HOUSE OF ASSEMBLY

Tuesday 22 October 2002

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

SITTINGS AND BUSINESS

The SPEAKER: Can I say by way of explanation for the benefit of private members not only that notices of motion by private members take precedence in the course of the business of the house but also that it is both the convention and the practice for private members to give notice of a motion usually from, first, the opposition side of the house and that, if other private members wish to give notice of a motion, they will get the call before a second notice is accepted, and that this will rotate from side to side to ensure that there is balance in the debate of the matters on the *Notice Paper*. As with all matters, can I say in addition that members should jump to ensure that they attract the attention of the chair when seeking to give notice or to address the house on any other matter.

PUBLIC SECTOR RESPONSIVENESS REPORT

The Hon. M.D. RANN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: I know that what I am about to say may well be controversial. On 30 May this year, I released for public comment and feedback the Public Sector Responsiveness Report. The report was prepared by a task force comprising former federal Liberal finance minister and former Liberal Premier of New South Wales John Fahey, the Hon. Greg Crafter (a former Labor minister) and Mr Rod Payze (a former CEO of the Department of Transport). This task force was established by the previous government to review processes in the public sector to improve its responsiveness. Following the state election, I reaffirmed continuation of the review in a bipartisan way.

The government has received comments from most state government departments, as well as 12 comments from other parties including the state opposition, the PSA, the Public Works Committee and working groups within the SA public sector. These comments have positively contributed to the government's consideration of the report. Comments on the report were generally supportive of its direction. Overall, the report was welcomed as a useful document setting out a number of key themes on which action should occur to have a positive impact on the public sector and its responsiveness to stakeholders.

This report takes account of some clear challenges that face the public sector. It is not the last word on these issues, however, and the government is considering advice from a range of sources on meeting changing expectations from the community about how policies are developed and how services are delivered by the public sector. The report suggests that in order to respond to current and future challenges the public sector will need to:

- work collaboratively within its departments to deliver 'joined up' solutions to the community, rather than the 'silo mentality' of some agencies that have been reluctant to collaborate with others;
- interact effectively with the community—because that is what it is all about;
- foster leadership;
- continue to develop skills within the public sector;
- develop a facilitative culture without compromising professionalism; and
- have a clear understanding of what it is attempting to achieve with clear lines of accountability.

Accountability is the keynote of this controversial report.

The government considers that the public sector has a critical role to play in the revitalisation of our state. An efficient, effective and responsive Public Service is essential to the state's future. So, too, is a public sector that values honesty and accountability. One of my first legislative acts as Premier was to introduce far-reaching reforms to achieve much higher standards of honesty and accountability at all levels of government.

Having read and reviewed the Fahey task force report—as I am sure every member in this house has done—the government has determined that it will embrace a number of the proposals put forward under five key themes, as follows:

- the importance of collaborate working;
- the enhancement of a professional Public Service;
- creating a facilitative culture within a professional Public Service;
- having clear roles and accountabilities; and
- the improvement of government management processes.

Let us talk first about collaborate working. We are taking a new approach to government and have set up new mechanisms and bodies to take a cross-cutting approach and to deliver better whole of government outcomes. We want to see greater collaboration and cohesion in service delivery and policy development—initiatives that cut across a number of departments to deliver more effective solutions to the community.

The establishment of a Social Inclusion Board, the Economic Development Board, the Science and Research Council and other such bodies will not only ensure that we are able to generate fresh ideas but will also enable us to take a broader approach across government to deliver outcomes to the community. This accords with the Fahey review concerns about the need to overcome the silo mentality in some agencies.

The key issues confronting South Australia cannot be dealt with by relying on traditional agency structures, and require greater collaboration and a whole of government response. We are already implementing some practical measures to advance the government's ability to work across departments to achieve integrated solutions. This includes:

- Using Senior Management Council, which consists of all the public sector chief executive officers to transmit a sense of purpose and direction to the public sector.
- Ensuring that chief executive performance agreements reflect the delivery of whole of government outcomes and hold them accountable for effective and ongoing performance management in their departments; and
- Using the budget process as an important tool to promote more effective working across government, not just in a bilateral way but also in a multilateral way.

In relation to a professional public service, I recognise the strong message in the report that a clarity of purpose needs to be fostered by the government in order to provide a clear vision and direction to the public sector. I am committed to providing such a direction. This means not only establishing and communicating the goals that the government is commit-

ted to achieving but also identifying how each of the agencies within government will assist in achieving those goals. We in South Australia are used to getting reports into what is wrong, but we need much more emphasis on implementation, on actually getting the job done.

With respect to the facilitative culture, the report identifies that there is a need to place collaboration, innovation and risk management at the heart of what is valued in the public sector. This will require that significant action be taken at all levels to make the changes in culture, practice and attitude that are necessary to drive an efficient and effective public sector. This will require:

- leadership from ministers, chief executives and all employees;
- openness and support from within the Public Service and the government; and
- planning and direction.

I want to congratulate the former Premier on directing that such a report be undertaken. It is controversial. I know that what we are talking about today is likely to receive maybe even hostile headlines in the national press.

The Hon. M.J. Atkinson: It's courageous.

