HOUSE OF ASSEMBLY

Tuesday 27 August 2002

The SPEAKER (Hon. I.P. Lewis) took the chair at 2 p.m. and read prayers.

SCHOOLS, FLEURIEU PENINSULA

A petition signed by 458 students of the Victor Harbor High School, requesting the house to urge the government to immediately commence planning and construction of the Victor Harbor TAFE College and the Victor Harbor Senior High school, was presented by the Hon. D.C. Brown.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for the Arts (Hon. M.D. Rann)—

Regulations under the following Act—
Art Gallery—Conduct and Enforcement

By the Treasurer (Hon. K.O. Foley)—

Regulations under the following Acts—
Petroleum Products Regulation—Retail Sales
Police Superannuation—Superannuation Scheme

By the Minister for Health (Hon. L. Stevens)—

Nurses Board of South Australia—Report of the Review on the Operation of Section 24(3) of the Nurses Act 1999—June 2002

By the Minister for Industrial Relations (Hon. M.J. Wright)—

Regulations under the following Acts—
Dangerous Substances—2002 System
Daylight Saving—2002-03
Long Service Leave—Application and Record Keeping

By the Minister for Employment, Training and Further Education (Hon. J.D. Lomax-Smith)—

Flinders University of South Australia—Report 2001
Flinders University of South Australia—Amendment to Statutes—
7.1, 7.3 and 7.4 (Sealed on 18 January 2001)
7.1 and 7.3 (Sealed on 2 May 2001)
7.1 (Sealed on 5 June 2001)
7.1 and 7.3 (Sealed on 9 August 2001)
7.1, 7.3, 7.4 and 7.5 (Sealed on 3 December 2001)
7.1 and 7.3 (Sealed on 12 December 2001).

DISABILITY FUNDING

The Hon. S.W. KEY (Minister for Social Justice): I seek leave to make a ministerial statement.

Leave granted.

The Hon. S.W. KEY: In the state budget, the government allocated more funding than ever before to provide services for people with disabilities. In the 2002-03 budget, the government increased its contribution to address unmet needs under the Commonwealth-State Disability Agreement to $8 835 000. This money will be used for a variety of purposes, including the provision of supported accommodation and equipment to allow respite for carers.

Last Wednesday, the member for Finniss asked a question about the inaccuracies on pages 3.9 and 6.52 of the budget papers which concern the additional $8 835 000 state government contribution. The honourable member said that the budget overstated the additional amount of $6 million because:

> During the estimates committee it was acknowledged by the staff of the Department of Human Services that $6 million of the $8.8 million was simply to match the extra $6 million that the previous Liberal state government committed in each of the last two years of the disability agreement.

The extra $6 million that the former minister referred to ceased as at 30 June 2002. No provision was made in the forward estimates by the previous Liberal government for the continuation of $6 million for this financial year. Quite correctly, the increased allocation in the 2002-03 budget is shown on page 3.9 as $8.835 million. An error does occur on page 6.52 of the budget papers in relation to the comparisons between 2001-02 and 2002-03. The figure of $8.835 million that is shown on that page represents the increase on what the previous Liberal government had provided for in the forward estimates. However, based on a year-on-year comparison from 2001-02 to 2002-03, there is an increase of $2.835 million. The plain facts are that no provision was made for funding beyond June 2002, and this government had to find $6 million to avoid a cut in the disability budget. I am pleased to say that we were able to find that extra $6 million and an additional $2.835 million for people with disabilities. Even in a tough budget year, this government has got its priorities right.

FREEDOM OF INFORMATION ACT

The Hon. J.W. WEATHERILL (Minister for Urban Development and Planning): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.W. WEATHERILL: Today I will give notice of a move to amend the Freedom of Information Act 1991. A good government does not fear scrutiny or openness, and freedom of information legislation is an important avenue for the public to scrutinise the activities of government. During the election campaign the Australian Labor Party promised that in government we would review the Freedom of Information Act and ensure it is effective and that it remains up-to-date with today's technology and public expectations. This means ensuring that information is disclosed in the spirit of the act and exemptions are not granted on narrow, technical or political grounds. It also means ensuring FOI applications are processed in a timely manner.

The previous government presided over a culture of cover-up, a smorgasbord of secrecy and shonky deals. Our review of the legislation identified areas where the act could be improved to make more information available to the public. It also identified areas where more clarity was necessary to protect the privacy of individuals and to ensure that the decision-making processes of government were not impeded. The amendment bill is designed to encourage disclosure of government information as well as ensuring protection of privacy of citizens of South Australia.

It is important that the purpose of the act is understood, and the object of the act is to promote openness and accountability in government. The bill changes the object of the act so that it clearly demonstrates that the act favours disclosure of information. The issuing of ministerial and agency certificates will be abolished under this regime, removing a mechanism for potential abuse. A second progression in this bill is to make available some cabinet and executive council docu-

ments. If a minister recommends that access may be given to a document, and if cabinet agrees, the document will be made available to the public.

Another area of concern is the issue of commercial confidentiality clauses. It is easy to draft such a clause to exclude a contract from public view. The bill will limit the application of commercial confidentiality exemptions by requiring all contracts signed after the commencement of the act to be disclosed when an FOI request is made. However, there are circumstances where it may be imperative that a contract does include such a clause and, in these circumstances, a minister must approve the inclusion of such a clause, the result being that the contract or just the confidential material will be exempt from disclosure.

The review and appeal process in the legislation is to be rationalised by increasing the powers of the Ombudsman and the Police Complaints Authority to enable them to make a decision in substitution for the agency. Appeals to the District Court will be on a question of law only. Protection of disclosure of personal information will be increased from 30 years to 80 years after the creation of the document, a period more likely to cover the lifetime of the subject individual.

In cases where a document is identified as an internal working document, the bill emphasises the application of the public interest test and the need for opinions, advice or recommendations to be expressed freely and frankly. The bill will exempt from disclosure documents prepared in the course of, and preliminary to, laying estimates and receipts and payments before parliament. The bill will not distinguish between general members of the public and members of parliament when applying a fee for an FOI application.

The government has set out to ensure that its commitments are adhered to. This will require a longer-term commitment to broader public sector—

The Hon. I.F. Evans interjecting:

The SPEAKER: Order! The minister has leave.

The Hon. J.W. WEATHERILL: —cultural change, accompanied by administrative changes which will be vital for the successful implementation of these reforms.

The Hon. W.A. Matthew interjecting:

The SPEAKER: Order! The member for Bright does not have the call; he may have something else if he is not careful.

QUESTION TIME

YOUTH EMPLOYMENT

The Hon. I.F. EVANS (Davenport): My question is directed to the Minister for Industrial Relations. Further to questions asked last week regarding the UTLC's submission to the Industrial Relations Review to abolish junior pay rates and expand unfair dismissal laws to include trainees, will the minister guarantee that the government will reject the UTLC's further demand requiring non-union workers to pay a fee for bargaining undertaken by the union? As a result of the UTLC's submission to the government's industrial relations review, the opposition asked the minister to rule out a number of suggestions, including the abolition of junior pay rates.

The minister advised the house that the government had 'put in place a process, and a range of major stakeholders, including Business SA, the federal government and, I understand, even the federal minister, the Hon. Mr Abbott, have put forward submissions'. The UTLC's submission also recommended the abolition of the rights of workers to negotiate their own packages without union involvement, and the introduction of a fee for non-union members for bargaining undertaken by the union.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): Last week, the shadow minister asked, I think, one or two questions about the UTLC. I really cannot add a lot more to what I said in my answers to those questions last week, and that is that this government—

The Hon. I.F. Evans interjecting:

The Hon. M.J. WRIGHT: Well, I think I did, but let me try again. This government has put in place a process which we think is fair. Compare this to the previous government, which made ad hoc changes to industrial relations, and you will see a basic difference between Labor and Liberal. I note that they scoffed last week when I talked about Labor being fair and Liberal being unfair, but I raise the same point again: it is a contrast in different methodologies.

The Deputy Leader of the Opposition has some experience in this matter because he was the minister when the last major review—probably the last review—took place in regard to industrial relations. He had the good manners to allow that review to take its course and, when it took its course, he made a policy decision with regard to that review. That is the perfect way for it to have been done, and it is the way this government will undertake this process as well. We have a review in place. A range of submissions have come forward and others may come forward with regard to the review taking place.

I also said during the debate on shop trading hours last week that I do not imagine that any one submission or any one major stakeholder will get all they want. We have deliberately gone into a process with regard to a review of industrial relations. I know that opposition members do not like that because, quite clearly, they have a very stark position with respect to industrial relations. In addition, they have a very clear-cut position on the process. It is also not to be forgotten—and I think I am correct in saying this—that when the parliament got up and we went to the last election the Liberal Party still had some legislation in the Legislative Council that it did not even have the courage to proceed with because it could not get the numbers in the Legislative Council. I say on behalf of the government—

Members interjecting:

The Hon. M.J. WRIGHT: Well may they laugh at themselves, because they are easy to laugh at. The government has undertaken a process, and we will not pre-empt that process. Any organisation can come forward, unfettered, and provide a submission to that review, and we will allow that review to take its course. Whether it be the UTLC, the federal government or the federal Minister for Industrial Relations, we will not undermine or interfere with that process.

Opposition members can play politics and games. We know their views with regard to industrial relations, but we also know their opinion with respect to the review, because since day one they have been the only players out there in the market, whether it be Business SA, the trade union movement, the UTLC or individual business people—who have criticised the review. That tells us much about their policy on industrial relations.

FREEDOM OF INFORMATION

Mr SNELLING (Playford): Will the Minister for Administrative Services outline how the government's proposed changes to freedom of information will make a difference to accountability and openness in government decision making?

The Hon. J.W. WEATHERILL (Minister for Administrative Services): Freedom of information legislation is central to this government's commitment to a determination to be more open and accountable, and it reflects two things. It reflects a massive difference between us and them. In respect of your position, Mr Speaker, that difference is well known and, of course, you share our view on this important question. This also reflects an important long-standing commitment by the Labor Party. I remind the house that the platform of the Labor Party contains a long-standing commitment to the notion of openness and transparency. I will quote from the Labor Party platform, as follows:

> There is no doubt that community participation in government decision making improves both the quality of decisions and the public commitment to them. The restoration of faith and confidence in the political process is an important ingredient in Labor's commitment to progressive reform.
>
> We are committed to improving government processes so that they are more transparent and we will welcome, not inhibit, debate from the community. A good government is not afraid of either criticism or new ideas. We will be a government that listens.

I am also pleased to report that the compact for good government entered into between the government and you, sir, expresses similar views about openness and transparency and has been satisfied by the proposed changes.

Whether or not it can be said that we have opened up government, at the end of the day, will be a question of commitment. It is true to say that government does control the means by which it can influence the public sector culture of secrecy; and we know that, under the previous regime, it presided over a culture of public sector secrecy. The proposed legislation is one thing, but the broader issue is a question of our commitment to the task, and I can offer this by way of a test of our commitment.

We believe in a role for government because we believe that we can guide the economy with good public policy. We believe that we can protect the vulnerable, but we know that the public has to have faith in the political process, and that is why we want to restore faith in that process. That is why these measures are directed at restoring that faith in the political process. That is the extent of our commitment; that is why we can be believed when we do this.

I contrast that with those on the other side. When an explanation was necessary, they avoided; when disclosure was necessary, they hid; and, finally, when accountability was required, they lied. That was the legacy that the previous regime left us. We are about turning that around. We will be a good government and we will be an open government.

The SPEAKER: The member for Davenport needs to look a little more energetic if he wants to ask a question.

SHOP TRADING HOURS

The Hon. I.F. EVANS (Davenport): Will the Minister for Industrial Relations advise the house if the government is opposed to the formation of a select committee on shop trading hours because of concerns that an agreement between a major Labor Party donor, the SDA, and some of South Australia's major retailers will come under greater public scrutiny?

Members interjecting:

The SPEAKER: Order!

Mr Koutsantonis: You had better be careful, son!

The SPEAKER: Order!

The Hon. I.F. EVANS: In an agreement signed with the SDA, Coles' supermarkets has agreed to recognise the SDA as having exclusive representation of the employees under the particular agreement. Under the agreement, it is Coles' policy that all employees covered by this agreement shall join the SDA. Coles undertakes positively to promote union membership at the point of recruitment by strongly recommending that all employees join the union. Coles undertakes to give all employees at the point of recruitment an application form and, at the same time, it also gives them a copy of Coles' policy that all employees shall join the union. Coles undertakes to deduct membership fees and forward them to the SDA on a monthly basis; and Coles undertakes to introduce the trade union delegate to the new employee in the first two days.

Further, Woolworths has also signed a similar agreement with the SDA. This agreement includes Woolworths' ensuring that all new employees are shown the SDA five-minute video at the point of induction. The Coles and Woolworths agreements have helped build the SDA membership to over 20 000, making it the largest union affiliated with and one of the biggest donors to the Labor Party. The SDA donated some $127 000 to the South Australian Labor Party, according to the AEC funding and disclosure in 2000-01.

Members interjecting:

The SPEAKER: Let me make it plain. The next person who interjects will be warned and then named. The Minister for Industrial Relations.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): On coming into office, the government decided that it was wise to consult, and we have done so very broadly. The Premier asked me to take on this challenge on behalf of the government, and we have done that. We have consulted with big business, medium business and small business. We have consulted with the union, we have consulted with consumers, and so the list goes on. The government has come forward with a modest package. It is a reform package that offers greater flexibility to shop trading hours.

I contrast that to the former government, which was in office for eight years or thereabouts and was not able to drive this issue. Why not? Because of the division within the Liberal Party. The reason that we are concerned about this going to a select committee is very simple. What more can be delivered via a select committee that has not been delivered in the past eight years on this debate? What more can be delivered by a select committee that has not been delivered in a debate that has been going on in South Australia for some 30 years or more? The reason we are concerned about this bill going to a select committee is that it highlights the division in the Liberal Party and it is a contest between the leader and the shadow minister.

The SPEAKER: Order! I invite the minister to come back to the substance of the question or otherwise be seated.

The Hon. M.J. WRIGHT: Thank you, Mr Speaker, I am delighted to do so. Let us contrast this to what took place between the Labor Party and the previous government. The former government undertook a review of shop trading hours, but it did not have the courage to release that review. When we came to government, we said that we were not interested

in a review. We were interested in talking to the parties to see whether we could drive this issue. The previous government was not able to make a decision on shop trading hours, and now in opposition it is still not prepared to make a decision on shop trading hours, and I contrast that to when we were in opposition. When the previous government introduced its changes to shop trading hours, such as the Glenelg precinct and the changes that it brought forward in 1998, it received bipartisan support from the then opposition. I contrast that to the decision that has been taken by the opposition. It wants to move this off to a select committee that will achieve nothing.

The question from the shadow minister highlights the lack of leadership in the Liberal Party. The first question highlights its hatred for the UTLC. The second question highlights its hatred of the trade union movement and of workers. What they most hate being able to do is to say either yes or no. All we want from the leader is a yes or a no. All he needs to do is provide a yes or a no. That is all we want—a yes or a no.

FREEDOM OF INFORMATION

Mrs GERAGHTY (Torrens): Can the Minister for Administrative Services outline the costs associated with the administration of freedom of information?

The Hon. J.W. WEATHERILL (Minister for Administrative Services): Included in the package of measures that I announced today is a proposal ending an exemption which has meant that politicians are not required to pay when they lodge an FOI application. Currently, members of parliament are given access to documents without charge, unless the work generated by the application exceeds a threshold which presently stands at $350 per application. I am advised that this threshold is applied inconsistently across agencies and in some cases not at all, and there also exist no adequate means of recording when that threshold is hit. There seems to be some consternation on the other side of the house about this matter, and I think we need to bear in mind the example that was set by the former government in this regard. I refer the house to a letter from the former minister, Robert Lawson, to the then leader of the opposition, now Premier, which stated:

> I indicated that the aggregate cost of complying with your freedom of information applications to ministers concerning staff development exercises and other matters exceeded $75 000.

Former minister Lawson went on to state that he had the figure reviewed following concerns. His letter continues:

> Although I am glad to see that agencies have been able to reduce their cost estimates, the fact remains the new total, $73 117, means that compliance with these requests will substantially and unreasonably divert the agency's resources. The application was refused.

