Hon. T.G. ROBERTS: I will repeat what has been said before. There is a right to appeal to a decision of the minister not to issue a licence. This amendment ensures that the minister is required to have objective reasons for refusing to issue a licence, that is, reasons that could be defended in a court.

The Hon. A.J. REDFORD: How do you justify it?

The Hon. Caroline Schaefer's amendment negatived; the Hon. T.G. Roberts' amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 121, lines 28-31—
Delete subparagraph (ii)

I think this is a very important amendment as a matter of principle and, if necessary, I will be calling a division on it. The amendment is to do with the issuing of a licence and the necessary requirements for the issuing of that licence. Again, I would like to read into *Hansard* a section of the bill as it stands, as follows:

A licence—
(a) must specify the water resource from which the water is to be taken; and
(b) must, in the case of a licence endorsed with a water (taking) allocation, specify the part or parts of the resource from which the water may be taken; and
(c) must be endorsed with a water allocation and—
(i) if the allocation is comprised of one or more components that expire on a future date, the endorsement must set out the amount of water allocated by each component and the date or dates on which the component or components of the allocation expire; and—

and this is the clause that the opposition seeks to have removed—

(ii) if the allocation includes a component that is subject to a condition restricting the purpose for which the water can be used, the endorsement must set out the quantity of water allocated by the component and the purpose for which the water can be used; and

In effect, that gives the minister the right to prescribe what particular crop may or may not be grown with the granting of the licence. It is the stated intention of the government to convert to volumetric water allocations as soon as possible. In my view, once that conversion takes place, frankly, it is not the government's or anyone else's business as to what crop is grown with it. If my water allocation is five megalitres and I choose to grow a very small patch of rice, commercial reality will dictate that I will go broke—and so I jolly well should. It is not, in my view, for the government of the day to prescribe what a land-holder may or may not grow.

I believe that this clause will backfire. It is a disincentive for people to use water judiciously. If I have a five megalitre water allocation and I have all drip irrigation and, therefore, no open channels and no possibility of wastage of water I might be able to grow twice as many acres of a particular crop as someone else. However, under this prescription there is absolutely no incentive for me to do this. I may choose to change from a vineyard to a wood lot. Provided I am not using any more than my allocated resource, I sincerely believe that it is not the position of any government to tell me what I may or may not do.

There are a number of environmental restrictions already within this and other pieces of legislation which would prevent me from carrying out activities which would raise the salinity within the region. I will probably go on for some time about this during the course of the debate. I think it is a very important principle that a landholder given an allocation should be then able to do what they commercially wish with that allocation and not be dictated to by the government of the day. There are numerous examples dotted around this state of people who have taken the advice of the well-meaning government of the day in growing a crop (perhaps a classic example is jojoba) which turns out to be an absolute commercial dud. Let that responsibility then lie on the shoulders of that irrigator, not the shoulders of the government of the day prescribing what they may or may not grow with the water.

The Hon. T.G. CAMERON: I indicate my support for the opposition's amendment. It seems to me that the proposal put forward by the government is a first small step towards some kind of Soviet central planning of the agricultural economy of the state. I would be extremely nervous, particularly if I were an agricultural producer, in ceding any power to the government which gave it the right to say yes or no, or to veto, what crop I might want on my land. As I see it, the bill affords the government plenty of powers and protections to deal with this matter in relation to the issuing of the licence. Once the government has issued the licence, it should be up to the individual, within the laws of the state, to grow any crop on that land they wish, provided that they are abiding by the laws of the state. I cannot see why we would want to walk down the path of giving some bureaucrat, or government committee comprised of bureaucrats, the right to veto what a person may or may not grow on their own land. I strongly support the opposition on this amendment.

The Hon. T.G. ROBERTS: By way of explanation, it is not the government's intention to tell people what crops to grow. It is a matter of making the appropriate applications of water to the licence so that, if you know what is being grown, you can make an accurate assessment of what water would be required. The government opposes this amendment. This is an existing provision (section 29(4)(b)(ii)) of the Water Resources Act and is an essential component of the licensing system. This provision needs to be retained to allow conditions on licences to be changed according to the purpose for which the water is used, and it provides the ability to adequately describe a water allocation on a licence. The government has agreed to make a new amendment which would put a sunset clause of June 2006 on the need for irrigators to obtain a change in licence for a change in crop use. Water allocations are specified for particular purposes, such as industrial, irrigation, stock and domestic use. This is a fundamental aspect of describing—

The Hon. T.G. Cameron: Another sunset clause.

The Hon. T.G. ROBERTS: Well, it has been suggested by a friend of yours—an allocation on a licence as an allocation for industrial use (for example, a piggery) and should not be directly used for irrigation without seeking the appropriate approval and licence variation. The conditions for using water in a piggery would be significantly different from those applied for irrigation use. A further example is that the Tintinara-Coonalpyn prescribed wells area water allocations comprise a base component which is equivalent to the estimated crop water requirements, plus a delivery component which covers the delivery losses due to system losses, evaporation and delivering the water to the crop.

Decisions about the purpose for which different kinds of water allocations may be used are made by the minister of the day taking into account the provisions of the legislation and the relevant water allocation plan. These decisions are subject to appeals by applicants. Where a water licence allocates irrigation equivalents, the licence-holder uses crop area ratios issued by the minister to calculate the area of a particular crop, or combinations of different crops, that the irrigator is entitled to irrigate. Each crop has a different crop area ratio, depending on the amount of irrigation it requires.