The Hon. M.D. RANN: It is courageous. With respect to the accountability and government management processes, the government has already moved to enhance the accountability of government. The government has introduced sweeping new legislation to lift standards of honesty and accountability in government. In addition, we have taken steps to improve the decision making processes. For example, we have done a number of things to improve the processes that support cabinet, including adherence to the 10-day rule, timely and adequate consultation on proposals before they are considered by cabinet, and an effective cabinet committee system. Vital cabinet committees, established and operated under this government to improve the quality of decision making, include:

- the Expenditure Review and Budget Cabinet Committee, which is charged with ensuring that the government's priorities are achieved efficiently and in a financially responsible manner; and
- the Major Projects and Infrastructure Committee which, among other things, is attempting to achieve clearer priorities in the capital works program. I strongly agree with the view of former federal Liberal minister John Fahey that the state needs to develop a more rigorous and strategic approach to its capital works program.

This report is merely the first step in improving and reinvigorating our public sector. The government is committed to supporting the work undertaken by, and development of, the South Australian public sector. I am delighted to endorse this report, commissioned by the previous government, in a bipartisan way. It is important that we confront controversy in public sector management face on, and we are prepared to do so.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. K.O. Foley)—

Department of Treasury and Finance—Report 2001-02
Distribution Lessor Corporation—Report 2001-02
Funds SA—Report 2001-02
Generation Lessor Corporation—Report 2001-02
Motor Accident Commission—Report 2001-02
Resi Corporation—Report 2001-02
Resi Gas Pty Ltd—Report 2001-02
SAIIR—Office of the South Australian Independent Industry Regulator—Report 2001-02
South Australian Asset Management Corporation—Report 2001-02
South Australian Government Financing Authority—Report 2001-02
South Australian Motor Sport Board—Report 2001-02
South Australian Parliamentary Superannuation Scheme—Report 2001-02
South Australian Superannuation Board—Report 2000-02
Transmission Lessor Corporation—Report 2001-02
Motor Accident Commission: Charter

By the Minister for Industry, Investment and Trade (Hon. K.O. Foley)—

Department of Industry and Trade—Report 2001-02

By the Minister for Government Enterprises (Hon. P.F. Conlon)—

Land Management Corporation—Report 2001-02
Lotteries Commission of South Australia—Report 2001-02
South Australian Forestry Corporation—Report 2001-02
South Australian Police—Report 2001-02
The Industrial and Commercial Premises Corporation—Report 2001-02

By the Minister for Emergency Services (Hon. P.F. Conlon)—

SA Ambulance Service—Report 2001-02
State Emergency Service—Report 2001-02
South Australia Country Fire Service—Report 2001-02

By the Minister for Environment and Conservation (Hon. J.D. Hill)—

Animal Welfare Advisory Committee—Report 2001-02
Board of the Botanic Gardens and State Herbarium—Report 2001-02
General Reserves Trust—Report 2001-02
Native Vegetation Council—Report 2001-02

By the Minister Assisting the Premier in the Arts (Hon. J.D. Hill)—

Libraries Board of South Australia—Report 2001-02
South Australian Youth Arts Board—Carclew Youth Arts Centre—Report 2001-02

By the Minister for Housing (Hon. S.W. Key)—

Homestart Finance—Report 2001-02
South Australian Aboriginal Housing Authority—Report 2001-02
South Australian Community Housing Authority—Report 2001-02
South Australian Housing Trust—Report 2001-02

By the Minister for Tourism (Hon. J.D. Lomax-Smith)—

Regulations under the following Acts—
Fisheries Act 1982

By the Minister for Urban Development and Planning (Hon. J.W. Weatherill)—

The Institution of Surveyors Australia, South Australian Division Inc—Report 2001-02
Regulations under the following Acts—
Development Act 1993

By the Minister for Local Government (Hon. J.W. Weatherill)—

Local Council By-Laws—
Berri Barmera
No. 5—Taxis and Hire Cars

By the Minister for Administrative Services (Hon. J.W. Weatherill)—

Administration of the State Records Act—Report 2001-02
Department for Administrative and Information Services—Report 2001-02
Freedom of Information Act—Report 2001-02

Privacy Committee of South Australia—Report 2001-02

TOTALISATOR AGENCY BOARD

The Hon. M.J. WRIGHT (Minister for Transport): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. WRIGHT: As I have previously stated in the house, the former government must have known that the short-term benefits promised to the racing industry and wider community for the sale of the South Australian TAB could not be sustained yet, despite this, the former government pursued a privatisation philosophy at taxpayers' expense. That expense continues to grow, thanks to the former government's negotiated deal requiring the state to give back around $15 million to the purchaser, TABQ, before 2004 in order to secure a higher sale price for the South Australian TAB.

Prior to sale, the former government spent about $48 million—including up-front payments to the industry, exit fees for TAB Corp, staff redundancies and consultancy fees—to prepare the South Australian TAB for sale. They spent about $48 million and secured a sale price of just $43.5 million. The Liberals raised the sale price by $13.5 million to $43.5 million to convince the racing industry and South Australian families that the sale of the South Australian TAB was justifiable. But, they were playing a game of smoke and mirrors, negotiating a deal for a taxpayer-funded payback to the new owners, TABQ, which exceeded the sale price increase. This deal will long be remembered as this state's greatest racing scandal.

Prior to sale, the former government spent $48 million—including up-front payments to the industry, exit fees for TAB Corp, staff redundancies and consultancy fees—to prepare for the sale. They spent around $48 million for a sale price of just $43.5 million. In raising the sale price, the Liberals agreed to reimburse the purchaser up to $6 million per annum for three years if the total turnover generated by TABQ did not reach an agreed target.

Investigation of this deal has established that last financial year the financial guarantee of $3.6 million was payable, with the Department of Treasury and Finance advising that, based on current year TAB turnover results, further funding will be required to meet the guarantee payable to TABQ. The amount likely to be payable to the new owners for the current financial year will increase to about $6 million. If the current level of performance continues, a further payment of this size will again be payable next financial year, which will see the state pay around $15 million.