This was a standard operating procedure for the former regime. It was a layer of secrecy. There was just one layer of secrecy after another, commencing with the first line of defence: 'You can't have it at all, because it costs too much.' The noise from the other side about their paying $21.50 needs to be heard in that light. It should be looked at this way. Members of the public have to pay $21.50; why should members of parliament be treated any differently? If there is a proper case for hardship provisions on the basis of a constituent's circumstances, that remains in the legislation, and that exemption can still apply. In those circumstances we believe that that is a proper way of dealing with the matter. It is worth reminding the house that the $21.50 recovers of the order of only 10 per cent of the average cost of processing an application, so it is a modest contribution to this quite significant administrative burden.

SHOP TRADING HOURS

The Hon. I.F. EVANS (Davenport): I direct my question to the Minister for Industrial Relations. Given the minister's comments last week that shop trading hours and industrial relations were separate issues, is the minister concerned that Coles has signed an agreement with the SDA that may prevent other Australian businesses from receiving a better reduced penalty wage rate regime than Coles itself? According to clause 3.3.2 of the Coles Supermarkets retail agreement signed with the SDA, the following condition applies:

> The union undertakes that it will not agree to reduce the penalty rate in ordinary time on a Sunday below 50 per cent with a major competitor of Coles supermarkets over the three year period from when this agreement begins to apply.

Under this agreement Coles has agreed to promote SDA union membership to all employees. In return, the union has agreed not to agree to reduce the penalty rate in ordinary time on a Sunday below 50 per cent with any of Coles' competitors.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): Last week when we were debating shop trading hours legislation, the opposition said it was concerned about the industrial arrangements. The point to be made is very simple and crystal clear, and well does the opposition know it. This is to be determined by the parties. It is as simple and clear as that. If the opposition was so serious and so principled about this, the question is a very easy one. I have already asked the question and it has not been answered. When the previous government—the current opposition—introduced its range of changes to legislation for shop trading hours in 1998, did the then government make any mention of changes to industrial arrangements? Of course not. It simply has been raised this time as a disguise, nothing more and nothing less—and they well know it.

The appropriate place for this to be sorted out is the commission. The commission is an independent organisation, and the way you go into the commission is via the parties. It is my understanding—and I think the opposition is also aware of this information; if it is not, I will let them know now, but I do believe they are—that the Australian Retailers Association, Business SA, and the SDA are in discussions with regard to industrial arrangements; and that is where it should be, because that is the appropriate mechanism by which these things can be sorted out.

Might I also say, in case members were not aware, that enterprise bargaining being done at the local level has been a part of our system for some 10 to 15 years, and the opposition is talking about a system—and the shadow minister would understand this—at the federal level, which is its system. When we talk about state legislation, once again, it is legislation that was introduced by a former Liberal government. Your record on this is zilch.

FREEDOM OF INFORMATION

Mr KOUTSANTONIS (West Torrens): My question is directed to the Minister for Government Enterprises.

Mr Venning interjecting:

The SPEAKER: I warn the member for Schubert.

Mr KOUTSANTONIS: Thank you, sir. Can the minister tell the house whether he is concerned about the cost and number of freedom of information requests made by opposition members, and is he aware of any evidence that they have had a major change of heart in relation to the information that should be made available through FOI applications?

The Hon. P.F. CONLON (Minister for Government Enterprises): I must say it is with some amusement that I have sat and listened to the scorn and derision that was poured upon the Minister for Planning when he spoke about our changes to FOI laws. As I will address in a moment, never has so much hypocrisy been shown in this place by an opposition. Let me explain why. First of all, my colleague a little earlier referred to the fact that, when we sought some quite modest freedom of information applications in opposition, they wanted to charge us $75 000. I contrast that with what is occurring at present.

I have, across all my agencies, FOIs for virtually every document that has been created since we came to government. There has been absolutely no discretion, no qualification, and no particular interest in it. I am advised by my colleagues that that is what is going on across all government departments. I have to say that I find it difficult to know whether these are the same people who, when in government, we could not lever a document out of under the FOI legislation.

I must say, though, that we did have a good second route for documents. In fact, it was a little better. You could not get cabinet documents under the freedom of information laws, but you certainly could get cabinet documents under the second route. We got a lot of those. In fact, their cabinet documents were all often marked 'For opposition eyes only'! We certainly got a welter of them. It was like levering barnacles off rocks to get a document under freedom of information, but apparently that attitude has changed, because now they want every single piece of paper that has been created since 6 March. I give this undertaking: despite the way the former government treated us, we will treat their applications properly and according to law.

I was also asked if I have seen any evidence of a change of heart. Well, I have, Mr Speaker. I have a document, about which I am a little cautious because, according to the Leader of the Opposition and the Deputy Leader of the Opposition, it should not actually exist. It is a document whose existence they have denied on a number of occasions. Marked 'A Working Agreement to Support South Australian Government' and dated 13 February, it is signed by Rob Kerin, Dean Brown and Peter Lewis, the then member for Hammond.

Members interjecting:

The SPEAKER: Order!

The Hon. R.G. KERIN: On a point of order, Mr Speaker, I ask that you ask the member to table the document, because I never signed it.

The Hon. K.O. Foley: You never saw it?

The Hon. R.G. KERIN: I never signed it.

An honourable member: You never signed it?

The SPEAKER: Order!

The Hon. R.G. Kerin: It's initialled, apparently.

Members interjecting:

The Hon. R.G. KERIN: On a point of order, Mr Speaker—

The SPEAKER: Order! The Leader of the Opposition has a point of order.

The Hon. R.G. KERIN: The minister is saying that I signed the document. He is referring to an initialling of a change and there is no signature.

The Hon. P.F. CONLON: If it is of any assistance I can quote—

The SPEAKER: Order! There is no point of order, and the Leader of the Opposition knows that.

The Hon. P.F. CONLON: As I said, I treat it with some caution, because apparently this document does not exist. Mr Speaker, in the interests of the Leader of the Opposition, I am more than happy to table it as soon as I complete answering this question. As far as I can see, this document, despite the fact that it does not exist, is signed by Rob Kerin and Dean Brown. A number of pages are initialled, and I will come to those in a moment, because they make very interesting reading. The document is signed and it is initialled. Much to our surprise, Mr Speaker, it contains very much the same material as that which we included in a compact with you as member for Hammond, except for a couple of notable exceptions, and I will come to those also in a moment. However, by and large, it is substantially the same document, but it does contain a number of notable exceptions.

Perhaps these are the initials the Leader of the Opposition referred to, for instance the initials under 'promoting open and accountable government'. Of course, that was always a lofty ambition of theirs—we remember the sleaze, the cover-up, ministers resigning, the conflicts of interest and the premier resigning. They had a front bench that looked like a police line-up. We remember all that, but the former government found a new commitment to open and accountable government, with the exception of a number of paragraphs with a line put through and initialled by 'DB' and 'RK', and I assume that is the Hon. Dean Brown and the Hon. Rob Kerin.

What has been crossed out? Well, it deals with freedom of information legislation. Points 1 and 2 are crossed out and initialled. 'Rebuild freedom of information legislation to give full and proper access to government documents' has been crossed out; 'reducing the restriction on access to documents on the grounds of cabinet confidentiality,' crossed out; 'removing restrictions based on commercial confidentiality,' crossed out; 'removing obstructions, such as excessive cross-claims and appeals against documents,' crossed out; but the best one is: 'Adhere to the spirit of the FOI legislation and its underlying principles', crossed out! What utter hypocrisy!

The Hon. R.G. Kerin: You're a bloody disgrace.

The Hon. P.F. CONLON: I'm a disgrace? These are not your initials then, Rob? These are not your initials? Is that your signature, or is it not?

Members interjecting:

The Hon. P.F. CONLON: They are saying that they are two different documents. All I have is a document with proposals including one for improving freedom of information legislation, and those proposals are crossed out, initialled by Rob Kerin and initialled by Dean Brown. How much more do you want? It is the smoking gun. We have come into this house today and announced freedom of information legislation, and the member for Bright, in his usual fashion, not only derided and scorned that legislation but also yelled out the words 'corrupt' and 'secretive'. Now they are in opposition they are certainly committed to freedom of information, but look at their track record whilst in government. If they had won one more term through the support of the Speaker, we would have seen more of the same—more sleaze, more

cover-ups, more ministers trooping in and out as if they were on a merry-go-round.

I hope that the utter hypocrisy that has been shown here today leads the opposition to a change of heart. When we introduce our legislation, I hope that we improve freedom of information, as we promised before the election and as we put in a compact with the Speaker. I hope that we do not hear the opposition criticising and carping about the legislation not going far enough, because they have absolutely no credibility.

PENALTY RATES

The Hon. I.F. EVANS (Davenport): What action will the Minister for Industrial Relations take to ensure that the favourable penalty rate regime secured by Coles and Woolworths, in their agreement with the SDA, will be extended to the whole retail trading sector, including South Australian small businesses, if those businesses so desire? Currently, the Retail SA Award requires small business to pay overtime for all hours on Sundays and pay the rate of double time, that is, a penalty rate of 100 per cent. This is compared to the Coles and Woolworths agreement that has penalty rates of half the retail award and to allow employees to work ordinary hours on Sundays, that is, a penalty rate of only 50 per cent.

Members interjecting:

The SPEAKER: Order! The Minister for Government Enterprises will come to order!

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I am not quite sure what the shadow minister does not get, because we have a very simple process whereby you go to the commission and apply for an award variation. Exactly the same system was in operation for the eight years that the previous Liberal government was in office. So, for eight years, you had the opportunity, if you so wished, if you so believe in this, if this is a blatant—

The SPEAKER: Order! The minister will address his remarks to the chair.

The Hon. M.J. WRIGHT: I am sorry, sir. If the previous government has such a strong philosophical position on this, it had eight years to drive this from a policy debate. I hope that it was not done for the right reason; and the right reason then is the same one that applies now. It is not the responsibility of the government: it is the responsibility of the parties.

If the shadow minister does not understand it, the Deputy Leader of the Opposition should, because he has been a former minister for industrial relations. It is a simple process. It can be done by way of an award variation, or a template agreement can be undertaken. Either of those will bring about the same result. Mr Speaker, the opposition has nowhere to run and nowhere to hide on this. They are extremely embarrassed, and they have plenty of reason to be so embarrassed.

INVESTMENT ATTRACTION

Mr O'BRIEN (Napier): Will the Deputy Premier, who is also the Minister for Industry, Investment and Trade, explain what the state is doing to limit the cost to taxpayers of investment attraction activity?

The Hon. K.O. FOLEY (Deputy Premier): I thank the honourable member for his question and keen interest in this matter. The government has outlined previously that under the Economic Development Board, the chair being Robert de Crespigny, we are looking at ways of attracting to this state investment that requires less investment attraction money than governments, of both persuasions, have spent in the past. As we have said many times publicly and in this house, we want to look at ways in which we can do it more efficiently; and I know there are many members opposite who share that view.

I received a letter from the Hon. John Brumby, the Minister for Industry and the Treasurer of Victoria, drawing to my attention a proposal or agreement that the state of Victoria has entered into with New South Wales where both states are working together to eliminate, where possible, unnecessary cross-border competition for investment.

Bidding wars between states have seen some significant taxpayer-funded incentive packages provided, as one company has played one state off against another. Victoria and New South Wales have entered into an agreement which has been in operation now for some time. John Brumby is of the view (as is Michael Egan, the New South Wales Treasurer and minister) that they have been able to contain some bidding in terms of mechanisms that have been put in place to ensure that they are able to limit the extent to which one company can play one state off against another. Following discussions that I had with John Brumby recently, he has written to me, and that letter in part states:

> The Victorian and New South Wales governments announced this agreement on 26 March last year in a joint communique. The objective of this agreement is to eliminate cross border poaching of established investors and to more actively manage the competition between the states for new projects, especially where there is no international competition. Within this framework agreement, the Departments of Innovation, Industry and Regional Development in Victoria and State and Regional Development in New South Wales discuss relevant projects and I can advise from my own involvement in several. . . cases that the agreement has been effective in limiting the cost to taxpayers of attracting new investment to the state.

I have today written to John Brumby indicating South Australia's desire to cooperate, where possible, with Victoria and New South Wales to ensure that South Australian interests are not sacrificed by companies playing states off against each other and to explore the possibilities of eliminating—again, where we can—cross border competition for investment. Officers of the newly created Office of Economic Development will communicate with the Victorian Department of Innovation, Industry and Regional Development and its New South Wales counterpart to discuss the implementation of this proposal.

I think this is significant. It will not be the only answer for this state, but I think that having dialogue between the states is a significant step forward which will allow more rational discussions and more rational outcomes about the level of assistance that is offered to companies which attempt to bid one state against the other. I think we can approach this in a sensible, mature way whilst still preserving our state's competitive interests and our need for our own investment attraction policy. Even if it works for only one or two projects, it will have the real possibility of saving taxpayers' money.

I think all members of the house should join with the government in supporting this proposal. I look forward to having the Industries Development Committee of the parliament briefed on this matter as soon as we can provide information to the committee, because I know there are many members opposite (including, I am sure, some former ministers of industry) who have been frustrated from time to time about this very issue. I think the deputy leader is acknowledging that this is a good step. In a bipartisan way, maturing the relationships between the states can mean that we have some effective dialogue, and I will keep the house—

The Hon. Dean Brown: It's not the first time that it's been done.

The Hon. K.O. FOLEY: No, but I think it is the first time that there has been a formal agreement.

The Hon. Dean Brown: No.

The Hon. K.O. FOLEY: Back in the Tonkin years?

The Hon. Dean Brown: No. I think it was in 1986. No, it was, I think, 1984.

The Hon. K.O. FOLEY: That was before my time. It is important to note that there is goodwill and bipartisanship on both sides of the house. I look forward to keeping the parliament informed of any further developments.

RETAIL ENTERPRISE BARGAINING AGREEMENTS

The Hon. R.G. KERIN (Leader of the Opposition): My question is directed to the Premier. Will the government support the opposition's move to have the ACCC investigate the actions of the SDA into whether agreements entered into represent anti-competitive behaviour by restricting the ability of the majority of South Australian retailers to enter true enterprise bargaining agreements with penalty rates that are able to be fully negotiated?

Mr Venning interjecting:

The SPEAKER: Order! The member for Schubert is on thinner ice than I would dare to go.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): We came forward last week after a very extensive consultation period which lasted for five months with a modest package which comprised an additional eight hours of trading in the suburbs, a summer of Sundays, and the provision for electrical stores to be able to trade on Sundays and public holidays similar to hardware stores, and the best the opposition can come up with is a load of diatribe about the industrial relations. They know full well that the reason they present information of this nature is their inability to say yes or no. What politics and government are all about is making decisions. All that the taxpayers of South Australia are asking for from the opposition is a yes or a no to this package. The opposition knows full well, like the public and the business community, that industrial arrangements are determined between the parties. If the opposition does not get that, I am happy to provide a briefing straight after question time to that effect.

The SPEAKER: I am not sure that that answered the question the leader asked.

SCHOOLS, STURT STREET PRIMARY

Ms CHAPMAN (Bragg): Will the Minister for Education and Children's Services disclose what options are being considered for the development of the Sturt Street Primary School site in respect of delivering educational services, what consultation processes are proceeding and who are the key interested parties? During the estimates the minister informed the committee that there was now a delay in the reopening of the Sturt Street Primary School and stated that a recent architectural engineering survey report identified serious architectural and soil problems with the site, which clearly was going to cause a delay. The minister went on during estimates by suggesting that the Sturt Street Primary School project was 'moving ahead' and that options were being prepared and further that 'there is a consultation process proceeding with key interested parties about the best way to move forward'.

The Hon. P.L. WHITE (Minister for Education and Children's Services): I thank the member for Bragg for her question, but I ask her what is wrong with considering one's options on the best way to move forward. We are consulting with a number of interested parties. A number of groups, including the Adelaide City Council and a group called Save our School—a group of people who had been campaigning for several years since the school was closed back in 1996, first, against its closure and then for its reopening—are being consulted. The Gilles Street Primary School, being a city school, has a role to play and there have been discussions with nearby schools, including Adelaide High School and surrounding primary schools. One of the issues to do with the state of the site—

Mr Brindal interjecting:

The Hon. P.L. WHITE: Yes, they are involved in consultations and some of those individuals, in response to the member for Unley, were either teachers of the former primary school or involved in the lobby group, Save our School, that opposed the closure of the Sturt Street Primary School back in 1996. The timing for what can be achieved at that school is dependent on the work that has to be done. Some options put forward required a higher level of information and communication technology hardware put through the building—

Mr Brindal: What does that mean?