The arrangement is required for only the Clare region and parts of the Barossa, and that is, essentially, the purpose of the amendment, until they are converted to volumetric control and allocation. We undertake to have the plan developed and

the conversion made by June 2006. The bill must be framed in this way to allow for the Clare Valley to establish its water plan and, after that period, the whole state will be uniform in the way in which the act is applied. I move:

Page 121, line 29—After 'purpose for which the water can be used' insert:

(including a purpose that relates to the use of water for a particular crop)

In addition, for the reasons I explained in relation to the Clare and Barossa difficulties, that is, not being able to move to volumetric control until the sunset date, or prior to it, I foreshadow the following amendment:

Page 121—After line 36 insert:

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

The Hon. SANDRA KANCK: I indicate that the Democrats do not support the opposition's amendment. I do not believe that it is as draconian as the Hon. Caroline Schaefer has presented it. Clause 146(6)(c) provides that a licence must be endorsed with a water allocation. Clause 146(6)(c)(i) and (ii) both include the words 'and if'. So, the words 'and if' appear twice, and each time they appear, the number of licences you are talking about are contracted, so is fairly clear that we are talking about only a small number. If the government decides to go down the path of making some sort of determination about what crop and irrigator or farmer can grow (and the minister has indicated that it is not its intention), or of saying, 'We won't give the licence for a particular crop,' that may not be a bad thing. If we consider the way water has been used with rice in New South Wales and with cotton in Queensland, I would like to think that, if some harebrained idiot in South Australia wanted to grow rice or cotton, our government would not grant a licence to that irrigator or farmer.

The Hon. CAROLINE SCHAEFER: The opposition opposes this amendment vigorously. It provides and proves absolutely nothing. A principle is involved as to whether a land-holder may or may not grow the crop of their choice, providing it is a legal crop. Having a sunset clause after the next election in June 2006 achieves absolutely nothing. We either agree that a land- holder can grow the crop of their choice or we do not. This is really about what are called bridging licences, as opposed to volumetric water allocation licences. As long as these bridging licences are in place, there is very little incentive for the government to get on and convert to volumetric licences, in spite of the fact that that is the fully stated desire of this government, as it was with the previous government.

It is very difficult to convert from bridging licences to volumetric licences. Until someone bites the bullet and does that, we will continue to have situations where there is no commercial incentive for landowners to use their water judiciously. There is no possibility for land-holders to change the purpose—even though it may be better commercially or environmentally—for which their licence is issued.

There is no ability, for instance, if someone has a licence to grow 10 acres of grapevines at X amount of water per acre. Even if they are not using that water, they have to then go back, cap in hand, and fill out the 75 pages that are required, in triplicate, and pay another fee to be allowed to crop some more ground on their own property using the same amount of water. Until we do everything in our power to convert to volumetric, we will have the same sort of difficulties and uncertainty as we have now, but the main reason that I want to see this amendment get up is that I simply believe the principle that someone who has the great privilege of having an irrigation licence should be then able to use that in a way that is commercially viable on their property.

The Hon. NICK XENOPHON: I have questions for both the minister and the Hon. Caroline Schaefer. I have some very significant reservations about the bill in its current form. I will be guided by both of my colleagues and anyone else who wants to get into the fray. My understanding is that at the moment the government's intention is to convert to volumetric water allocation, so, in terms of water conservation, if you have a licence it specifies a specific amount of water that you can use. Is that correct?

The Hon. Caroline Schaefer: That's correct.

The Hon. NICK XENOPHON: At the moment there is a system in place whereby with a water licence a specific volume of water will be allocated to that licence. That is pretty axiomatic. This clause intends to go a step further and to specify the purpose for which the water can be used. It is not so much an issue of water conservation as such, or water allocation, because ordinarily the holder of a licence will have the right to use X litres or gigalitres of water. This clause goes a step further and purports to tell the holder of the licence to use it in a particular way.

I do have reservations about that. I think the Hon. Sandra Kanck made a good point about cotton and rice up the Murray, and it is a pretty stupid use of water resources. My understanding is that the difference there is that they make a quid out of it in terms of growing cotton and rice because they get such huge allocations of water.

The Hon. Caroline Schaefer: You can change the allocation.

The Hon. NICK XENOPHON: That is right. This is about the minister or the department having the power to say, 'You are getting so much water but, by the way, we are going to tell you how you are going to use it.' I would imagine that, in terms of water allocations, the reason why we have not seen cotton and rice grown in this state is because it is simply uneconomic. I indicate to the government that I have some very grave reservations about the clause in its current form. I do not believe that the government's alternative amendments to the Hon. Caroline Schaefer's alternative amendment would deal with the issue because it is a threshold issue with respect to being able to direct someone to use water in a particular way. If I am mistaken, I would love to hear from the minister.

The Hon. T.G. ROBERTS: Given that it is a threshold matter, that it is 5.30 p.m. and that the Hon. Angus Redford has not stated his intent—

Members interjecting:

The Hon. T.G. ROBERTS: If someone could find out whether the plane is in the air, we might proceed. I understand that he will be listening in his room. I think that it is a good time to report progress. A number of concerns need to be answered that will take some considerable time.

The Hon. CAROLINE SCHAEFER: I am not going to oppose that at 5.30 on a Friday night, but I will say that I am very disappointed, because we all know that what is going to happen is that those Independents who may possibly be made to change their mind will now be heavied for the next 10 days. I am disappointed—having spent all afternoon here—that the government is not prepared to proceed and vote on this amendment.

The Hon. T.G. Cameron: Let me assure the Hon. Caroline Schaefer that this is one Independent who will not be heavied.

Progress reported; committee to sit again.

ADJOURNMENT

At 5.34 p.m. the council adjourned until Wednesday 30 June at 2.15 p.m.