The former government also negotiated with the three racing codes a fixed revenue payment from the new owners for three years, after which time payments to the industry would revert to an annual revenue allocation based on TAB turnover.

The fixed revenue payments in the initial three years are clearly much higher than what the new owners could afford to pay in normal commercial circumstances, but were offered to the racing industry in order to secure support for the sale. If TAB turnover was to increase sufficiently to generate the necessary revenue to match the fixed revenue fee guaranteed to the racing industry, then the taxpayer funded financial guarantees would not be necessary. However, this has not occurred and the risk taken by the former government has backfired.

QUESTION TIME

ENERGY CONSUMER COUNCIL

The Hon. W.A. MATTHEW (Bright): Will the Minister for Energy explain to the house why the government's Energy Consumer Council, a body designed to represent the interests of South Australian electricity consumers, has not met? On 5 February this year, the then Labor opposition leader announced that a future Labor government would establish an energy consumer council to be chaired by Dr Richard Blandy. In a press statement issued at the time the now Premier said:

> We will put the rights of power consumers back on the front foot with the Energy Consumer Council.

The Hon. P.F. CONLON (Minister for Energy): I would like to be able to thank the member for Bright for his question, but that would not be entirely honest because this question was asked of me a couple of weeks ago by Leon Byner—and he asked it twice. In fact, it was only after Leon Byner spoke to the member for Bright that the member was spurred into asking the question. There is one fundamental difference though between the two; that is, when Leon Byner raised this matter with me he had genuine concerns as opposed to those of the member for Bright—and I will come back to that in a moment—which are not—

The Hon. K.O. Foley: And an audience!

The Hon. P.F. CONLON: Yes, and an audience and some credibility, but I will come back to that in a moment. I can say that it is true, as pointed out, that the committee has not met at this stage. I have had two lengthy meetings—

Members interjecting:

The Hon. P.F. CONLON: 'Shame', they say. I have had two lengthy meetings with Professor Blandy, who I am very pleased to be able to say will be chairing that committee. Just for the sake of members of the opposition so that they understand, of course there is an existing consumer group giving advice to the Essential Services Commission.

The Hon. M.D. Rann: Didn't they know that?

The Hon. P.F. CONLON: They probably do not appreciate that. We have worked through a series of priorities on electricity, because we were left with a very difficult situation, a very ill-managed situation, by the opposition when it was formerly the government. The truth is that that existing consumer group set up under the Electricity Act has had a great deal to say every step of the way on the work of, first, the Industry Regulator and, secondly, the Essential Services Commission. Dick Blandy will provide high level policy advice to the government. We have had to make some changes to the initial set-up of that committee, which has been one of the reasons for delay, and we are working through those changes with Professor Dick Blandy.

Let me say one thing about why I do not believe that the member for Bright is particularly earnest when he asks this question. Last week the member for Bright invoked the name of Rob Booth on his side; this week he is invoking the name of Professor Dick Blandy. Professor Blandy was the most senior academic and the most senior economist in this state to be critical of the former government's privatisation. He said that it was a mistake and that it would drive up electricity prices.

For the member for Bright to seek to make political capital out of a price increase of their making by invoking the name of a person whom they vilified is about as hypocritical as we

have seen in this place. I say with pride that Dick Blandy will be advising us.

The Hon. K.O. Foley: They wouldn't.

The SPEAKER: Order!

The Hon. P.F. CONLON: They wouldn't. They vilified him; they said he was wrong. The principal reason that they are not earnest in asking this question is that they still do not agree with Dick Blandy. When the member for Bright was asked three weeks ago whether it was a mistake to privatise electricity, he said no. He went on to say that the Hon. Rob Lucas had done a—

Members interjecting:

The Hon. P.F. CONLON: I will wait for them. He went on to say that the Hon. Rob Lucas had done a superb job in privatising our electricity. All I say is that we are working through the priorities for the people of South Australia in a way that has not happened before, and it is the depths of hypocrisy for this mob to try to make political capital out of a disaster that they created.

RADIOACTIVE WASTE

Ms RANKINE (Wright): Has the Premier been briefed about a new public relations campaign to begin soon that is designed to convince South Australians of the benefits of having a national radioactive waste dump in our state?

Members interjecting:

The Hon. M.D. RANN (Premier): The Leader of the Opposition said, 'Yes or no will do.' Well, we know why. I would like to tell the house today about a brief that I received on my desk this morning. It was prepared by the federal Department of Education, Science and Training, and it requested expressions of interest from communications specialists about the national radioactive waste dump and how best to sell the idea to South Australians. It is a confidential document; in fact, it states that it is a confidential document and that apparently it must remain confidential. Having read it, we can see why they want it to remain confidential. We can certainly see why the Howard government would not want South Australians to see what is in the document. It is not in the interests of the federal Howard government to let the people of South Australia know that they are about to be targeted in a special campaign that aims to change their mind and to support the federal government's position on a national radioactive waste dump.

The Hon. K.O. Foley: With whose money?

The Hon. M.D. RANN: With taxpayers' money. Its key objective is to (and I quote):

> Increase support for the commonwealth government's position to locate the dump in South Australia. This campaign will run for six months, from the beginning of next year.

That is six months of the Howard government telling us that we must take its radioactive waste from all corners of the nation. There is a very interesting line in this confidential brief which states that this campaign is only to be run in South Australia and that it will cost the taxpayer $300 000. That is $300 000 that will be awarded to consultants whose job it is to convince the 80 per cent to 90 per cent of South Australians who are opposed to a national radioactive waste dump that we should be so lucky to have it.