The Hon. P.L. WHITE: Depending on the amount of hardware networking that had to be done, those options were a longer delivery time. It is the intention to open the school for primary school education, as has been quite clearly stated. Unfortunately, it will not be able to be opened in time for the next school year because of the state of the building, which has degraded significantly. It is a heritage building and it has degraded significantly under the former administration because it has been lying vacant since 1996. It is a heritage building right in the centre of the city, a prime site of importance. Certainly the Adelaide City Council and people who work, live and interact in the city believe it is a site of prime importance to the city of Adelaide and it has been lying dormant since 1996. Tied up in that was an investment that was being denied to our schoolchildren and education generally. This government has made the decision to reopen the school, and it will be reopened for the 2004 school year. Work is about to commence on soil tests, but, first, some reparatory work needs to be undertaken on the building structurally so that it is safe to open as a primary school.

SCHOOLS, FLEURIEU PENINSULA

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is directed to the Minister for Education and Children's Services. With the provision of $500 000 this year for the review of education in the Victor Harbor and Port Elliot areas, can the minister outline the nature and time frame of the review; and can she give an assurance that the building program for the schools and the Victor Harbor TAFE will proceed without delay once the review is completed?

The Hon. P.L. WHITE (Minister for Education and Children's Services): I am sure that the people of Victor Harbor would have liked an assurance from the former government, which was in power for the last eight years, that

it would start some work in that area, instead of coming in here—

The Hon. Dean Brown interjecting:

The Hon. P.L. WHITE: An election promise that was never going to be fulfilled in this financial year. The former government made the decision to progress the planning work for this project knowing that the full amount that the schools wished to be allocated was never going to be spent this financial year. The former government did conduct a review of education facilities in the area, and that review recommended that the three primary schools be decreased in size from R-7 facilities to R-6 facilities. It also recommended that year 7 students attend the Victor Harbor site. I do not think those recommendations are appropriate, nor do the primary schools in the area. So, there is no agreement to proceed in the way in which the former government's review recommended at all—

The Hon. Dean Brown: It was your review.

The Hon. P.L. WHITE: It was completed in 1996. The recommendations came out in 1996, and that was—

The Hon. Dean Brown interjecting:

The Hon. P.L. WHITE: The Labor government has not been in power since 1993. This was a 1996 review that brought forward recommendations considered by the former Liberal government. Other issues are not resolved, either. For example, in relation to the Port Elliot Primary School redevelopment, the department does not own a piece of land for the new school. So there is—

The Hon. Dean Brown interjecting:

The Hon. P.L. WHITE: No, no agreement has been reached about a piece of land for the new primary school. Quite clearly, the amount of money which the former Liberal government had promised to spend—and which, I might say, was a promise made after last year's state budget; it was forward promising what would be in this government's budget—clearly was not going to be spent this financial year. This government could have continued the practice of the former government, that is, leave that money sitting on the capital works program—it would have appeased the local community—and just let it slip by from year to year. Indeed, that was the approach of the previous Liberal government, which underspent the capital works program by $124 million. If that money had been spent on the schools in this state, the new government would not have been faced with the situation of having to face such an enormous backlog, plus huge expectations that, clearly, were not going to be met in this financial year.

SCHOOLS, ANTI-GAMBLING EDUCATION PROGRAM

Mr BROKENSHIRE (Mawson): Will the Minister for Gambling please advise the house of the progress of a school-based program designed to warn students of the risks of problem gambling? Will he advise the house when the program will be implemented and in which school year it will become available to students? During the estimates committee, the minister advised that the government would be providing $800 000 over four years to implement the school-based anti-gambling education program. However, details regarding when the program would be implemented and in which school year the program would be targeted were not provided.

The SPEAKER: Before the minister answers, I once again point out to honourable members that it is not necessary for any member in this place to beg. Please and thank you are not necessary. We have the delegated authority from our electors to put questions to the government on their behalf. The minister.

The Hon. J.D. HILL (Minister for Gambling): Thank you very much, Mr Speaker, and I thank the member for the question. I point out to the member that I am not directly responsible for this fund, but I have had the opportunity to consult with my colleagues the Minister for Social Justice and the Minister for Education, both of whom have partial responsibility for this fund. I can inform the member that the Gambling Rehabilitation Fund is doing some work on this issue. It has an overarching responsibility and it is working with the Education Department. I gather from the Minister for Education that the Education Department is in the process of developing a couple of modules which will be introduced in the near future. I can get a more complete answer for the house in due course.

KALBEEBA LANDFILL DEVELOPMENT

The Hon. M.R. BUCKBY (Light): Will the Minister for Urban Development and Planning advise the house of the exact social, environmental or economic factors that convinced him to allow the application for a landfill at Kalbeeba, east of Gawler, to be declared a major development? During estimates, the minister advised the committee that he had declared the proposal as a major development because of social, environmental and economic significance, but he did not elaborate on the exact social, environmental or economic nature of this proposal that was so important for it to be declared as a major development.

The Hon. J.W. WEATHERILL (Minister for Urban Development and Planning): The honourable member would be aware that the planning and development assessment process is a highly structured legal environment. He would also be aware that I have an obligation to make an assessment that takes into account a range of factors. I received a substantial report from my agency, which set out a range of factors that could be characterised as falling within that category. I am happy to bring back to him a detailed answer, but I will not give him an answer on my feet here just on the basis of what I can recall. It is important that I set out each of the factors because, in totality, they allowed me to come to that conclusion, and that formed the basis for taking it down a more rigorous assessment path.

AUSTRALIAN MAJOR EVENTS

Mr HAMILTON-SMITH (Waite): I direct my question to the Minister for Tourism. What changes in staffing levels, funding and modus operandi has the minister made to the Australian Major Events organisation since the government came to office? The government has recently been found to have dismissed the Major Events Advisory Board, which provided oversight and advice to the minister on attraction and conduct of major tourism events. Industry sources have expressed concerns to the opposition that this downgrading of Australian Major Events puts at risk a $3 billion industry in South Australia and over 42 000 jobs.

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): I must correct some of the inaccuracies in the member for Waite's question. First, we have not disbanded the Australian Major Events board. It is my understanding that that board was disbanded by one of his many predecessors in

the last government's tourism ministry. The history of AME is that it was a very timely and cost effective way of replacing the Grand Prix when it was lost in 1995. Australian Major Events was set up as a way of refilling the calendar to attract tourists and—

Mr Brindal interjecting:

The SPEAKER: Order! If the member for Unley wants to quarrel he can move out into the lobby. The minister has the call.

The Hon. J.D. LOMAX-SMITH: It was a way of attracting tourists and bed nights to fill those empty parts of the calendar. Its mandate was to attract major events, and as such it was highly effective in not only attracting events but also inventing them, so we should commend the last government for its initiative. Initially, the AMA had a staff of four and a board of 11 people. It was then decided that there was an ineffective way of reporting back to the minister through the tourism department, and I understand it was decided that the Australian Major Events board should be disbanded and an advisory committee put in place.

The advisory committee was smaller and was in the unusual position of reporting to the commission, and having reporting to it the head of the major events staffing of the SATC. So, the AME organisational unit was then collapsed into the SATC. As a reporting structure, there were some issues in the way in which the board was initially contracted to have an advisory committee that had common membership on both the advisory committee and the Tourism Commission board. That worked for some years, but recently the previous minister—not the member for Waite—decided that there would no longer be common membership of the two groups, so there was something of a hiatus in the reporting mechanism. We have decided to follow along the path that was set in train by the last government by making sure the Australian Major Events advisory committee as it now stands—

Members interjecting:

The SPEAKER: Order! A couple of times I have drawn attention to the responsibility that the chair has to prevent quarrels, and I remind the Deputy Premier and Leader of the Opposition of the standing order that compels me to do that. I might give them leave to have a cold shower if they persist.

The Hon. K.O. Foley: Not together, I hope!

The SPEAKER: Yes, together!

The Hon. J.D. LOMAX-SMITH: In future, the advisory committee will be a subcommittee of the SATC board, and this will allow a more streamlined reporting mechanism. There are no actual changes to staffing or funding, but it will focus the attention of the Australian Major Events unit on the fact that they are there for one reason and one reason only, that is, to promote tourism to the state. It is entirely appropriate that the two parts of the organisation should be streamlined. In fact, I believe that the only change in the structure and staffing that will occur as a result of this restructuring will be a cost saving in the number of sitting fees.

OPPOSITION DOCUMENTS

The Hon. R.G. KERIN (Leader of the Opposition): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.G. KERIN: Earlier this afternoon the Minister for Government Enterprises tabled documents which he claimed had been fully signed. In fact, there was not one document but two separate and independent documents that stood alone.

Mr Brokenshire interjecting:

The SPEAKER: Order! The member for Mawson is warned.

The Hon. R.G. KERIN: The minister has stapled these two documents together and claimed them as one. The signature he referred to definitely and obviously related only to the first document, which was a two page document signed by the deputy leader, the member for Hammond and me. The next 11 pages from which the minister was quoting—and which he claimed to be the same document—is a totally different document. It was a draft document which was never signed either by me or the Deputy Leader. The initialling referred to by the minister is alongside the areas of a draft document put to us by the member for Hammond indicating actions that we all agreed to delete from negotiations. The minister has mischievously and irresponsibly stapled the two documents together, an act which is fraudulent and dishonest, and—

The SPEAKER: Order!

The Hon. R.G. KERIN: —below the accepted standards—

The SPEAKER: Order!

The Hon. R.G. KERIN: —of this house.

The SPEAKER: Order! The leader has been given leave to make a personal explanation, not to engage in debate or attack. I am very conscious of my own position in this, as the member for Hammond. I will allow the Leader of the Opposition to continue, so long as his remarks are restricted to a personal explanation.

The Hon. M.J. ATKINSON: On a point of order, sir, would it not be appropriate, given that the imputations made by the Leader of the Opposition can only be made by substantive motion, that he be required to withdraw?

The SPEAKER: I am inclined to agree with the point raised by the Attorney-General. However, in view of the personal involvement I have in the matter, I will err on the side of liberty and in this instance consider the remarks. I may bring back to the house at a later time in the near future my considered opinion of the matter. Does the Leader of the Opposition have further factual information and an explanation that he wishes to put to the chamber?

The Hon. R.G. KERIN: No, sir, only to ask the minister to apologise for his actions.

GRIEVANCE DEBATE

OPPOSITION DOCUMENTS

The Hon. DEAN BROWN (Deputy Leader of the Opposition): I wish to grieve on exactly the same subject. Never before have I seen a minister of the Crown take two separate documents, one of two pages signed, and then staple it to a further 11 pages.

An honourable member: Disgraceful!

The Hon. DEAN BROWN: Disgraceful behaviour indeed! If any person did this outside, they would be before the Supreme Court on fraud charges.

The SPEAKER: Order! The deputy leader will desist. If the Deputy Leader believes that there has been a misde-

meanour of that kind committed, it will be by substantive motion alone that the house hears it.

The Hon. M.J. ATKINSON: On a point of order, sir, in the light of your previous generosity in warning, would it not now be appropriate for you to require the Deputy Leader to withdraw the imputation of criminality that he has just made?

The SPEAKER: Yes, and I order him to so do. It is unparliamentary.

The Hon. DEAN BROWN: Mr Speaker, I withdraw that imputation. But I point out that here were two quite separate documents, one of two pages signed by the leader, the deputy leader and the member for Hammond. It is quite a separate stand alone document. Then the Minister for Government Enterprises—

The SPEAKER: Order! I have to tell the deputy leader that I disagree with his assessment of that and, in view of the fact that those matters are now before the Supreme Court sitting as a Court of Disputed Returns, I rule the subject out for further debate this day until that matter is resolved.

The Hon. DEAN BROWN: On a point of order, Mr Speaker, can I ask whether these documents have been tabled?

The SPEAKER: They have.

The Hon. DEAN BROWN: If that is the case, I ask why you allowed the Minister for Government Enterprises to use these documents in an extensive debate earlier in the afternoon in this house.

The SPEAKER: He was not involved in a debate. He was answering a question, and at the time it caused me—

Mr BRINDAL: Mr Speaker—

The SPEAKER: The member for Unley will resume his seat. The Deputy Leader of the Opposition.

The Hon. DEAN BROWN: Mr Speaker, the point of order—

The SPEAKER: Let me finish my explanation.

The Hon. DEAN BROWN: Certainly.

The SPEAKER: At the time the question was asked, I judged it to be in order. However, it was not a debate. It has now descended into debate and is therefore ruled as sub judice, and remains so. If the Deputy Leader has any other matter he wishes to raise in grievance, he is at liberty to do so. Otherwise, this subject is sub judice.

The Hon. DEAN BROWN: Mr Speaker, I accept your ruling that this subject is now sub judice, except I believe that the leader, as he has already explained this afternoon, has a right to explain, as do I, that these were two separate documents that have been stapled together.

The SPEAKER: I have pointed out to the deputy leader that, as one of the parties to those documents, I do not share that judgment. That matter is before the Supreme Court and it is sub judice. I will entertain no further debate on the matter until the Court of Disputed Returns is concluded.

The Hon. DEAN BROWN: I accept your ruling on that, Mr Speaker.

The SPEAKER: Then proceed with a subject other than this.

The Hon. DEAN BROWN: I will therefore proceed and talk about the issue I raised in question time today concerning the schools at Victor Harbor and Port Elliot. I asked the minister, having allocated $500 000—

Members interjecting:

The Hon. DEAN BROWN: Well, I think I have made the point on the other issue at any rate. Having allocated $500 000 for the review of education in Victor Harbor and Port Elliot, I asked the minister a simple question: what is the nature of the review and the time frame for the review? I appreciate that the minister wanted to make a political point, irrespective of its validity, but did not answer the question. My electorate would like that question answered. I understand that the staff of the minister have refused to give that information to the local newspaper at Victor Harbor, the *Victor Harbor Times*.

In all sincerity, I ask the minister if she could give to me, and to the communities of Victor Harbor and Port Elliot, an outline of the nature and the time frame of the review that will be carried out with the $500 000. When will the review be completed? Will the local community have a role and a chance to participate in that important review? I ask the minister to provide to this house this relevant information concerning the review before the house finishes this week, to make sure, therefore, that the people of Victor Harbor and Port Elliot have some understanding of where this government is heading concerning the development or redevelopment of the three schools—the Victor Harbor High School, the Victor Harbor Primary School, the Port Elliot Primary School and the TAFE College at Victor Harbor.

Mr BRINDAL: I rise on a point of order, Mr Deputy Speaker. I am sorry to ask you to rule on this, but you are in the chair. Mr Speaker has just ruled a matter sub judice. It appears from what the leader was saying that it might involve a misleading of the house. A matter of privilege, under our standing orders, takes precedence over all other matters. Will this now not be possible to be raised as a matter of privilege before this house? If you are not able to give me an answer, can you seek a ruling from Mr Speaker and have him report to the house?

The DEPUTY SPEAKER: I will take advice, get a ruling and come back to house.

PARAPLEGIC AND QUADRIPLEGIC ASSOCIATION OF SOUTH AUSTRALIA

Mr CAICA (Colton): I know that there are many in this chamber who are aware of the outstanding work undertaken by the Paraplegic and Quadriplegic Association of South Australia. Today, I would like to highlight some of its outstanding work. Since its inception in 1963, PQA of SA has developed services that meet the basic needs of people who have become quadriplegic or paraplegic and, just as importantly, provide assistance to their families and their carers so that they may live as independently as possible following a spinal injury. The association provides ongoing support, some of which includes home-based counselling; peer support services; accommodation information and advocacy; family support and community activity centres, as well as home visitation programs and Home Care Plus.

Just as importantly, it takes a very proactive role in prevention, understanding that prevention is really the only cure. The association also involves itself with government and private organisations to heighten the awareness of acting safely and appropriately when undertaking certain activities—for example, very basic things—but it reinforces those things that we all understand as being an appropriate way of conducting our lives—for example, when driving a motor vehicle to belt up front and back; do not drink and drive; as well as aquatic activity in conjunction with the Surf Lifesaving.

But the real reason I wanted to raise this today is that the association is often suffering from funding problems; that is, that PQA SA receives its money through a variety of ways.

Just as importantly, it raises its money through fundraising activities. On 18 September this year PQA SA will be conducting its second charity evictions. People will be locked away in the spinal injury unit at the Hampstead Centre, and those who are locked away are required to raise as much money as possible. This money will go specifically towards ensuring that those people with spinal injuries—quadriplegics and paraplegics who are not living at this time in wheelchair accessible homes will be afforded the opportunity of living in such homes through the money that will be raised.

Of interest to members in this house, I happen to be one of the people who will be locked away in the spinal injury unit of the Hampstead Centre on 18 September. Within 48 hours each member of this house and, indeed, members in another house and the South Australian federal members of parliament will be receiving an eviction notice from me. I expect all members will dig very generously into their pockets to provide money for this worthwhile cause. I expect there will be those who want to pay for me to be locked in longer than might be the case, but I do not care as long as you give money. As I said, each and every one of you will get an eviction notice, and I would hope that there is not the need to ring you on 18 September to say, 'Cough up,' because I would hate to be doing a grievance on the next occasion to highlight those people who did not pay. Because the function will be broadcast on 5AA, I do not want to be naming on that day those people who have refused or who did not respond to the call for money.

Without putting any pressure on you, I know that parliamentarians, amongst many other occupations, are as generous as anyone in the community, and I expect that, from the charity evictions perspective, I will be able to pull my weight and make sure that, through the generous provision of funds through those members of parliament in South Australia on both sides of this house and, indeed, in both chambers, we are able to contribute to this worthwhile cause. I highlight again the work that is undertaken by PQA SA in many areas but, in particular, through their fundraising activities to provide wheelchair accessible transitional homes for people who suffer injuries. It is very easy for each of us here to not even think about people who are paraplegic or quadriplegic until it is someone who is near and dear to us, and it is a tragic circumstance. So, through these efforts we will be making a better life for those people who have suffered such horrific injuries.

SHOP TRADING HOURS

The Hon. I.F. EVANS (Davenport): During question time today, and indeed during the debate on the shop trading hours last week, the opposition raised a number of points in relation to the need for a select committee in relation to shop trading hours. I think today's question time illustrates the benefit of a select committee in relation to shop trading hours.

Mr KOUTSANTONIS: On a point of order, sir, this is an item on the *Notice Paper*. It is being debated in another place.

The DEPUTY SPEAKER: It has been through our house, so that rule does not apply.

The Hon. I.F. EVANS: Thank you, Mr Deputy Speaker. The standing order applies to this house only, member for West Torrens. So, the point of the grieve is that some issues were raised during question time that we think illustrate the need for a select committee. The simplest illustration is that a select committee would provide the opportunity for the agreement, such as the one between Coles and Woolworths at the union and, indeed, we think there may be other agreements floating out there, to be put on the table for the committee to look at, so that the parliament gains better understanding of how the retail industry works. I think it was obvious during the debate that not everyone in the parliament comes from a retail background and not everyone understands how the retail industry works.

The select committee would provide that opportunity, particularly in relation to penalty rates and the South Australian retail award regarding what action the government is proposing. I was pleased to see the minister put on the record today the fact that, as I understood his answer, the Australian Retailers Association and the SDA—and there was a third group, which I think was Business SA—are looking at doing some work on the state retail award, that is, in relation to getting more enterprise bargaining agreements registered thereunder.

That is a good thing, if that is happening. But I would like to know the exact detail of what they are proposing so that the parliament can consider that during the debate, as we have had no information put before us either during the debate in this house or the other place about what is being proposed. So, if a select committee was to report in October it would give those organisations an opportunity to come in and explain what they are proposing.

The important thing here, Mr Deputy Speaker, is this: the minister is quite right. Since about 1994, as I understand the advice given to me by the minister's own officers, under the various state awards there has been the opportunity to negotiate enterprise bargaining agreements. But, as I understand the minister's advice to me (that is through the minister's officers), there has not been an enterprise bargaining agreement under the state retail award in the eight years it has been available.

If that has not happened, surely the parliament needs to ask the question, 'Why not?' The minister says that it is up to the parties. Well, let us bring the parties in and ask, 'Why is this not happening?', because it may well be that the system is so designed and so complex that it cannot work.

The Hon. S.W. Key interjecting:

The Hon. I.F. EVANS: Well, the minister says it is our system, and I accept that. It is a system signed off by the parliament. But, now that the government's own action has reopened the debate, I think it is quite proper to say, 'Is the system working?' And, if the system is not working, let us have a look at it. The ARA and the union are saying that they are looking at doing a template agreement. Well, that is great. Let us have a look at it. So, I do not have a problem with arguing for a short select committee which can report in October because it will give the parliament an opportunity to look at those issues.

The other issues that were raised during question time, of course, all go to the argument about the government's motive behind retail shop trading hours. Some cynics believe that if you transfer the trade from the small retailers to the big retailers—and the big retailers are highly unionised, have signed agreements with the union to promote union membership which can be shown on the video, introduce the union delegate and hand out the application form at the point of an employee's introduction to the business—that will ultimately mean more union members for the SDA. It will also mean more voting delegates, of course, on the Labor Party convention floor, and that will ultimately mean more money to the SDA to donate to the Labor Party in the long term.

Some people have a cynical view about the motive in relation to that; and I put that out there because that view has certainly been expressed by some: that perhaps the motive is not necessarily only about the deregulation of shop trading hours but, through the various agreements that exist (and there is evidence of those being in place) it will actually benefit the ALP.

DOG CONTROL

Mr HANNA (Mitchell): Today, I want to talk about dogs. As members know, the relevant minister (Hon. John Hill) has put out a discussion paper with a 10-point plan about dogs; and I took that 10-point plan to my community. On Sunday 11 August, I hosted a public meeting to discuss the various points involved and to consider the points of view expressed by the community. Most people who attended were dog owners and, as far as I could see, entirely responsible dog owners. Other points of view from within the community were also expressed. I will briefly go through the 10 points and relate some of the points raised by members of the community.

First, in relation to identifying menacing dogs, there was broad agreement that truly menacing dogs should be subject to tighter measures. However, concerns were raised about how councils would determine if dogs were menacing. This has not been specified yet, as the minister is seeking the views of dog owners on this issue. It was suggested that if dogs are identified as menacing they should have to wear a designated collar to warn the public. What causes a dog to be menacing perhaps needs to be addressed, and perhaps the powers of the RSPCA should be broadened so that it can intervene and ensure that dogs are being well treated.

Concerns were also raised about repeated groundless complaints, and I hope councils will get a good idea of what constitutes nuisance complaints and deal with them appropriately. A point made passionately was that purebreds alone should be incorporated into statistics relating to breed. Many dog owners felt that the most troublesome dogs in public were those which were crossbred. There was widespread agreement that many people keep well controlled dogs for security reasons, and any reform to dog laws must bear this in mind. In summary, on this point, there was much concern over where the bar is to be set in relation to whether a dog is menacing. It has to be recognised that it is natural for a dog to protect its owner and its territory.

The second point of the minister's plan relates to effective control of dogs in public. The following points were raised by the community: sometimes dogs are well controlled but owners act irresponsibly in relation to what dogs are encouraged and allowed to do. One idea that was raised was that of something like a dog tribunal being set up to address dog related issues—perhaps some sort of extension of or the next step on from the Dog and Cat Management Board.

Doubts were raised about the willingness of councils to set aside appropriate off-lead areas. However, there was substantial commitment to paying greater dog registration fees if dog owners were going to get something back from councils, such as having appropriate areas to walk their dogs. There was not clear agreement over the appropriate length of lead for dogs because there is such variety in the types of dogs that people have.

In relation to getting tough on people who allow their dogs to wander, this proposal received fairly wide support amongst participants. There was, however, great unhappiness with a doubling of penalties for dogs over 20 kilograms. This was generally regarded as being arbitrary and meaningless, and it was pointed out that small dogs are responsible for a significant number of bites.

In relation to protecting children on private property, there was a lot of support for this proposal, although there was some concern about children coming onto premises unauthorised.

As to the points about guard dogs, about controlling the suppliers of dogs, about the penalty fitting the crime, and about prohibiting dog ownership by irresponsible people, there was general agreement. A number of issues were raised about suppliers of dogs. It was suggested that there should be compulsory obedience classes. There was a great deal of concern about unregistered breeders and pet shops. There was even a suggestion that dogs should not be sold in pet shops; and anyone who has been in pet shops and seen tiny dogs in little cages might share that view.

In conclusion, there is a great deal of community concern, and I will pass on all those concerns to the minister.

PAEDOPHILES

The DEPUTY SPEAKER: I call the member for Stuart.

The Hon. G.M. GUNN (Stuart): Thank you, Mr Deputy Speaker, it is nice to see you in the chair—you are gracing it elegantly. I am a simple country lad, and I am just making an observation. There are many issues that one could talk about in the short term of this government, but there is a matter of public importance that I want to raise today.

I note that over the weekend the Victorian Premier, Mr Bracks, made comments in relation to paedophiles and a range of measures which he intends to introduce to protect the public and, particularly, children. I am of the view that this measure is worthy of very active consideration by this house. I note that Mr Bracks received the wholehearted support of the Prime Minister.

The matter relates to a decision which the government of Victoria appears to have made that paedophiles will not be permitted to loiter or be close to schools, kindergartens and playgrounds, or be employed in shops which sell children's books, or toys, or other locations that children are likely to attend regularly. It also provides for monitoring by the police so that they are aware of where these people are likely to be, because there is nothing more important in our society than protecting young people against these sorts of activities. This parliament should give the police the necessary authority to ensure that these people are not permitted to reoffend having once been convicted. The sad part of this is that, unfortunately, these people having once been convicted are likely to offend again if given the opportunity. I do not think any of us would want that course of action to be open to them.

Cases have been brought to my attention in my own constituency where people have expressed grave concerns about these people loitering close to schools (particularly primary schools and kindergartens). These complaints are difficult for a member to handle; one needs the cooperation of the police. I think we must be careful to ensure that these people are not involved in running cubs, scouts or brownies camps or babysitting or looking after little children, because the danger is too great.

I believe that the measures put forward by the Victorian government will have widespread community support. I urge the Attorney-General to give this matter his attention and, if necessary, to bring legislation into the parliament to ensure

that we have done everything possible to protect the community against the actions of these people who, unfortunately, may have had a difficult upbringing and there may be circumstances which affect their behaviour; but, at the end of the day, we must ensure that we protect the most vulnerable people in our community, that is, young children.

This parliament has a responsibility to act decisively, effectively and quickly in dealing with these issues. We have been given a lead and I think, Mr Deputy Speaker, that you would agree that this parliament should move quickly to ensure that we have adequate measures so that monitoring and surveillance of these people can take place. I do not think that we need to go quite as far as they do in the United States where they publish people's photos in newspapers, but I do believe that the police should be aware of where these people are living and they should not be permitted to live close to facilities where young people are going to be present on a regular basis. We should take steps to make it easier for the police and, more importantly, to protect the most vulnerable in our society.

The other issues which I want to speak about I will leave for a later occasion because there are many, including the future sealing of the Marree to Lyndhurst Road. What is the government's priority for that project? It was approved, and it would be interesting to know what has happened to that money, because a huge number of people travel in the north of South Australia, and the sealing of this road would help the tourist industry.

GOLDEN GROVE LAND

Ms RANKINE (Wright): This afternoon, I will take the opportunity to finish what I started yesterday, that is, expressing concerns that residents in my electorate have about their council and how it is operating. When my time was up yesterday, I was referring to issues relating to finance. The Tea Tree Gully council constantly complains that it cannot afford Golden Grove, and I was citing some examples of information which the council has provided to residents as an indication of the costs it has incurred in maintaining Golden Grove. I detailed the operating revenue, the income that the council receives from Golden Grove, and I started to go through the list of expenditure that it allocates to Golden Grove.

The first item to which I referred was fire protection. The council allocates 29 per cent of the total cost of fire protection to the residents of Golden Grove, despite the fact that the vast majority of hills face land and land that would require fire protection would be serviced by the CFS, which, as we now know, is funded by the emergency services levy. The council also allocates 29 per cent of the cost of community care, aged and disability services to the residents of Golden Grove. Only about 18 per cent of the population of Golden Grove is over 60, so why the residents incur 29 per cent of the cost of those services is beyond my comprehension.

The one that actually takes the cake (the piece de resistance in this demonstration of the cost of Golden Grove to the City of Tea Tree Gully) is that the council allocates 29 per cent of the maintenance of unsealed roads to the residents of Golden Grove. Anyone who knows this area would know just how astounding that claim is. I asked the mayor to show me one unsealed road in the whole of Golden Grove, yet in its calculations of the cost of maintaining Golden Grove the council has allocated 29 per cent for this purpose. That is just an indication of the sorts of things going on in this council. When I asked for actual costs to give me an indication of what Golden Grove really costs the Tea Tree Gully council, it said it could not do it.

It is no wonder that residents are now asking very serious questions about the administration of this council and the competency of the councillors and their ability to assess information provided to them. Residents are concerned about how moneys are being spent. In an earlier speech I referred to the cost of preparing an area of land for a recycling facility. The cost of that project was nearly $1 million. The council has now decided, a few years later, not to proceed with that facility but instead to put playing fields on that site. These playing fields are for the Golden Grove Football Club, which is in dire need of playing fields and some decent clubrooms, but that is not the argument. The argument is that the council has spent about $1 million on a recycling depot which now will not proceed.

It is no wonder that the CEO said in the local media that the money is not entirely wasted because the council can use much of the infrastructure for the playing fields. It is an absolute disgrace. The CEO was reported in the local Messenger press as saying that the councillors have made a brave decision not to go ahead with this depot. We all know what making a brave decision means when you are dealing with the Sir Humphreys of this world. I think the councillors of the Tea Tree Gully council need to have a very long and hard look at the information they are receiving, how they are digesting it and how they are acting on it, because the residents of Golden Grove are doing that and will continue to do that over the next few weeks. I mentioned the skate park that has been erected on the site of the district sporting complex. As I said, it is a very welcome initiative for the young people in my area.

FISHERIES (CONTRAVENTION OF CORRESPONDING LAWS) BILL

Adjourned debate on second reading.

(Continued from 20 August. Page 1153.)

The Hon. R.G. KERIN (Leader of the Opposition): I rise to support the bill. It makes a lot of sense, as it picks up on a Victorian decision to introduce quotas into the lobster fishery in Victoria, which mirrors what we have in the South-East, but in that area we have 19 Victorian licence holders who fish out of Port MacDonnell, 12 of whom also hold a South Australian licence. If we do not come up with a way for them to land their catch in South Australia, those 19 fishermen and their families will have to go to Victoria to operate out of one of its ports with the corresponding loss of processing facilities at Port MacDonnell and, of course, of the flow-on benefits to those who provide other services to the fishing industry.

The bill makes a lot of sense and, although they were not on quota fishing, there were always compliance issues regarding on which side of the line in the ocean—the Victorian or South Australian side—individual lobsters were caught. Now that they are both on quotas, it means that the fishermen have to catch the various levels on one side or the other, but as the total catch is being limited because they have two quotas it will make it somewhat easier. Unfortunately,

the fish on one side of the line are no different to look at than those on the other, but there are different limits on sizes and so on. It makes a lot of sense, especially for Port MacDonnell. If we did not do this it would have a detrimental effect on the town. The opposition is happy to support the bill.

Mr CAICA (Colton): I will be brief and I agree with the Opposition Leader's comments. It makes commonsense as these amendments are long overdue and are being presented in response to changes to the management of the rock lobster fishery in adjacent western Victorian waters. I highlight the point that, if this arrangement was not being put in place, those fishers operating out of Port MacDonnell who have Victorian licences would be required to land at a Victorian port; and that does not make any sense at all. With the legal arrangement as it currently exists and not being reciprocated in South Australia, if a Victorian licence holder living in South Australia contravened Victorian fisheries laws the Victorians could not effectively detect and investigate that contravention.

I understand that the amendment to the South Australian Fisheries Act has the support of the Victorian government and the licence holders in the southern zone rock lobster fishery, and this amendment will ensure that the rock lobster resources across both states continue to be well managed and that quota limits are not exceeded. I commend the bill to the house.

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): I thank all speakers who have supported this action. It is clearly an oversight and something that has to be dealt with. With fishers in contiguous waters, it makes no sense to have different regulations in place or to disrupt families. In presenting this bill, the government is supporting efforts by the previous government. I commend the bill to everyone.

Bill read a second time and taken through its remaining stages.

FISHERIES (VALIDATION OF ADMINISTRATIVE ACTS) BILL

Adjourned debate on second reading.

(Continued from 20 August. Page 1176.)