Here we have the ludicrous situation whereby the commonwealth government—the Howard government—has this brief and is saying, 'Look, we want you consultants to help us convince the people of this state that they would be lucky to have a nuclear waste dump.' Having received this document, I would like to inform the house and South Australia of what it says and what we can expect when the campaign begins. From the beginning of next year, market researchers will be getting on the phone to South Australians, asking us how we feel about a national radioactive waste dump. This is notwithstanding the fact that the Howard government conducted no fewer than eight similar surveys on this issue between 1999 and 2001.

Of the $300 000 budgeted for the campaign, $80 000 will be spent on market research and $220 000 of taxpayers' money on a public relations campaign to try to convince South Australians to change their mind and, for some bizarre reason, actually to want the nation's radioactive waste dumped in our lands. This brief provides to those bidding for the contract a list of those people and groups in South Australia who are opposed to the dump. It gives an enemies list.

People will remember the Nixon days: this is an enemies list they have to deal with. I do not think the list goes far enough, because it does not actually mention 90 per cent of the people of this state, but this is the list. I urge the Leader of the Opposition to listen to the list of whom the federal government, Canberra, believes are the enemies, those opposed to the dump.

Number one on the list is the South Australian government. Interestingly, despite all the things we have heard from members opposite, it does not mention the South Australian Liberal opposition. It lists the environmental groups—

Members interjecting:

The Hon. M.D. RANN: Apparently, they do support a nuclear waste dump. It also lists environmental groups, including the Australian Conservation Foundation. It lists Andamooka opal miners and Andamooka residents. It lists indigenous groups, most notably a group of senior indigenous women from Coober Pedy. It lists opponents of the replacement reactor at Lucas Heights, and finally it lists other 'unspecified individuals and groups'. It does not specify the Leader of the Opposition or the Liberal Party who, apparently, want a nuclear waste dump in our state.

Members interjecting:

The Hon. M.D. RANN: You are going to listen to this. The brief says that the primary target audience for the campaign involves Adelaide metropolitan residents and communities in the central north region. The document fails to list groups such as, for instance, the fruit growers in the Riverland who are opposed to radioactive waste being trucked past their properties on the way to the dump site in our mid-north. According to this document, there will be more market researchers asking you again and again over the coming months, 'How do you feel about the waste dump now?'

So, what can we expect from the campaign itself? I can inform the parliament—and also the media—that they will be besieged with what is described in this document as 'willing experts'. This document tells us that the minister, Brendan Nelson, will also become very available to talk about this issue; that is, Brendan—smooth, charming, handsome Brendan—will be over here to tell us all that a nuclear waste dump is good for us. The successful PR company—

Members interjecting:

The Hon. M.D. RANN: That's what it says. Read the report. The successful PR company will be listening in to your talkshows and your news programs and making sure that you talk on air to a select list of these so-called willing experts. So, people will be put forward, presumably inde-

pendent people but people who will be very independently willing to tell South Australians and the South Australian media how good a nuclear waste dump is for us.

This document says that the media will be receiving regular briefings. The media will be supplied with public reports, media releases, media alerts, media conferences and media newsletters, all designed to convince us to change our minds and begin supporting the Howard government's view. This sounds like a political campaign funded by the taxpayers of Australia to try to convince South Australians that somehow we would want a nuclear dump in our state; that somehow we would want radioactive waste being brought across our borders, through our communities and along our streets.

The former Liberal premier of this state also ran expensive public relations campaigns to convince South Australia that privatising ETSA and outsourcing our water were good ideas. The former government spent a lot of money on that campaign. That campaign proved that no amount of money will convince people of something that they know to be bad and wrong and do not support. This campaign will not put the South Australian government off its stride. We are opposed to a nuclear waste dump. We are fair dinkum about being opposed to a nuclear waste dump, and that is the difference between members on this side of parliament and those on the other side, who sit mutely. They are not on the federal government's list of those opposed to a nuclear waste dump.

We will not waiver in our opposition to this national radioactive waste dump, in the same way that in opposition we did not waiver in our opposition to the privatisation of ETSA. In the final analysis we knew that it was the wrong thing to do, and so did the people of South Australia.

An honourable member interjecting:

The Hon. M.D. RANN: What was that?

The SPEAKER: Order! I invite the Premier to make a ministerial statement and not engage in debate.

The Hon. M.D. RANN: The federal government should save itself the time and expense. I intend to write to the federal minister to say that, if he intends spending $300 000 on South Australians, could he please spend it more productively. If he spent the money on students, research, teachers, development or training programs in our state, he would be doing something positive with his money, not trying to inflict a nuclear waste dump on us.

An expensive campaign will never convince South Australians that a national radioactive waste dump, where tonnes of waste is to be trucked in across our borders and across our highways and dumped in our clean, green state, is somehow good for us. I can tell the Howard government in advance of this campaign that when it is all over, when the noise dies down, the 'willing experts' go home and the media releases stop, the message the Howard government will be left with is this: that no-one in South Australia in their right mind wants us to be known as the nuclear waste dump state.

This confidential document has been released by us today because the people of South Australia have a right to know. It is also on the eve of a crucial vote in the upper house on this important matter.

ENERGY CONSUMER COUNCIL

The Hon. W.A. MATTHEW (Bright): Will the Minister for Energy tell the house whether the membership of the government's Energy Consumer Council has yet been finalised? If so, when was the membership finalised and, other than Dr Blandy, who are the members of this group to protect South Australian consumers?