The Hon. R.G. KERIN (Leader of the Opposition): This is an administrative bill that has been introduced to correct some administrative anomalies within the current act. It has to do with a problem which came about with the transfer of quota from one fishermen to another where there was an argument about whether the pots could be separated off and held or sold separately. It corrects that and gives some legal certainty to the operation of the fishery into the future. It also sets out clearly when a fishermen sells a quota what happens to the number of pots to which they are entitled. Also, it picks up on the collection and setting of the licence fees for the blue crab fishery. There was a trial fishery until about 1996. Since then, as a result of getting into the export market, the blue crab fishery has done extremely well. It has an extremely sustainable quota set and does not get in the way enormously of the recreation fishery, much of the professional fishery being out in deeper water. This bill makes sense and clears up an area of uncertainty. I commend it to the house.

Mr CAICA (Colton): As the Leader of the Opposition mentioned, being a blue crab fisher, I am more than happy to speak on this bill, which specifically relates to the administration of the blue crab fishery under two sets of regulations promulgated between 11 June 1998 and 27 June 2002. The commercial blue crab fishery is a quota based fishery consisting of seven licence holders operating under the Scheme of Management. That involves the blue crab fishery/scale fish fisheries regulations 1998 (known as pot fishers) and 21 licence holders in the marine scale fish fishery who have a blue crab quota endorsed on their licences under special provisions within the scheme of management, marine scale fish fisheries, regulations 1991 (who are known as net fishers).

The Hon. R.G. Kerin: What is the legal size limit for crabs?

Mr CAICA: It is 11 centimetres for a blue crab and 10 centimetres for a sand crab. I have never been known to take an under-sized crab in my life. The fishery is quite sustainable because people such as I and the professional fishermen make sure that they take only those which exceed the size limits required. It is quite sustainable and profitable for those concerned, and licence holders take around 600 tonnes of blue crab a year, mainly from the gulfs, most of which is sent to the Sydney fish market. It is quite a profitable fishery. In addition to the commercial exploitation, an extensive amount of blue crab is available to recreational fishers in South Australia.

As the Leader of the Opposition pointed out, in early 2001 it became apparent that PIRSA Fisheries had been inadvertently and incorrectly interpreting and applying the regulations in relation to the allocation and transfer of blue crab quota and related gear entitlements and to the calculation of portion of licence fees that are payable with respect to the quota allocated on licences. This will address that anomaly. The passing of this bill is not expected to have any detrimental effect on any commercial blue crab fisher, as the bill essentially validates the management arrangements of this fishery that were expected and understood by all licence holders for a long time before the errors were uncovered. With those comments, I commend the bill to the house.

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): I thank the member for Colton and the Leader of the Opposition. They have covered all the necessary points. I believe we have bipartisan support for this tidying-up measure, and I commend the bill to the house.

Bill read a second time and taken through its remaining stages.

STATUTES AMENDMENT (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) BILL

Adjourned debate on second reading.

(Continued from 8 May. Page 46.)

Ms CHAPMAN (Bragg): This bill was introduced in the house on 8 May last by Premier Rann. The government claims that the bill is consistent with its so-called 10-point plan for accountability and honesty in government. Yesterday, when referring to one of the bills in this package, I outlined the 10-point plan as claimed by the government, which includes promises to 'impose penalties for the improper use of information acquired through government contracts' and to impose 'much tougher provisions and

penalties to deal with any improper use of information acquired by persons concerning publicly funded projects and government contracts to avoid conflicts of interest'. The principal measures in this bill as detailed in the second reading explanation are as follows. First, there is the obligation to act honestly, and in that respect I refer to the following:

> All directors, all chief executives and all employees—indeed, anyone performing public sector will, will have imposed on them a general obligation to act honestly in the performance of their duties. . . This includes the contractors and consultants hired by government. . .

Secondly, senior executives are to disclose pecuniary interests, as follows:

> All senior executives of a public corporation will be required to disclose in writing their pecuniary interest, including the interest of any associates.

Thirdly, conflicts of interest are to be declared, and I quote:

> Senior executives and employees will be required to declare any conflict or potential conflict between their interests and their duties. Employees will include not only people employed by a public corporation but also anyone who performs work for them. . . Senior officials and other employees in the public sector will be subject to the same. . . provisions.

Fourthly, the public sector code of conduct is to be a statutory code:

> . . . [The bill] will give explicit legislative backing to the code of conduct for South Australian public sector employees, recently produced by the Commissioner for Public Employment. . . The code of conduct will bind all public servants, including chief executives and all employees and chief executives of all other public sector agencies. . .

I will refer to each topic separately. First, in relation to the obligation to act honestly, what is the current position? The Criminal Law Consolidation Act currently includes the following offences relating to public officers:

- bribery or corruption of public officers (both offering or taking a bribe)—section 249;
- making threats to, or reprisals against, public officers—section 250;
- abuse of public office by a public officer, that is, improperly exercising power or influence, using information gained as a public officer for the purpose of securing a personal benefit or causing injury or detriment to another—section 251;
- demanding a benefit on the basis of public office—section 252.

All the foregoing are serious offences with a maximum penalty of seven years. I note that the expression 'public officer' is widely defined to include judges, members of parliament, ministers, public servants, police officers, local councillors and officers, directors and employees of state instrumentalities.

Part 2 of the bill proposes to extend the definition of 'public officer' to include a person who personally performs work for the Crown, a state instrumentality or a local government body as a contractor or as an employee of a contractor, or on behalf of a contractor. The amendments will mean that any consultant to the state government and any employee of a government contractor will be liable to prosecution as a 'public officer' under these sections. Although the bill uses the artificial device of deeming contractors to be public officers when, in fact, they are not, the amendments will effect only a modest change because every individual is already liable to prosecution for bribery, making threats or unlawfully demanding moneys.

The only new offence created in part 2 of the bill is that persons who are not actually government servants, or the holders of any public office, will now be exposed to prosecution for 'abuse of public office'. I suggest that there is some illogicality in this because the concept of 'abuse of public office' is already vague and little used. The bill also provides for a former public officer who 'improperly' uses information gained by virtue of his or her office for the purpose of securing a benefit shall be guilty of an offence. Under section 251 of the Criminal Law Consolidation Act, this offence can be committed only by a person holding 'office'. The concept of acting 'improperly' is at the heart of this new requirement. It is defined in the existing law as follows:

> a [person] acts improperly. . . if [the person] knowingly or recklessly acts contrary to the standards of propriety generally and reasonably expected by ordinary decent members of the community to be observed by public officers.

This test has not been applied in any court case to date.Then we have the Public Corporations Act. The existing position is that the Public Corporations Act 1993 was intended to ensure that public corporations (that is, bodies corporate established under a state act and whose governing body includes a person appointed by a minister) were conducted in accordance with the standards imposed upon ordinary commercial corporations. There are dozens of public corporations. Their names are not conveniently collected anywhere, and I ask the Premier to provide us with a comprehensive list of the public corporations before, ultimately, this bill is debated in the Legislative Council so that we know exactly who will be caught under that umbrella. The Public Corporations Act requires public corporations to perform commercial operations in accordance with 'prudent commercial principles'. Duties of diligence and fidelity are imposed on directors. Section 19 of the Public Corporations Act specifically requires directors of public corporations to disclose any direct or indirect pecuniary interest. That is the current position.

Part 3 of this bill will extend the ambit of the Public Corporations Act to include not only directors but also all employees and senior executives of public corporations. I will refer to each of them. First, we have the employees. New section 36A will require an employee of a public corporation to act honestly. The maximum penalty for infringement will be a fine of $15 000 or four years' imprisonment, or both. A person contravening the section can be ordered to pay an amount equal to any profit made and compensation for loss suffered by the public corporation. Then we have 'employees to disclose their conflicts of interest'.

A further new section, section 38A, will provide that, if an employee has a pecuniary or other personal interest which conflicts or may conflict with the employee's duties, the employee must disclose in writing to the chief executive the nature of the interest. The employee must comply with any written direction of the chief executive to resolve the conflict of interest. If the employee does not make disclosure of a proposed contract, a public corporation can avoid, that is, cancel, the contract. The employee's interest is to include the interest of his or her associates. If an associate of the employee has an interest which conflicts with the employee's duty the employee will be taken to have an interest. 'Associate' is defined as spouse (including putative spouse), parent, remoter lineal ancestor, son, daughter, remoter issue or brother or sister, or a company in which the employee or any of the foregoing relatives hold 10 per cent of the capital, or a trustee of a trust of which the employee or a relative is a

beneficiary. That is a very wide definition of associate, and already applies in relation to conflict of interest of directors under the Public Corporations Act.

Then we have the senior executives. A senior executive is defined as the chief executive or the person designated by the board of a public corporation as the holder of a senior executive's position. The provisions described in relation to associates will also apply to senior executives, except that their duty to disclose arises when they are appointed, or one month after the commencement of the act, whereas the employee's duty of disclosure arises only when the conflict arises. Then we have the subsidiaries. Some public corporations have subsidiaries. The provisions as outlined will apply also in relation to the employees and senior executives of such subsidiaries.

I move on now to the Public Sector Management Act, which governs the Public Service. The current act contains a provision, namely, section 56, which requires employees who have a pecuniary or other personal interest in a matter, which interest conflicts or may conflict with an employee's duties, to disclose the interest to the chief executive and to obey any direction given to resolve the conflict. Part 4 of this bill deals with the amendments to the Public Sector Management Act and proposes to repeal section 56 of that act and create a new regime. I now wish to comment on those amendments.

As to the code of conduct, the Public Sector Management Act will require all public sector employees to observe the requirements of any code of conduct issued from time to time by the Commissioner of Public Employment. The Commissioner issued such a code in 2001. The definition of public sector employees is to include contractors, and the definition is extended to include:

> A person personally performing work of the Crown or a public sector agency as a contractor or as an employee of a contractor or otherwise. . . on behalf of the contractor.

Section 60 will require that the public sector employee, including those contractors, must act honestly in the performance of his or her duties. If a public sector employee has a pecuniary or other interest that conflicts or may conflict with the public sector employee's duties, the public sector employee must disclose that interest to the CEO and must comply with the CEO's written directions to resolve the conflict. A public sector employee will be taken to have an interest if an associate of the public sector employee has an interest in the matter, and I detailed that earlier. If the public sector employee is convicted of an offence against the above sections, he or she can be ordered to disgorge the profits and/or pay compensation for any loss or damage.

Provision is to be made for corporate agency members not to enter into contracts. Corporate agency members are defined as directors of a public sector body corporate or members of a body corporate where there is no governing body and where the body corporate is not a public corporation. It is envisaged that this will apply to, say, the Art Gallery Board, the Adelaide Festival Centre Board or the Construction Industry (Long Service Leave) Board, and similar bodies which carry out statutory functions but which are not trading enterprises.

I turn now to the duties of corporate agency members. Under the bill, they will have a duty not to be involved in a transaction with the agency without the written approval of the relevant minister. Again, this prohibition extends to an associate of the member, including spouses, relatives, etc., as I have detailed. They have a duty not to acquire shares or interest in the agency or any subsidiary of the agency without the approval of the agency. Members who have a pecuniary or personal interest in a matter decided or under consideration by the agency or its governing body must disclose the interest to the agency, must not take part in any discussion relating to the matter, must not vote in relation to the matter or be present when discussion or voting takes place. Corporate agency members who do not comply with the above requirements may be fined and/or removed and can be ordered to disgorge any profits made as a result of their contravention and compensate the agency for any loss suffered.

Then we have provision for the senior officials to act honestly and also disclose pecuniary interest. A senior official is defined as the Commissioner for Public Employment, the chief executive of an administrative unit or a public sector agency, or someone declared to be a senior official. Again, these senior officials are required to act honestly. They must disclose pecuniary interest to the relevant minister and, if such an interest or any other personal interest conflicts with their duties, must disclose that fact to the minister and not take any further action in relation to the matter, except as authorised by the minister. If a senior official is convicted of one of the foregoing offences, his or her position can be terminated and he or she can be ordered to disgorge any profits made as a result of the contravention and pay compensation for any loss suffered.

This is a very extensive and broad-ranging bill. It is one which the opposition supports in principle and in its passage through the House of Assembly. We support in particular the new requirement that it is an offence for an employee, executive, director, contractor or employee of contractor not to act honestly. That has our total support. However, I give notice that we will seek to move amendments to exclude the associates of employees of contractors and public corporations, as it is the opposition's view that these should apply only to directors, senior executives and senior officials, it having been noted that associates of directors of public corporations are already covered under the existing law. I further give notice that amendments are proposed to ensure that the new requirements that contractors and their employees make disclosure of actual or potential conflicts of interest will apply only to the contractors or employees to whom written notice of the disclosure requirement has been given.

I conclude by indicating that yesterday the Premier kindly provided us with a 13 page list of amendments which we are going through. It is fair to say that these are quite complex. On first glance they appear to be quite clear, but there are significant changes, which we are still considering. I understand that the Premier has agreed that we will not move into committee on this matter today, so that we may have an opportunity to thoroughly examine those amendments. It may be that some of the amendments will cover a couple of the concerns which I have raised and in respect of which we have flagged further amendments. I hope they do but, if they do not, the Premier is aware of our position and may wish to consider that between now and the time of this bill moving into committee.

Mr HAMILTON-SMITH (Waite): I support the bill in principle and commend the comments of my colleague the member for Bragg. I have some practical concerns about the bill and how it might work, and I will canvass those in the next few minutes. I note my colleague's comments that the bill inspired by the government's 10-point plan particularly promises to impose penalties for improper use of information

acquired through government contracts, and that is a worthy aim. It requires all directors, all chief executives and all employees—indeed, anyone performing a public sector role—to have imposed on them a general obligation to act honestly, and this bill provides that that includes contractors and consultants hired by government.

One could argue a pretty good case that, by and large, the current law adequately deals with the issues addressed in this bill. One could also put up a pretty good case that the Criminal Law Consolidation Act currently includes offences which deal with most of the points raised in this new bill, in particular, bribery and corruption of public officers. Both offering and taking a bribe is dealt with in section 249. I note that making threats or reprisals against public officers is also mentioned in section 250. Abuse of public office by a public officer, for example, improperly exercising power or influence, using information gained as a public officer for the purpose of securing a personal benefit or causing injury detrimental to another are covered by section 251, and demanding a benefit on the basis of public office is covered in section 252 of that Criminal Law Consolidation Act. All those serious offences involve a maximum penalty of up to seven years.

That begs the question: is this bill really window-dressing to give the government a sense of some newly inspired probity or moral fortitude, or is it just reinventing what is presently provided for by law and just packaging it in a different way? Is it a bit of a political stunt, or does it really have meat? In putting that proposition and asking those rhetorical questions, I acknowledge that there are some new initiatives in the bill.

I note that senior executives and employees will be required to declare any conflict or potential conflict between their interests and their duties. Employees will include not only people employed by public corporations but also anyone who performs work for them. Senior officials and other employees in the public sector will be subject to the same provisions. It is interesting that, when we start to try to define a conflict and we get into the vagaries of what is represented by a conflict, we try to legislate for a requirement that people identify potential conflicts, and we then put them at risk of imprisonment if they fail to do so. This raises all the usual issues about whether one knowingly and willingly conceals a conflict or whether one accidentally and without knowing involves oneself in a conflict, or unwittingly has a conflict and finds oneself facing prosecution. I think there will be some problems getting convictions under this legislation, as a consequence of the vagaries of that dilemma.

The bill proposes to extend the definition of 'public officer' to include a person who performs work for the Crown, a state instrumentality or a local government body as a contractor or as an employee of a contractor on behalf of a contractor. I propose that we might almost get the situation where an employee of a contractor doing government work could unknowingly find themselves embroiled in the requirements of this act without having been properly notified of their responsibility. It raises all sorts of issues about whether there will be written, verbal or other instruments which ensure that everybody caught up in this web is aware of their obligations so that people do not accidentally find themselves at odds with the law. I can think of some very real, practical problems in achieving that goal. I can see innocent employees in particular, or small businesses that are subcontracting for other agencies and doing work for government, finding themselves in a pickle as a consequence of the provisions of this bill.

From reading the bill I can see that the only new offence really created by it is that persons who are not actually public servants or the holders of any public office will now be exposed to imprisonment for 'abuse of public office'. I think that is a little illogical, and I would be opposed to that principle, because the concept of abuse of public office is already a little bit vague and ill-used and, as I mentioned earlier, there will be some practical issues in progressing a conviction or a case as a consequence of the vagaries of what we are dealing with here.

We are seeking to enshrine in law concepts of integrity and conflict that are by their very nature fairly subjective, open to different points of view and in many respects quite vague. I imagine that a court will have some difficulty resolving whether or not a conflict has occurred when it comes to consider prosecutions and matters associated with this bill, should it become an act.

The issue of employees disclosing conflicts of interest will be particularly confusing. Proposed new section 38A provides that, if an employee has a pecuniary or other personal interest that conflicts or may conflict with the employee's duties, the employee must disclose it in writing to the chief executive; that is, the nature of the interest must be disclosed. The bill further provides:

(2) An employee . . . must comply with any written directions given by the chief executive. . . to resolve a conflict. . .

(6) If an employee fails to make a disclosure of interest . . . in respect of a proposed contract, the contract is liable to be avoided by the relevant minister—

as a consequence of that disclosure not having been made. I think there are some real issues with implementing that. I am also intrigued by the provisions regarding employees' interests to include the interests of his or her associates. I think they are a little simplistic. I would ask the Premier, when he responds to the second reading, or else in committee, to explain what the government really means by this. The way I read it, it refers to an associate of the employee who might have this conflict, being a spouse, including a putative spouse, a parent, a remote lineal ancestor (whatever that is), a son, a daughter, a brother, a sister or a company in which the employee or any of the foregoing relatives has a 10 per cent capital interest, or a trustee of a trust of which the employee as a relative is a beneficiary. It does not seem to me that a business associate, a friend, business partner or some other acquaintance is mentioned there, yet if one wanted to do evil one could easily conspire with a person outside the parameters of the provisions in the bill to defraud the Crown.

I really wonder if that is watertight. I do not think it is, and I do not think it is all that workable, quite apart from the fact that it puts on the employee a responsibility to really involve people who have no connection with the work being done by that employee. You have to run off and talk to your brother, your sister, your son or daughter or some remote lineal ancestor to see if any of them have a 10 per cent interest in anything you are remotely involved in. I can imagine some of these people turning around to the employee and saying, 'Get lost. I haven't heard from you for 20 years; suddenly you're ringing me up and asking if I have a 10 per cent interest in this thing.'

It may come as a complete surprise to the government, but not every employee of the government is intricately involved in the business affairs of all these people, or has any right to ask them any questions about their private business affairs so

as to remove themselves from some entanglement under the provisions of this bill. Frankly, I think it is quite a naive provision, and during the committee stage I hope we can make some sense of it.

The next matter I want to touch on is one that I raise not only as someone who has been a business person but also in my capacity as shadow minister for the arts, tourism, innovation and information economy. I consider this to be a little unworkable and to the detriment of the Crown, and I would hope that, during their contribution to this debate, government ministers might give the matter some consideration. One of the provisions in the bill refers to corporate agency members not entering into contracts. I specifically refer to the provision that 'corporate agency members be defined as directors of a public sector body corporate or members of a body corporate where there is no governing body and where the body corporate is not a public corporation'.

I have looked at the list of statutory authorities established by government as bodies corporate, and it is quite an extensive list including all sorts of organisations, such as the Senior Secondary Assessment Board of South Australia, soil conservation boards and the Police Superannuation Board. It also includes organisations such as the Art Gallery Board, the Adelaide Festival Centre Board, as mentioned by my colleague the member for Bragg, and the Construction Industry (Long Service Leave) Board. How will the government get prominent people from the business community, or from the arts community, for example—in the case of the Art Gallery Board and the Festival Centre Board—or from the building and construction industry—in the case of the Construction Industry (Long Service Leave) Board—to join these boards if they face the corporate agency members' test provided for in this bill?

How would these people feel about having to throw open their personal affairs to the extent required by this bill? As I mentioned earlier, it could involve also their brother, sister, son, wife, ex-wife, lineal ancestor or whomever else is mentioned in the earlier clause. Having been a minister, I can say how dependent you are on having people on boards who are able to contribute as industry stakeholders and provide guidance to government on matters relevant to the portfolio in question. How will you get these people to come forward if they now have to jump this hurdle?

Will there no longer be on boards people with capital, people with shares, people with investments and, in the case of the art gallery, people who buy and sell art or who have interests in art businesses? In the case of people involved in the construction industry, will we no longer see on boards people who have investments in development companies and so on? Will we now have on boards more people who are union officials, salaried workers, ex-public servants, academics, people who may not have investments or people who may be in a better position generally to divest themselves of investments, whilst people whom the government may consider to be the big end of town (but whom others may consider to be those who provide the capital, the entrepreneurship and the initiative to make the economy grow) find themselves excluded either by law or by practicality from forming part of these advisory boards and these bodies corporate?

Maybe that will not be the outcome or maybe that will not be an unintended consequence of this bill, but I would say that, the more difficult you make it for prominent members of the community to become effective members of boards, the more difficult you make it for people who have had experience growing the economy, running businesses, and making investments on behalf of the state to provide advice to government, to be consultants and to be members of boards. I refer to the government's Economic Development Board and its using people like Robert de Crespigny and others to provide them with guidance. I commend it for that, but you want to be careful that you do not make it so difficult for people to help you that nobody wants to help you for fear of being exposed to the provisions of this bill. I raise that as an issue, and maybe the Premier can assure us that that will not happen, but I think it is a matter for concern.

In summary, I think the bill is well intentioned. I think there may be some unintended consequences that need to be explored a little during the committee stage. I think the government is to be commended for bringing forward the bill, although I think there is a degree of window-dressing in it. Most of what it seeks to achieve is already covered by existing legislation, but it seeks to bring it together. I guess the government can say, 'Aren't we wonderful because we are introducing all this legislation to do with good governance', whereas in fact it is re-inventing a lot of other legislation which has been in place for a long time and which does most of what the bill provides for.

It will be interesting to see whether the requirements of this bill flow down to local government. It will be interesting to see, although it may not be intended in this bill later on, if it places burdens on local government in one way or another that provide difficulties for that level of government. I look with particular interest at the clause in the bill which provides that corporate agency members, to whom I referred before and who have a pecuniary or personal interest in a matter decided or under consideration by the agency or its governing body, must disclose their pecuniary interest, must not take part in any discussion relating to the matter and must not vote in relation to the matter, nor be present when discussion or voting takes place. That is interesting.

If that principle was extended to the parliament, farmers would not be able to vote on any matter or participate in any debate because, I suppose it could be argued that if we were discussing an agriculture related bill, those members should leave the chamber. It raises quite a number about whether the standards enshrined in this bill will be achievable.

To conclude, I support this bill in principle, particularly the new provision that it is an offence for an employee, executive director, contractor or employee of a contractor not to act honestly. I think that is good not only because everyone should be acting honestly but also because that is the goal of this bill. However, there will be some practical problems in its implementation.

Like the member for Bragg, I have concerns about the associates of employees being roped into this bill. I think I will support opposition amendments aimed at tidying up the bill. It has a lofty goal but, notwithstanding the exhaustive amendments that have been tabled by the government, whether it is workable in its current form will have to be explored during the committee stage.

The ACTING SPEAKER (Mr Caica): I call the honourable member for Stuart.

An honourable member: Honourable?

Ms Breuer: Horrible?

The Hon. G.M. GUNN (Stuart): It has been a fairly quiet day, and I am pleased that I have attracted some attention to this matter.

The Hon. M.D. Rann: He's older than Moses.

The Hon. G.M. GUNN: Now be nice. I support the concept which we have before us in this bill and which runs for some 24 pages with various clauses. It is interesting that it is very broad, particularly the definition on page 4, which provides:

> A person who personally performs work for the Crown, a state instrumentality or local government body as a contractor or as an employee of a contractor, or otherwise directly or indirectly on behalf of a contractor. . .

The difficulty will be whether people are aware of their obligations. I raised with the Premier the issue, when people are tendering for government contracts or government work, whether provisions will require them to disclose, so that they are not inadvertently and unwittingly caught up in this process. On page 14 the bill provides:

> This clause does not apply in relation to a conflict or potential conflict between an employee's duties and a pecuniary or other personal interest while the employee remains unaware of the conflict, or potential conflict, but in any proceedings against the employee the burden will lie on the employee to prove that he or she was not, at the material time, aware of the conflict or potential conflict.

So, there can be no misunderstanding when people are carrying out duties or doing various work: they must be fully aware of their responsibility and what will happen to them if they contravene the many provisions of this legislation.

The government has made great play of this legislation and two other measures that deal with accountability, honesty and openness in government. I do not have any problem with that, but I wonder whether it applies to the Labor Party organisation. We have just been through an election campaign where the government made great play of these proposals. However, the material that the government circulated around the state was misleading and was designed to misrepresent people's interests.

The Hon. M.J. Atkinson: A sore winner!

The Hon. G.M. GUNN: I should have thought the Attorney-General of this state would want to be party to an organisation that prided itself in its truth, honesty and accuracy.

The Hon. M.J. Atkinson: And all my material has been.

The Hon. G.M. GUNN: Well, the Attorney-General's friend, Mr Farrell, paid for and circulated, at the cost of some hundreds of thousands of dollars to the long-suffering shop assistants, malicious, inaccurate and misleading material.

The Hon. M.J. Atkinson: Goodbye, Mr Invisible!

The Hon. G.M. GUNN: I do not know Mr Invisible. I do not know whom he is talking about. One document stated:

> The Labor Party's policies have been fully audited by Ernst and Young. No new taxes will be introduced or existing taxes raised.

After what has happened to crown leases and poker machines, we know that is not correct.

When considering this legislation, let us look at the real highlight of the government's misleading campaign, and it involved the Parliamentary Library. This is a party that talks about honesty and openness in government, yet it circulates thousands of copies of a grossly misleading and inaccurate document that was designed to mislead the people and show me, in particular, in a bad light. Let us see what it says. This document stated:

> Mr Gunn has racked up over $1.3 million in superannuation and he wants another term, but what has he done for it?

I gave a very extensive list of achievements.

The Hon. M.J. Atkinson interjecting:

The ACTING SPEAKER: Order! The member for Stuart would be best advised to get back to the substance of the debate at hand and to avoid, as best he can, any of the interjections from the Attorney, and the Attorney will desist.

The Hon. G.M. GUNN: Thank you very much. The Attorney-General has been particularly unruly. I am relating my comments to the Statutes Amendment (Honesty and Accountability in Government) Bill. We are talking about honesty and we are talking about accountability, because we have had a document which was circulated under the signature of Mr Ian Hunter and which stated that I was entitled to $1 337 971 when that was not correct. The Parliamentary Library has no authority, no expertise and no proper understanding of the parliamentary superannuation scheme. It did not know in which scheme I was involved, and it did not have a proper understanding.

We know that a Labor Party member of parliament went to the library and sought this information. Talk about a kangaroo court! When I sought the information, the library refused to give it to me, so we have double standards.

The Hon. M.J. Atkinson: Don't keep us in suspense. How much are you entitled to?

The Hon. G.M. GUNN: Like the Attorney-General, I will be happy to discuss it when the next print-out is published. My understanding—

The Hon. M.J. Atkinson: Here's your opportunity. Just tell us all.

The Hon. G.M. GUNN: No. As I said some weeks ago in this parliament, as the Attorney-General would know if he was paying attention and was not rattling on about some other subject, I have already paid over $400 000 into the scheme because I am required to do so.

If you believe in honesty and accountability, you will not allow your party to go out and mislead the public as you did. It is the right time to draw to the attention of the house that another malicious document was circulated—one with a candle (and I do not know what that was supposed to achieve)—and which tried to infer that I was staying in extravagant and expensive accommodation in London.

The Hon. M.J. Atkinson: We imply, you infer.

The Hon. G.M. GUNN: The Attorney-General is a very pedantic fellow. We know that—very pedantic.

The Hon. M.J. Atkinson: We imply, you may infer from that.

The Hon. G.M. GUNN: If the Attorney-General wants to keep me going, it was not my intention to speak at length—

The Hon. M.J. Atkinson: This is falling out of a London cab with a Harrods bag.

The Hon. G.M. GUNN: I have never bought a Harrods bag.

The Hon. M.D. Rann: Why not?

The Hon. G.M. GUNN: I have never bought a Harrods bag. I will leave that to the Premier and his colleagues, if they want to pursue it. So, that is another misstatement.

The Hon. M.D. Rann: Most of us have been entertained at the House of Lords on a number of occasions.

The Hon. G.M. GUNN: We certainly have, and I look forward to it again in the future.

The Hon. M.J. Atkinson: How was the test at Headingley?

The Hon. G.M. GUNN: I would have liked to spend a day there but, unfortunately, I did not. But let me say to the

honourable member that I think my accommodation expenses would be rather less than those of probably many other members of this house. I am not going to be intimidated by the government or by the *Advertiser*—

The Hon. M.J. Atkinson: You've got fine accommodation here in Adelaide, as I understand it.

The Hon. G.M. GUNN: If I want to go overseas again, when I am ready and I think it will be productive, I shall go.

The Hon. M.D. Rann: You can always stay with my relatives in south London.

The Hon. G.M. GUNN: I thank the Premier for his kind offer of hospitality. I enjoy the opportunity to further my knowledge, and I shall do so in the interests of my constituents whenever I think it is appropriate.

The Hon. M.J. Atkinson: So, tell us, what was the Dorchester like?

The Hon. G.M. GUNN: I don't know. I ask the member, because he obviously stays there and he seems to know about it.

The Hon. M.J. Atkinson: No, I've never been there.

The Hon. G.M. GUNN: If the honourable member wants me to find out and if he would like to make the necessary arrangements, provide the opportunity and pay the bill, I am happy to find out.

The ACTING SPEAKER (Mr Caica): Order! Could the honourable member return to the substance of the debate? He is being distracted and, as much as I enjoy his contributions, I am responsible now for maintaining some form of order. Will the member please return to the substance of the debate?

The Hon. G.M. GUNN: Certainly, Mr Acting Speaker. I would not want in any way to transgress the standing orders. I am aware of what happens when you do that, as is the Attorney-General, and I want to comply. But, you are right, the Attorney has been highly disorderly in interjecting on me.

In conclusion, I sincerely hope that when the government—and the Premier seems to be pleased that I am about to wind up; I know he has been enjoying his reading—

The Hon. M.J. Atkinson: You can talk about anything other than almost losing your seat.

The Hon. G.M. GUNN: Well, I talk on a number of issues, and I was about to wind up and say that I hope the government sets a high standard in its election strategy in the future instead of personally targeting people and making inaccurate, misleading and untrue comments, and then embroiling the parliamentary library in an exercise which it is not equipped to carry out, and giving this malicious little document some form of credibility. The member talks about losing an election, but I have been sent here 11 times, and I can come back here again if I so determine. There is nothing that he or his colleagues can do about that, because the electorate understands and appreciates that hard work and good representation are what I have based my political campaigns on and I am very pleased to still be here, because I know—

The Hon. M.J. Atkinson: And we are pleased, too!

The Hon. G.M. GUNN: Well, that is good. But that is not what you said a few months ago. There were some colourful comments said about me by the Premier.

The Hon. M.D. Rann: What have I said about you?

The Hon. G.M. GUNN: You have said some colourful things about me in the past.

The Hon. M.J. Atkinson: We're going to enjoy the by-election, Gunny.

The Hon. G.M. GUNN: Well, I don't know when that is coming. Perhaps the honourable member knows something I don't, because the honourable member will have to put up with me for at least another three and a half years and, if he is not careful, he will have to put up with me for another seven and a half years in here. So, it just depends on how I feel at the time. But let me assure him that every time they have a go at me it makes me more determined to ensure that the Labor Party never gets a foothold in the electorate of Stuart. I support the bill and have enjoyed the opportunity to say a few words.

The Hon. M.D. RANN (Premier): I was just reflecting on my time in the House of Lords and know that both the member for Stuart and I lift the standard in the House of Lords every time we go there. I would like to thank members for their support and encouragement and for their contributions which have been both erudite and entertaining. The government wants to instil a culture of honesty and accountability at all levels of government. I apologise for the large number of amendments that will be required, but we have actually gone about consulting quite widely and that is why I was very happy when the Deputy Leader of the Opposition spoke with me during question time to enable the proceedings to go to the end of the second reading, in order to give the opposition more time to deal with what can only be described as complex and technical amendments that will be dealt with, as I understand it, tomorrow.

But I wish to point out in advance of that that these amendments will ensure that all directors of government boards are subject to the same obligations regarding honesty, conflict of interest, care and diligence, unauthorised interest and transactions; that all public sector employees will, depending on their level, be subject to the same obligations regarding honesty and conflict of interest; that all executives of public sector agencies that are bodies corporate will be subject to the same obligations regarding unauthorised transactions and interest; that all members of significant advisory bodies will be subject to obligations regarding honesty and conflict of interest (such as the EDB and other boards); and that all public sector employees will be required to abide by a code of conduct issued by the Commissioner for Public Employment. I was very pleased to see the media release issued today by the Public Service Association which states:

> The PSA and its membership absolutely accept the need for the public sector to continue to be open and accountable. . . A major aspect of the legislation, welcomed by the PSA, is that it covers all people undertaking work for government, including contractors and advisers.