The Hon. P.F. CONLON (Minister for Energy): The membership has not been entirely finalised—

Members interjecting:

The Hon. P.F. CONLON: I have here a copy of a press release from the member for Bright. I now understand his misapprehension because, yet again, he has not understood. There is a consumer group that is providing advice under the Electricity Act to the Essential Services Commission. The member for Bright is apparently unaware of this. Dick Blandy's group is set up to provide policy advice at the highest level.

I point out to the opposition that the matter is not over on 1 January. I now understand their misapprehension and what they are on about regarding electricity. They are trying to make political capital (get some credit) out of the disastrous situation that they left for South Australians. Let me tell you what credibility they have. I will read a line from the member for Bright's press release today where he says:

> The Rann government has endorsed an average 25 per cent increase.

That statement is profoundly and fundamentally dishonest. Either the member for Bright is not fit to be the opposition spokesperson on energy or that statement is deliberately dishonest, because what occurred is this: AGL published some tariffs; this government, as the honourable member should well know, did not endorse those tariffs—we sent a set of criteria (terms of reference) to the Essential Services Commission (which they voted for two months ago) to examine whether those tariffs are justified; and we await the report.

I would like the member for Bright to stand up in here and say that we have endorsed these tariffs because in doing so he would mislead the house. For him to make dishonest statements in a press release in an attempt to make political capital out of a disaster that members opposite imposed on the people of South Australia is, as I said before in answer to a previous question, the utter depths of hypocrisy.

BALI BOMBINGS

Mr RAU (Enfield): Will the Minister for Police advise the house of the latest efforts by South Australia Police to assist in Bali?

The Hon. P.F. CONLON (Minister for Police): I can respond on this very serious matter. Already the head of our Forensic Division, Mr Andy Telfer (as the Premier announced last week), has headed off to Bali. He is the Chair of the National Disaster Victim Identification Committee for the whole of Australia and will run the operation in Bali. A few days ago we sent another officer to Bali, and a third officer is in Canberra assisting with the monitoring of the operation. Last night a further five officers were sent to Bali.

Their job is one which none of us would like to have. They will bring their special forensic skills to the identification of disaster victims. This is a horrible, traumatic job in which they will be involved, one which no-one would like to do but which will bring what small comfort we can to the victims' families. I have a list of the names of the officers which I would like to read into *Hansard* so that they are properly identified.

Mr Brokenshire interjecting:

The Hon. P.F. CONLON: Sorry? There's something you want to say about this? The officers who have already left

are: Superintendent Andy Telfer and Senior Constable Janet Forrest. Senior Constable Julie Brown of the Missing Persons Section has taken up a pivotal liaison role with the Federal Coordination Centre. Last night, Sergeant Paul Sheldon of the Physical Evidence Section, Sergeant Dianne Reynolds of the Forensic Services Branch, Senior Constable Ian Fisher of the Physical Evidence Section, Senior Constable John Lewis of the Fingerprint Bureau and Senior Constable Marie Gardiner of the State Intelligence Branch were also dispatched to Bali. I am sure that this parliament is proud of them and our thoughts go with them.

ELECTRICITY PRICES

The Hon. W.A. MATTHEW (Bright): My question is directed again to the Minister for Energy. Will he advise the house whether the government's Energy Consumer Council of one member has made a submission to the Essential Services Commission's inquiry into electricity contract prices; and, if not, will he now extend the reporting deadline to allow South Australians a voice in the electricity price review? At the request of the minister, the Essential Services Commission is completing an inquiry into the 32 per cent electricity price increase announced by AGL. The closing date for submissions to the inquiry was 16 October 2002, with a final report due no later than 1 November 2002.

The Hon. P.F. CONLON (Minister for Energy): Perhaps if members of this lamentable opposition do not interject on this occasion and listen, they will understand the answer. As I have said twice, and I hope members opposite understand, there is a consumer council set up under the Electricity Act, specifically for this purpose. Members of that consumer advisory council include Business SA, the Conservation Council of South Australia, the Local Government Association, the Property Council, the Council on the Ageing, the South Australian Council of Social Services, the South Australian Farmers Federation and the Western Region Anti-Poverty Forum. They have performed every single piece of work which the former Industry Regulator did and which the Essential Services Commission is now doing through its Chairman.

I say again that the purpose of Dick Blandy and his council is to provide high-level policy advice for this year, next year and the year after, and also for our subsequent term of government—because, like night follows day, as a result of what we see in here, we shall have another term. I come back to this point. Is the opposition really in here trying to sell the pup that it is so concerned for South Australians about electricity privatisation that it needs Dick Blandy to be making a submission? Dick Blandy made submissions to the former government two years ago. He told them that if they sold our electricity assets the prices would go up and South Australians would suffer. Maybe, instead of the hypocrisy today of their insisting on Dick Blandy's talking to the Essential Services Commission, they could have listened to him two years ago.

The Hon. Dean Brown interjecting:

The SPEAKER: Order! It is a long way from Finniss to Chaffey.

BANROCK STATION WETLANDS

Mrs MAYWALD (Chaffey): Will the Minister for Environment and Conservation provide details of the progress of the application for Ramsar listing of the Banrock Station wetlands?

The Hon. J.D. HILL (Minister for Environment and Conservation): I acknowledge the honourable member's longstanding interest in this matter. In fact, in relation to this matter she has been to see me on at least one occasion with a representative from Banrock Station; and I think she has written to me at least twice, possibly more times. I am pleased to be able to provide information on this matter. As members would know, Banrock Station in the Riverland, on the Murray River, is an important privately owned and privately managed wetland, which is not only a great tourism attraction for the area but also, more importantly, a great environmental asset for that region.