It further states:

> The PSA has managed to negotiate an outcome which ensures that only serious breaches of honesty and accountability can be referred for possible criminal charges. The requirement that any such charges be through the Director of Public Prosecutions is an important safeguard for PSA members and for the community.

So, we have endeavoured to consult. But, let me say that the standard of annual reporting by public sector agencies will be improved. These provisions will apply to ministerial staffers. We have seen the nonsense identified in reports that went on with Vicki Thompson and Alex Kennedy, and that sort of nonsense will not be tolerated again. All persons performing contract work for government will be subject to obligations regarding honesty and conflict of interest; all persons performing contract work for government will also be subject to the offences relating to public officers under the Criminal

Law Consolidation Act, as will members of the public in their dealings with them.

It will also be an offence for former public officers—that includes ministers of the Crown and also members of parliament—to improperly use information gained whilst in office. I should say that we have attempted to consult widely with all government departments; major government boards; the Commissioner for Public Employment; unions, including the UTLC and the PSA; the Local Government Association; Business SA; the Australian Institute of Management; government contractors including, as I understand, Group 4, EDS, United Water and Serco; plus briefings with the opposition, the Democrats and Independents. As a result of those briefings with the opposition, we have made substantial changes because we are trying to be inclusive.

A couple of matters mentioned by the member for Bragg confused me, but it seems that she may not be aware of the amendments to be moved by me tomorrow even though they have been circulated. She mentioned the definition of 'public sector employee', which is to be scrapped and, instead, we will introduce a new definition relating specifically to persons performing contract work. A number of the matters that she raised will be dealt with through the amendments, and we look forward to this bill being dealt with expeditiously.

We are trying on a range of fronts—including the two bills that passed this house yesterday—to raise the standard and enact the toughest provisions in the nation. If we pass these honesty and accountability bills through this house and then through the upper house, we will be proud that each of us, in a bipartisan way following the events of recent years, has made a positive move to lift the standards of governance and the transparency and accountability of the government of South Australia.

Bill read a second time.

In committee.

Clause 1 passed.

Progress reported; committee to sit again.

CRIMINAL LAW (SENTENCING) (SENTENCING GUIDELINES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 May. Page 373.)

Ms CHAPMAN (Bragg): This bill was introduced in the House of Assembly by the Attorney-General on 29 May 2002. It seeks to amend the Criminal Law (Sentencing) Act 1988 by specifically empowering the Full Court (that is, the Court of Criminal Appeal comprising three judges of the Supreme Court) to lay down so-called sentencing guidelines which are to be applied by judges in relation to a particular category of offence and a particular class of offender. The court will be empowered to establish sentencing guidelines of its own initiative or on the application of the DPP, the Attorney-General or the Legal Services Commission. I think I am right in foreshadowing that an amendment will be moved to provide for the Aboriginal Legal Rights Movement to be included in that category.

The general background to this bill has been described in a somewhat grandiose second reading explanation by the Attorney-General. I will not repeat all of his arguments because his speech was very lengthy.

The Hon. M.J. Atkinson: A real speech read to the house and not inserted in *Hansard*.

Ms CHAPMAN: That is right. The Attorney-General took some time—as I recall under great protestation—to entertain us with his rather lengthy speech. I wish to highlight one matter in the Attorney's speech which relates to his description of how this bill proposes sweeping changes to achieve the goals outlined in his speech. For example, the Attorney states in relation to the Criminal Law (Sentencing) Act 1988 (the principal act which this bill seeks to amend):

> It sets out a notoriously long list of what a judge should take into account.

Members may be familiar with the Criminal Law (Sentencing) Act. Section 10 provides this notoriously long list to which the Attorney refers. It sets out a number of factors to which a sentencing court should have regard when determining the sentence of a person who has been convicted, such as, the circumstances of an offence; the personal circumstances of the victim; and the injury, loss or damage resulting from the offence, etc. The Attorney-General describes this list as being notoriously long, yet it is noted that this bill makes no attempt to abbreviate it in anyway. In fact, section 10 will stand with this notoriously long list being unimpeded in any way.

We were deliciously entertained in the Attorney-General's second reading explanation with a whole lot of aspects of this bill which raise issues, criticism and the like, but ultimately this bill does very little at all. Labor Party policy at the state election included:

> Guideline sentencing. Criminal sentencing must be consistent. Broadly speaking, people found guilty of the same crimes should do the same time—

it sounds good so far—

> . . . the Attorney-General may reflect public concern about sentencing for a particular crime by asking the Court of Criminal Appeal to hand down sentencing guidelines for a particular offence next time that particular offence comes before the court on appeal.
>
> The court should nominate what the common sentence for that crime should be and list the mitigating and aggravating elements.
>
> This system was introduced in New South Wales and it's effective because judges are able to indicate a typical sentence for a particular crime. This means there will be less room for the discretion of individual judges and more consistency across the legal system.

Despite the active promotion of the bill by the Attorney-General, we suggest that it is a very modest measure. The Supreme Court already has power to issue guideline sentences and has done so on a number of occasions. Western Australia has similar legislation, but in that state the court has largely ignored it. However, the legislation does exist in New South Wales, where it has been welcomed on talk back radio and by journalists. Moreover, legislation of this kind should have the effect of raising the general level of sentences and of reducing so-called lenient sentences—those which are on the low side but are not so lenient to be manifestly inadequate.

One area of the bill that we may suggest respectfully be removed relates to the power of the Attorney-General to initiate an application not related to a particular case. Such an application is tantamount to the court's exercising a legislative function rather than a judicial one. We also flag another possible amendment to include provision for public funding for those individuals or organisations which incur additional costs by being required to participate in a process which relates to the public interest rather than specifically to their own. I ask that the Attorney-General be mindful of those issues before we deal with this matter in another place.

Amendments would provide that the court be limited to giving guidelines in the context of a particular appeal and that financial assistance be available to individuals or groups who incur additional costs as a result of participating in a guideline sentencing matter which otherwise would not be imposed on them. I indicate that we support the bill.

Mr HANNA (Mitchell): I rise to make a few comments about the bill. This is another of those measures where, happily, there is bipartisan support, so nothing I say will influence the outcome of the debate. However, I note that the issue of sentencing by guidelines is a controversial one and has been the subject of diverse views, even in the High Court of Australia. I thought it would be appropriate, as this bill is being discussed, to refer to Wong v. the Queen, 2001, HCA 64—a judgment handed down on 15 November 2001. It was a criminal law appeal which came up through New South Wales, it being the pioneer in respect of sentencing guidelines. I note that there were dissenting views and, in particular, the judgment of the Chief Justice is a very learned assessment of the potential problems with guideline sentencing. Although this bill will satisfy commitments made by the Labor Party and will give considerable satisfaction to those calling for harsher penalties, in all that we should not forget the potential problem of fettered judicial discretion when it comes to sentencing.

The point is quite simple: if guidelines are laid down by the Full Supreme Court of South Australia in respect of a particular crime (we might have, for example, a ruling that there should be at least five years or less than 10 years imprisonment for a particular crime), the question will then arise when an exceptional example of that type of crime is committed—something particularly horrific or a crime being committed where the guilty person or the circumstance would represent a powerful mitigating factor—whether, in terms of justice, we should call for a more lenient sentence than the guidelines might provide for. It is that fettering of judicial discretion that is the unfortunate aspect of introducing guidelines.

It may be that guideline sentencing is a means by which sentences, or at least the tariffs for sentences, can be substantially increased. By tariff, I mean the expectation of a particular range of sentence for a particular type of crime. It is a concept with which judges and lawyers in the criminal law field are familiar. Prosecutors and defence counsel will regularly have discussions about what is the appropriate tariff for a crime, particularly when a discussion is taking place about a potential guilty plea and there is some informal negotiation going on about the sentence for which the prosecutor might be contending. In that context there will always be reference to the typical sentence for that crime and, once one appreciates the tariff or usual sentence for that type of crime, one can make allowances for any mitigating factors or exacerbating factors that might point toward a different result being desirable.

It is true that, by effectively giving the superior court the power to set the tariffs and openly and clearly setting them, there may be the opportunity for the government, through the appropriate application to the court, to increase the sentences for various crimes. That would definitely be in accord with the community's desire for harsher sentencing, and I fully appreciate, having spoken to thousands of my constituents over the years, that this desire exists in the community. It is not necessarily a desire that will come to fruition in terms of lower crime rates or more criminals being rehabilitated; nonetheless, the desire is out there and, if anything, it seems to stem from a desire for retribution as much as anything. However, it is real and is what the community wants.

Under our current system where the government, reflecting the people's will, is not happy with a sentence issued by a judge of the District Court or the Supreme Court or by a magistrate, it is not only possible for the Director of Public Prosecutions to appeal but it is also possible under the appropriate legislation for direction to be given to the DPP to appeal a particular matter. That appeal can be made on the basis that a sentence was too lenient. There are mechanisms in place at the moment for an appeal to be lodged against a lenient sentence and, if successful, such appeals always have a flow-on effect when crimes of that nature are being considered subsequently. In other words, a successful appeal by the prosecution on the basis of a sentence being too lenient always results in the tariff for that crime being adjusted upwards, unless it is an isolated matter where a genuine mistake in the purest sense has been made by the judge in the court below. With that, I want to share in a bipartisan spirit agreement with some of the remarks made by the member for Bragg, particularly about just how much further this bill takes us but, having said that, I support the bill.

Mrs REDMOND (Heysen): I want to add a few comments to the discussion on this bill. I notice that in the second reading explanation the Attorney referred to three problems which he saw in relation to, if not the reality, at least the perception in the public mind as to sentencing. The first problem he raised was irrationality, and by that I do not understand him to have been suggesting that either the sentence or the sentencing judge were necessarily irrational, but that the media or the public at large failed to understand the rationale. As has already been mentioned by the member for Bragg, there is a rationale behind every criminal sentence. It is set out fairly and squarely in section 10 of the existing Criminal Law (Sentencing) Act. There are some 15 considerations which the judge (or whoever the arbiter) must take into account in determining what aggravating or mitigating factors there might be which affect the sentence being taken upwards or downwards from whatever the norm or the tariff might be.

The second problem that the Attorney raised in his explanation was that of disparity. He referred quite specifically to a circumstance in which the same offence might be heard before two different judges: Judge A might prefer to take a rehabilitative view of the way to treat the offender and therefore give them a lesser sentence, whereas Judge B might take a deterrent approach; that is, impose a harsher sentence on the basis that that will send a message not only to the offender but to offenders generally. It obviously leads to having different results for the same offence. It has always been the case that it is true that one's attitude in matters of criminal justice, or indeed in civil justice, can depend largely on which judge you happen to appear before.

The third problem which the Attorney referred to in his second reading explanation was transparency; that is, the public expresses concern—quite legitimately I think—about the fact that, from time to time, the sentence which they think has been imposed is not the one for which the offender ends up doing time. That comes about largely as a result of some things of which the public perhaps generally are not aware. For instance, for all the time that one might be awaiting trial, normally you will get two days off your sentence for every day that you are held in remand while awaiting your trial. There are various other means of home detention and so on.

The public has expressed a concern over a considerable period of years about the fact that, whilst the judge might impose a particular sentence, that is not necessarily what the offender will serve.

However, as the Attorney already pointed out in his second reading explanation, that actual problem was addressed in the truth in sentencing legislation, which, largely, was introduced Australia-wide some time ago. That only really left the other two problems—irrationality and disparity. In my view, they are both matters of perception rather than reality, inasmuch as people without knowing the details of any case, without having heard all the evidence and without having understood all 15 factors under section 10 that the judge must have taken into account, often do not appreciate why a sentence is being given. I would have to agree with the suggestion of the member for Bragg that, whilst we will support the bill, it does not really seem to take us very far forward, and particularly since the proposal—

The Hon. M.J. Atkinson: What would you do?

Mrs REDMOND: I am not here to answer the Attorney's questions, I am here to speak on the bill, thanks, Attorney.

The Hon. M.J. Atkinson: Avoid the question.

The DEPUTY SPEAKER: Order!

Mrs REDMOND: The proposal at the moment, in any event, says that the Full Court may give judgments establishing sentencing guidelines: it is not under any obligation to. This bill at least opens up the—

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND: Mr Deputy Speaker, I do seek your protection.

The DEPUTY SPEAKER: Order! We are talking about law and order issues and we have some serious misbehaviour in this 'court', parliament's being a court.

Mrs REDMOND: Thank you, Mr Deputy Speaker. It does at least open up the way for various parties—not just the court of its own initiative but the Director of Public Prosecutions, the Attorney-General or the Legal Services Commission—to make submissions. I would ask the Attorney to address one point in his closing speech on this bill. The second reading explanation indicates that the DPP, the Attorney-General and the Legal Services Commission may become parties to any proceedings in which a guideline judgment is proposed to be set and therefore that presupposes that the Full Court will notify one or more of those parties. I cannot find anything in the act or the bill as to how you give effect to that, because it seems to me that it is open to the court (without having notified anyone) to issue guidelines in terms of bringing down its judgment in a particular case. Will the Attorney address that issue in his closing comments?

Essentially, I am still at a loss as to how the bill addresses the first two problems of irrationality and disparity, given that we are introducing guidelines. However, first of all, the Full Court does not have any obligation to introduce the guidelines; and, secondly, even if it does introduce the guidelines, the sentencing court is not bound by those guidelines if it feels it has good reasons to depart from them. The bill really does not have any different considerations, impose, restrict in any way or change the considerations from those that currently exist under section 10. Whilst I welcome the provisions enabling some more input to be given into the discussion of sentencing guidelines, I do not see that, at the end of the day, it actually affects the outcome.

Mr SNELLING (Playford): I wish to make some brief remarks about this legislation. Of all the topics to arouse greatest passion in my electorate, I must say that criminal sentencing arouses the most passion—

Mr Hanna: Is it constructive passion?

Mr SNELLING: I would say, yes, because sentencing belongs in the public square. It should not happen—

Mr Hanna interjecting:

The ACTING SPEAKER (Mr Koutsantonis): Order!

Mr SNELLING: —behind closed doors. The public has an interest in the sentencing of offenders—and a very proper interest. I believe that the bill does a number of things which improve our sentencing laws. First, the bill provides greater transparency in sentencing. The bill provides for greater transparency by somewhat reducing not so much the discretion but more the individual idiosyncrasies of certain judges and magistrates in their sentencing by allowing the Court of Criminal Appeal to provide for what would be a typical sentence. So, when a judge or a magistrate significantly deviates from the guideline sentence, one would expect that the judge or magistrate in his or her sentencing remarks would have to account for that deviation. There may be many good reasons why it might occur, but I think it is wholly proper that a sentencing judge or magistrate should account for either the harshness or the leniency of a sentence.

Secondly, the legislation provides greater consistency across the board. It is well known amongst defence lawyers that certain magistrates and judges have a reputation for harshness and other judges and magistrates have a reputation for leniency. The sentence that a criminal gets can very much depend on potluck, on whether the defendant is so unfortunate as to appear before a hanging judge, for want of a better description, or whether he or she is fortunate enough to appear before a lenient judge.

It is entirely proper that there should be some mechanism whereby a typical sentence for a certain offence can be indicated and, if a plea of guilty is taken, what remission there might be on the sentence. To provide sentencing judges with guidelines for an indicative sentence means greater consistency and fairness to the accused, and less of the potluck factor, where, if an offender is lucky, he will appear before a lenient judge or magistrate, and if he is unlucky he will appear before a magistrate or judge who sentences more harshly.

When I have spoken to people in my electorate about guideline sentencing, on the whole their reaction has been positive, and they believe that this is a welcome move, but I am often asked why we are not going down the path of mandatory sentencing. The answer to that has been given by the Attorney many times on talkback radio, and it is simply this. With mandatory sentencing, as is in place in some jurisdictions of the United States, plea bargaining occurs whereby the public prosecutor, in exchange for a guilty plea from the defendant, agrees to press charges only for an offence with a lesser penalty.