The proprietors of Banrock Station, BRL Hardy, in December last year sought support for the nomination of the Banrock Station complex to the Ramsar list of wetlands of international importance. The Ramsar list, of course, recognises wetlands across the globe which are important for protection, particularly for habitat for birds. There are 57 wetlands of international importance in Australia—57 Ramsar listed wetlands in Australia. If these wetlands were to be successfully listed, it would be the 58th.

After the member for Chaffey and representatives from Banrock Station contacted me, I sought advice from my department. My department went through a process of public consultation during August this year, and I am pleased to advise the house that there was general support for the listing of Banrock Station as a Ramsar site. I am also pleased to inform the house that on 14 October this year cabinet endorsed the nomination, and I have so advised the commonwealth minister. I have written to the commonwealth minister to let him know that we support the nomination.

The wetland complex meets several of the criteria required for listing as a Ramsar site, and it will be the first totally, privately owned wetland of international importance in South Australia. The wetland provides a habitat for the regent parrot and the southern bell frog, both nationally threatened species. The number of tourists who visit the Riverland region is expected to increase as a result of the nomination. I am sure that Banrock Station may have been thinking of the economic benefits, as well as the environmental benefits. It is important to recognise that Hardys, when they sell Banrock wines, do pass on a small part of the return for environmental protection. I think that over $1 million has been put into wetland protection since this important program began.

The Banrock site will become an increasingly important biodiversity reservoir because there are currently so few undamaged wetland sites along the River Murray. I congratulate BRL Hardy wine company for demonstrating that environmental care is good business. The lead taken by BRL should encourage other land-holders to preserve their wetlands—and, indeed, I think it is important for business to realise that, not only are there environmental benefits from doing work such as this but there are also economic benefits. I have heard that the management of BRL Hardy address forums about the economic benefits to their company in relation to this product from promoting it in the way that it has done.

The Banrock Station wetlands complex will be considered for addition to the Ramsar register as a wetland of international importance at the Conference of Contracting Parties in Valencia, Spain, in November this year. I was invited to attend this conference but, sadly, I had to decline.

ENERGY CONSUMER COUNCIL

The Hon. W.A. MATTHEW (Bright): My question is again directed to the Minister for Energy. How many quarterly reports has the minister received from the government's Energy Consumer Council of one member, and will he publicly release those reports? In a press statement issued in February this year, the then Labor opposition leader said:

> The Energy Consumer Council will report on a quarterly basis and allow the users of energy direct access to government and the ability to have a practical input.

The Hon. P.F. CONLON (Minister for Energy): I do not think I will waste much more of the time of the house on this issue. Let us be very plain about this. We are here to fix the mess that we inherited, which arises from the privatisation of our electricity assets at the time that we were entering the national electricity market. At that time, when we were facing the challenge of the deregulation of electricity, of full retail competition, the previous government decided that it would maximise the sale price of our electricity assets. That is the concern that it had for the people of South Australia.

As I pointed out just last week, when it was stuck in early 1999—when we hear from members today about their concerns—and could not get it through, it spent five months drawing up a plan that got to a draft cabinet submission to get an extra $100 million out of the assets, because it could not sell them, by increasing electricity by 30 per cent. Then, lo and behold, the previous government got what it wanted and got its sale through: it maximised the price. It left the people of South Australia with a disaster.

No-one likes the likely price increase. No-one in business liked the 35 per cent average increase they got under the Liberals. There is no benefit for the people of South Australia, there is none for the government of South Australia, because we no longer own the assets. There is no benefit whatever for the people of South Australia. All we have is the member for Davenport further defending the privatisation. It will take us years to undo the damage that the previous government did to our electricity industry, and we have taken the first steps. They think it is amusing. Again, I say that what they are trying to do is get political mileage out of their own disaster. It is the depths of hypocrisy. We have already improved on the situation they left us. We have doubled the capacity. Not one word from them saying, 'Well done on the gas pipeline,' because they enjoy the disaster they have left for South Australians; they are looking for political advantage—not one word.

We are doing those things. Professor Blandy's council, at a high policy level, will be part of it. We have worked through priorities—and I do not apologise for one of our priorities being the doubling of the gas capacity into the state. I do not apologise for working on that first. That is something that they should have been doing.

Members interjecting:

The Hon. P.F. CONLON: Now, apparently, we are going back to the State Bank. They do not want to hear about the problems of their making, but they want to go back to the State Bank again. Of course, the electricity price is our fault and they also want to talk about the State Bank. There may be one or two people in the media who swallow their line, but I say: go out and talk to the ordinary people of South Australia and ask them why they reckon we have a problem, and they will all tell you—because the Liberals privatised. And they are proud of it, and they still say it was the right thing to do.

The SPEAKER: Order! I notice there are no schoolchildren in the gallery but I am yet to be convinced that there are not some here.

BAXTER DETENTION CENTRE

Ms BREUER (Giles): Will the Premier speak to the federal Minister for Immigration requesting better access for clergy visiting Baxter Detention Centre on a regular basis for masses and church services for Christian detainees? On Thursday last week, a group of clergy from Whyalla, which included a number of denominations, visited the centre under a regular arrangement to meet in the centre with those who are Christians and hold a regular service or mass with them. At the entrance they were hindered for more than an hour before being allowed in and, indeed, left behind their Bibles because of implications that they were carrying contraband in them. They were eventually allowed in but were not allowed to take in the altar wine—which was only half a bottle—because of restrictions on alcohol. Of course, wine is integral to mass services. This seems repressive when a similar arrangement has been ongoing in Woomera since its opening and no problems of any kind have been engineered by the local clergy operating there.