It all happens behind closed doors, not in open court. It happens out of the public eye, in discussions between defence lawyers and prosecution lawyers, often without the client present. An agreement is reached and a sentence passed, all away from the public gaze. I believe that is a bad place for sentencing to be carried out. Sentencing should be open and transparent, and sentencing judges and magistrates should be accountable to the public for their sentences. Mandatory sentencing takes sentencing out of open court and puts it into back rooms where deals are thrashed out. Such deals often do not serve the interests of justice, and studies have shown that, in some jurisdictions in the United States, defendants have

pleaded guilty to charges to which they are innocent for the trade-off of a lighter sentence.

This bill is a welcome move, and I commend the Attorney for bringing it before house, for resisting the clamour for mandatory sentencing and, instead, coming to the house with a bill that will go a long way towards overcoming the public disquiet about sentencing. It will provide for greater transparency in the sentencing process and it will also provide for greater consistency across the criminal justice system.

The ACTING SPEAKER: The member for Unley.

The Hon. M.J. Atkinson: What is the Liberal Party's policy on this? Tell us.

Mr BRINDAL (Unley): I want to be brief on this and I do not want to be provoked by the Attorney. However, in that long, rambling dissertation given by the member for Playford, which appeared to me to make no sense at all, there was one grain of truth, and that was that, if you want to know the true intent of this Attorney-General, one must by compulsion listen to talkback radio. That is almost mandatory for any member of the government benches. It is a guideline that we lay down.

The Hon. M.J. Atkinson: You are just being a snob about the 5AA audience.

Mr BRINDAL: I am certainly not being a snob about the 5AA audience. I am being a snob about the calibre of contribution that is sometimes made and inflicted on the 5AA audience. I note that the member for Mitchell made an intelligent contribution, as he often does.

Ms Ciccarello: What did he say?

Mr BRINDAL: I study his contributions at leisure because they are worth reading, unlike those of the member for Norwood, who rarely contributes other than to interject and hurt me deeply. This bill has three essential elements. As I understand them, they address three specific problems—those of irrationality, disparity and transparency. Rather than conflict with my two learned colleagues behind me, I agree with them, in that, apart from addressing the Attorney-General's notion of popularity with the listeners of 5AA, I cannot see what he is addressing at all.

As he points out, irrationality is a very real problem. If the Attorney can tell us in his summation or in committee why this will fix irrationality, I would like to know. If the Attorney wants to get rid of judges, let him say so because, as long as we have judges who by nature weigh up the difference between the rights of rehabilitation, the rights of society for revenge and sentencing—the three elements that any judge considers—and have a prescribed sentence, how do we get rid of the problem of irrationality? This bill does not address that. By his own admission the Attorney says that transparency is already addressed by the truth in sentencing bill.

The Hon. M.J. Atkinson: A good bill! Probably the best bill you've put up.

Mr BRINDAL: Isn't that terrific! He has just said it is a good bill, but that does not mean this is a good bill; quite the contrary. The bill that he says is a good bill addresses one-third of what he says this bill addresses. I am supporting my colleagues on this side of the house. In short, this bill is window-dressing, popular politics and the Attorney playing for the listening audience of 5AA. The quicker this government gets down to doing some serious work and stops cluttering the books with this sort of sanctimonious claptrap—

Members interjecting:

Mr BRINDAL: Could I have a bit of order, sir?

The ACTING SPEAKER: The member is old enough and ugly enough to look after himself.

Mr BRINDAL: Mr Acting Speaker, I could well object to those remarks and then you would be in the difficult position of having to withdraw from the chair. I do not know that that would set a good precedent for other people who might occupy that position from time to time, so I choose to ignore it. I support my colleagues' remarks on this matter and we will see what happens to it.

The Hon. M.J. Atkinson: You've said nothing.

Mr BRINDAL: You never say anything, so what's the difference?

The Hon. M.J. ATKINSON (Attorney-General): I am so pleased that after years of criticising my proposal for guideline sentencing the opposition will now vote for the bill. You would hardly know it from their contributions.

Members interjecting:

The ACTING SPEAKER: Order!

The Hon. M.J. ATKINSON: The point of my aside that section 10 of the Criminal Law (Sentencing) Act contained a notoriously long list of matters to be taken into account by a sentencing judge was to emphasise the myriad of conflicting objectives that go into the mystic process of sentencing. The member for Bragg should not read too much into the adverb 'notoriously'. I meant it in the sense of generally known or publicly known, not in the sense of widely but unfavourably known.

The member for Heysen asks how the Director of Public Prosecutions, the Attorney-General and the Legal Services Commission will obtain notice that the Court of Criminal Appeal is about to make a guideline so that they may make a submission. The answer is that rules of court will so provide.

I confess to you, Mr Acting Deputy Speaker, and to the house that I sinned exceedingly in this debate by interjecting upon the members for Bragg and Heysen. I realise the difficulties of being the opposition spokesman on sentencing matters after eight years of the Hon. K.T. Griffin as the Liberal Party's Attorney-General, or 'Dr No' as he was known by his cabinet colleagues. I was unable to restrain myself because, in their scornful contributions, the members for Heysen, Bragg and Unley omitted to tell us what members of the Liberal Party think about sentencing and whether it would change the law. Are they for grid sentencing?

Mrs Redmond: Yes.

The Hon. M.J. ATKINSON: Yes, says the member for Heysen. Are they for mandatory minimum sentencing? Are they still in favour of the jury foreman doing the sentencing jointly with the trial judge as they proposed during the general election? The silence is deafening. The members for Bragg, Unley and Heysen said that the bill was window-dressing and it did nothing. Well, I think does three important things, and I made these points in a letter I wrote recently to the President of the Bar Association, Brian Hayes. First, I stated:

> The decision of the joint judgment of Gaudron, Gummow and Hayne JJ in Wong. . . and the remarks of McHugh J in Cameron. . . placed in doubt the authority of courts to set sentencing standards for cooperation with the authorities and early pleas of guilty. Moreover, the decision of the whole court in Wong cast doubt upon the compatibility of sentencing standards or guidelines in jurisdictions with a primary list of sentencing factors—like South Australia. [The Court of Criminal Appeal in] Place may have settled the issues in South Australia for the moment, but the High Court is another matter. The bill, if enacted, will set these matters beyond any challenge other than a rather esoteric constitutional challenge.

That is one important thing the bill does, and that would make it worth while by itself. I stated the second important thing as follows:

> . . . the bill, if enacted, will allow applications for sentencing guidelines to be made outside of the happenstance of an appeal in any given case. It is my opinion that this is a good thing. There is no reason why the court should have to await an appeal to make a point and there is no reason why a particular offender should be singled out as being a test case. It is this latter consideration that leads quite properly to the invocation of the standard in Everett. . . when that may not be the real point of the exercise.

I explain that Everett sets out the extra hurdle the prosecution must jump to win an appeal against a sentence on the grounds of manifest inadequacy. I state the third thing the bill does as follows:

> . . . the bill if enacted will enable a wider range of interested parties to be heard on the question of sentencing guidelines than was previously the case. It is my opinion that this is a good thing. I am yet to be convinced that there will be such a massive increase in the number of such cases that an intolerable strain will be placed upon the budgets of participating agencies.

I am glad the member for Heysen acknowledges that. With those remarks I thank the house for its support of the bill.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. M.J. ATKINSON: I move:

Page 4, after line 15—Insert the following paragraph:
(ca) The Aboriginal Legal Rights Movement Inc.,

I propose to add to clause 4 provision for the Aboriginal Legal Rights Movement. This would entitle the Aboriginal Legal Rights Movement to appear and be heard in proceedings to which the Court of Criminal Appeal is asked or proposes to establish or review sentencing guidelines. That is not to say the Aboriginal Legal Rights Movement could ask for a sentencing guideline as the Attorney-General, the DPP or the Legal Services Commission could, but it could appear in proceedings. So, the purpose of the amendment is to include the Aboriginal Legal Rights Movements in the specified list of groups that have representational rights at a sentencing guidelines hearing. This has been done at the request of the Aboriginal Legal Rights Movement and the Law Society.

Mrs REDMOND: I understand that the Attorney is saying that the Aboriginal Legal Rights Movement will therefore go into new section 29B(2), not 29B(1).

The Hon. M.J. ATKINSON: That is correct.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with an amendment.

Bill read a third time and passed.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (ON-LINE SERVICES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 June. Page 490.)

Ms CHAPMAN (Bragg): This bill was introduced in the House of Assembly on 4 June 2002. It contains identical provisions to those introduced by the Liberal government in June 2001. I am reliably informed that it was referred to a select committee of the Legislative Council which recommended that the bill pass with amendments, which have been incorporated in this measure. I understand that the committee's recommendations were supported by both the Liberal and Labor members, but the Democrat members dissented. The amended bill passed the Legislative Council in November 2001 but lapsed, as we have heard so many times in this session, when the parliament was dissolved.

The bill creates two offences: knowingly or recklessly by means of an online service making available or supplying to another person—

(a) objectionable matter; or

(b) matter unsuitable for minors.

Objectionable material is defined as 'Internet content consisting of film or computer game which is or would be classified X or RC, as a refused classification'. This includes sexually explicit material, child pornography, or material instructing in crime or inciting criminal acts. A matter unsuitable for minors is material which does not fall into the X or RC category but is nevertheless appropriate to be restricted to adults and is or would be classified R. The provisions are directed at the content provider, not the internet service provider.

It is to be noted that the bill is part of a complementary national scheme. Victoria, Northern Territory and Western Australia have similar legislation, whilst New South Wales has passed similar provisions but I understand they have not yet come into effect. Perhaps not surprisingly, the pornography industry and some libertarians have attacked the bill on the ground that it is futile to seek to regulate the internet. However, the scheme of this bill is consistent with the classifications system which applies to film and other media. I indicate that the bill is supported by the Liberal parliamentary party, notwithstanding the fact that it is very difficult to police the internet, a fact which leads critics to claim that this legislation will have little effect. We support the bill as indicated and hope that it does have some positive effect to ensure the objectives as outlined by the mover of the bill.

Mrs REDMOND (Heysen): I promise to be brief.

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND: I am not from any faction, Mr Attorney-General, but I do wish to make a couple of comments about this bill. I am a particular internet hater, and I make that very clear up front. In terms of the bill, I have first a couple of drafting matters. I know that it is a common practice, but I do find it an extremely frustrating one in drafting when definitions refer to definitions in another act. I find that frustrating even when it is in another state act which I can easily access, but I find it particularly annoying, and believe it is appropriate for us to have our acts structured so they can be read as stand-alone items. I do wish—and I know it is a drafting issue—that access and internet content had another definition—

The Hon. M.J. Atkinson: What happens if the commonwealth amends?

Mrs REDMOND: —than simply what appears in the commonwealth Broadcasting Act. The Attorney-General asks, 'What happens if the commonwealth amends?' Well, we amend if necessary, but at least our act can then be read as our act. I just find it a very frustrating thing trying to read those things. I also find it a puzzle that, in the Attorney's second reading explanation, he referred to—and again it is a drafting issue rather than a problem of the Attorney's—material such as a film or computer game which is or would be classified as X or RC, that is, refuse classification. To me, that stands in the face of reason. It is either classified or it is not. To say that if it is classified X or RC, that is the same as

being refused classification, does not make any commonsense in terms of the way—

The ACTING SPEAKER: Order! I ask the member to resume her seat.

The Hon. M.J. ATKINSON (Attorney-General): I move:

That the time for moving the adjournment of the house be extended beyond 6 p.m.

Motion carried.

Mrs REDMOND: I would ask the Attorney to address this next matter perhaps in his closing remarks. In his second reading explanation, he referred to similar provisions passed in the New South Wales parliament but which had not been brought into effect when he introduced this bill at the beginning of June because the introduction in New South Wales as I understand his comment was pending the report of a parliamentary committee there which was expected to report during June. I assume that the Attorney will be able to advise the house whether in fact that parliamentary committee has now reported and if he could advise whether that has in fact allowed the introduction of these provisions in New South Wales. That would be appreciated. I wanted to comment on the structure of the bill. Whilst I understand the intention as expressed by the Attorney in his second reading explanation is to deter or punish in relation to making available on the internet material which is objectionable, and the making available to children of material which is unsuitable, I have a little difficulty as to how the second of those elements is achieved.

Proposed section 75C appears to effectively deter or punish the making available of internet material which is generally objectionable within the definition. What I do not really see is how section 75D gives effect to the second arm, that is the making available to children. It seems to deal with matter that is unsuitable for minors rather than the supply of that matter to minors. I recognise the way it is structured says it is an offence if you have a PIN number or some secure system, but it still seems to me that it does not go very far in addressing the actual issue of the supply of the material to minors.

As to the one last thing I would mention, I said I am an internet hater—

The Hon. M.J. Atkinson: Tell us why.

Mrs REDMOND: —and I know that this bill does not purport to address the problems of emails. I will tell you why Attorney, as you ask. That is because on Thursday 8 August my staff in the parliamentary office received an email which was directed from a person whom I shall not name at the moment, but I have a copy of the document which was sent and which is nothing short of pornographic. There is a series of nine photos which I am happy to show the Attorney—I have not had them blown up obviously—but they have no erotic value, in fact, no value at all from what I can see.

As a matter of principle I have always been fairly anti-censorship in the sense that my belief is: publish what you want and I will just choose not to buy it. I object to having that sort of stuff thrust at my staff and me uninvited, with no ability to trace where it came from. We have taken it through the parliamentary internet and intranet staff to find out where it came from. Apparently it has been traced to overseas—and that is one of the problems with this bill: it will only affect things in South Australia and therefore will have only a limited effect.

The Hon. M.J. Atkinson: Well, what else can we do?

Mrs REDMOND: Exactly. I have no objection to that, and I accept that you are doing what you can within the state. I do not have a problem with that. I will happily discuss with the Attorney what might be done, but, in my view, we need to address how to stop this sort of matter being received as an email in my office.

The email was directly specifically to the Heysen electorate office and to no other electorate officers, but a number of government departments, in addition to TAFEs, and so on. The email was nothing short of pornographic, it was uninvited and untraceable. My own view is that we should be controlling who has access to putting anything on the internet in the first place and, until that is addressed, we have not gone far enough. With those few comments, I am prepared to support the bill.

The Hon. M.J. ATKINSON (Attorney-General): I am pleased to have the support of the Liberal Party, and in particular the members for Bragg and Heysen, for this bill. The member for Heysen asked what has happened in New South Wales since my second reading speech. Well, the parliamentary committee in New South Wales has reported and has recommended against proclaiming the bill on libertarian grounds. The committee's report resembles the kind of representations that were made against this bill to the South Australian select committee, particularly from the Electronic Frontiers organisation.

The membership of that New South Wales parliamentary committee was somewhat unbalanced and, if the committee had reflected the political balance in the New South Wales parliament and, in particular, the political balance within the New South Wales Labor Party, it might have reached a different conclusion.

As to the member for Heysen's question about proposed sections 75C and 75D, I am not sure that I quite grasped her point. New section 75C is about prohibiting, making available or supplying objectionable matter to anyone, and new section 75D is about prohibiting, making available or supplying matters unsuitable for minors—

Mrs Redmond: To a minor?

The Hon. M.J. ATKINSON: To anyone, but there is a defence if the supply is qualified by an approved restricted access system. So, one can supply to adults material that is unsuitable to minors, provided that there is a restricted access system that would restrict the access to adults only.

Presumably, the member for Heysen's point is that these systems do not always work, and that is a fair point. As we agreed earlier in this debate, the South Australian government is trying to do all it can to have the usual censorship laws apply to the internet. I think the Liberal Party and the Labor Party agree that it is worth the effort. Of course, people who want to access material that would normally be refused classification, such as child pornography, have a bewildering array of choices on the internet. What we are trying to do is to say that if you upload such material from South Australia you will be committing an offence. I think that is still a worthwhile objective although it will not achieve very much.

Mind you, I am surprised by how often the police manage, with the cooperation of internet service providers, to locate child pornography on computers here in South Australia. It is an exception to the principle that the DPP brings criminal prosecutions in South Australia that I, as Attorney-General, under the Summary Offences Act, have to authorise prosecutions for possession of child pornography. On one occasion,

when those prosecutions came to me for my signature, I asked, 'How on earth do the police find out about this material?' I know one of my constituents was found with it, and I asked and the answer was that the internet service providers cooperate with the police.

I hope I have responded to the member for Heysen's questions adequately. I do thank the member for Heysen and the member for Bragg for supporting the bill.

Bill read a second time and taken through its remaining stages.

AIR TRANSPORT (ROUTE LICENSING—PASSENGER SERVICES) BILL

The Legislative Council agreed to the bill without any amendment.

ADJOURNMENT

At 6.08 p.m. the house adjourned until Wednesday 28 August at 2 p.m.