The Hon. M.D. RANN (Premier): I thank the honourable member for Giles for her question. If the issues raised by the member are true, they are matters of the greatest concern. Freedom of religious expression is a fundamental right. Even the suggestion that clerics are in any way being hampered in ministering to those wishing spiritual support is abhorrent, I think, to all of us and should be abhorrent to all members of this house. I will certainly seek—

An honourable member: It goes further than just Christians, incidentally.

The Hon. M.D. RANN: I just said that freedom of religious expression is a fundamental right. Even the suggestion that clerics are in any way being hampered in ministering to those wishing spiritual support, whatever their faith or denomination, is abhorrent to me and, I believe, to all members of this parliament. I will certainly seek to verify the concerns put forward by the member for Giles, and I will ask the Deputy Premier to raise them with minister Ruddock when he meets with him tomorrow. Hopefully, also, there can be some further discussion about moneys owed to our state in terms of service delivery to both detention centres.

I have already informed the house about this government's opposition to children who are innocent of any crime being held in detention. I hope I have bipartisan support in that. I would like to think that members opposite would also agree that it is wrong for children who are innocent of any crime to be held in detention. If these latest allegations are true, they raise further concerns in relation to how people are treated in detention centres in South Australia.

ELECTRICITY PRICES

The Hon. W.A. MATTHEW (Bright): Can the Minister for Energy confirm that AGL offered to relinquish wholesale electricity price protection of about $40 per megawatt hour for household electricity and, if so, advise why AGL has been allowed a wholesale price of $72 dollars a megawatt hour as part of the calculation to give AGL a price increase of up to 32 per cent for householders from 1 January next year? The former Liberal government fixed the vesting contract price, or price at which AGL could purchase electricity from

generators, at $40 a megawatt hour to 1 January 2003. However, it would appear that AGL has opted for a better deal to purchase that electricity for less, and last week the electricity spot market price in South Australia was $27 per megawatt hour.

The Hon. P.F. CONLON (Minister for Energy): For a moment there I thought that one of the member for Bright's questions was going to make a resemblance of sense until he descended into quoting average spot price again. If the member for Bright, as their spokesperson, believes that generators buy on the spot market, then he fundamentally misconceives and misapprehends his responsibilities. It is true that AGL did unwind some vesting contracts at the end of the summer when they were up by the end of this year. I do not agree with its doing that. I think that it was a very poor clause. The member for Bright brags about the contract, but I think that it is a very poor clause—written in by the previous government—that allowed it to do that. AGL managed to get past the hot summer, knowing that it only had winter to go when the average spot prices are pretty low, and recontracted up for that remainder. It was a good commercial thing which it did, because the previous government wrote a very poor provision into the contract.

It seems strange that I am being asked a question about why there was this bad provision in the vesting contract that he claims they wrote. Be that as it may, AGL did take advantage of that, and I was extremely critical of it at the time because it left NRG Flinders with a whole load of uncontracted capacity. I was very concerned about its ability to gain the market after that, although I am not suggesting it did and I understand it contracts up. It was a very bad thing; it was the outcome of a bad contract that they drew up. Let me come back to the fundamental point and say—

The Hon. D.C. Kotz interjecting:

The Hon. P.F. CONLON: The member for Newland is making some noise. There is another fundamental misconception that the government has allowed—the same as this dishonest press release—a wholesale price of $70 per megawatt hour—nothing of the sort. We have set terms of reference for the Chairman of the Essential Services Commission saying fundamentally that AGL can pass on costs it has—it cannot pass on costs it does not have—because it is a sound thing to do, and we have not had a word of criticism about the terms of reference.

The Hon. W.A. Matthew interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: According to the member for Bright, they do not exist, because he simply will not acknowledge their existence. All he wants to tell this house is that we have already endorsed a price increase of 25 per cent. That is dishonest. I am happy to talk about the poor terms of the vesting contract that you wrote, as long as you would like to ask questions about it.

The Hon. K.O. Foley interjecting:

The SPEAKER: The Treasurer will come to order!

CRIME PREVENTION

The Hon. R.G. KERIN (Leader of the Opposition): My question is directed to the Attorney-General. Before making the decision to abandon community crime prevention programs, did the Attorney ask for advice on the likely effects on crime rates and, if so, what was that advice?

The Hon. M.J. ATKINSON (Attorney-General): As a matter of fact, I discussed what the conditions were regarding crime in various regions in South Australia. I dwelt at some length on the situation in Port Augusta. The answer to that question is yes.

RECREATION AND SPORT FACILITIES

The Hon. D.C. KOTZ (Newland): Will the Minister for Recreation, Sport and Racing advise the house when the government statewide audit of physical resources in South Australia commenced and when the audit will be completed and the results published? Labor's election policy stated:

> Labor government will implement immediately a statewide sport and recreational facilities audit to identify the physical resources and needs of the South Australian community.

The Hon. M.J. WRIGHT (Minister for Recreation, Sport and Racing): I cannot be exactly sure when the statewide audit of physical resources started, but it would have started within probably the first month or two of our coming to government. It was a priority, so we undertook that audit as a matter of priority but, of course, it did involve talking to a range of different umbrella groups within the recreation and sporting community. However, it is similar to the other commitment that we gave in respect of a review of our various budget areas involving the active club grants, the management and development program—and the facilities program; that is, to report back to government this year. I think that the review group will report back in December. The physical resources report is due earlier than that (probably next month), but I will obtain the precise detail; certainly, the expectation is that it will be received this year.

DOMESTIC VIOLENCE

Mrs PENFOLD (Flinders): Can the Attorney-General advise the house whether he is aware of the Rapid Response Program for domestic violence which operates in Port Lincoln and that the program has only sufficient money to run until the end of October because of the cut to the crime prevention funding? One woman reported that if she had not been on the program she would be dead. The program, which provides victims of domestic violence with personal alarms direct to the Port Lincoln police station, has been used by 40 women since being introduced in 1998, with 12 women currently being protected in this way.

The Hon. M.J. ATKINSON (Attorney-General): As the member knows, I visited Port Lincoln recently to participate in the opening of the Victim Support Service's regional office. The member's question is a serious one, and it deserves a serious answer. I will respond with a considered reply at a later date.

GRAVE LICENCE FEES

Mr BRINDAL (Unley): Given recent public discussion regarding grave licence renewal fees, will the Minister for Local Government advise the house of the result of his investigation into the changes to exhumation and burial fees set by the Adelaide Cemeteries Authority at the four cemeteries that are under the authority's control? During estimates, my colleague the member for Light asked the minister to explain the reasons for increases in exhumation fees of up to 218 per cent at the West Terrace Cemetery and increases in burial fees of up to 170 per cent. In his written reply to my colleague's question, the minister stated:

The original advice from the authority did not include any explanation for the increases. My department has now sought that advice and will be providing me with that briefing shortly.

As this is 'shortly', I ask whether the minister has yet received a reply.

The Hon. J.W. WEATHERILL (Minister for Local Government): This is a very topical question, because the question of cemeteries, the way in which interment rights are dealt with and grave tenures have been reported recently in the *Advertiser*. Members may be aware that Centennial Park is trying to contact a considerable number of people who may be associated with the graves that the park seeks to reuse.

Within the community, it is probably not known commonly that many grave sites are reused; it was certainly a surprise to me when I first began to make inquiries into this issue. Apparently, in South Australia it has been the case for some time, and much of the economics of cemeteries is based on the fact that graves are reused.

That raises some very serious questions about ensuring that the next of kin are notified appropriately. Where there are no next of kin, very serious questions are raised as to whether another way of maintaining notable graves needs to be found. Of course, everybody's life is important, but the community generally accepts that some graves need to be marked and kept for posterity.

This issue has been troubling me for some time, and it has been the subject of discussions I have had both with the cemeteries authority and with the cemeteries association. I have been assisted by suggestions from the member for Fisher. Indeed, I am in the process of finalising some terms of reference that I foreshadow I will be moving for the appointment of a select committee of this house to analyse these issues.

The direct question asked of me was about the prices set by the Cemeteries Authority. I am advised that I have no role in influencing those prices, which also comes as somewhat of a surprise to me. But the whole question of prices, the relationship between the price of a grave—and obviously that has an influence on whether you can renew tenure—and a whole range of other issues, including some innovative matters raised by the member for Fisher, will be subject to consideration by the select committee that the member for Fisher has kindly agreed to chair.

I invite members opposite: perhaps the member for Unley will be interested in participating in a committee of that sort. It is timely that we have a review of these issues, as it has been some decades since there has been a serious look at all these questions.

SCHOOL COUNSELLORS

Ms THOMPSON (Reynell): Will the Minister for Education and Children's Services explain the process for allocating the additional 14 primary school counsellors included in the July state budget?

The Hon. P.L. WHITE (Minister for Education and Children's Services): During the election campaign at the beginning of this year, the need for more resources to support early learning intervention programs for students was identified and a package of measures was promised by the then Labor opposition. Those measures have been funded in the July state budget. One of those measures was an additional $1 million per year to provide more counsellor time to primary schools. The allocation and distribution of primary school counsellors has been determined on recommendation by a reference group comprising representatives of my department, the primary, junior primary and area school principals associations and the Primary School Counsellors Association.

The government has identified those schools that are most disadvantaged and has ensured that they receive counselling time. For the first time, all schools in categories 1 to 4 in the index of disadvantage receive counselling support for their students. This equates to 107 primary school counsellors servicing 168 schools in 2003. The counselling time a school receives is based, as it was last year, on the level of disadvantage and the projected primary enrolments for the following year. Two salaries of those 14 have been kept in reserve to address the fluctuations that normally occur at the beginning of each school year. A total of 32 schools that did not receive a primary school counsellor allocation in 2002 will receive one in 2003.

Counsellors provide an important service by supporting and monitoring individual student performances at school. Often, the classroom teacher or parent will contact the counsellor and ask them to keep a watchful eye over the child. The child may have been bullied, may have come from a disadvantaged background, there may have been a death or other family upset or they may just have trouble settling into a new school. These are just some of the things that can interfere with a child's learning. Counsellors work with the child, with families, with parents, with teachers and also with external support agencies, where necessary, and provide these very important services making the world of difference to those students who are unhappy and struggling in their school work.

Counsellors are also teachers who have classroom responsibilities. They work with colleagues to prepare whole school programs on issues such as drug education, bullying, positive study habits and building self-esteem. I believe that the additional funding provides much needed support to the students, their families and the schools as a whole, hence the commitment to an extra $1 million devoted to this area in readiness for the 2003 school year.

ROAD TRAINS

Mr WILLIAMS (MacKillop): Has the Minister for Transport made an assessment of the cost of not allowing triple trailered road trains on our Outback roads, principally from the far north-east of the state? All other states and the Northern Territory allow triple trailered road trains on their Outback roads. I am told by meat processors in my electorate that cattle producers in the far north east of South Australia and the south west of Queensland face a 14¢ per kilogram cost penalty in trucking cattle to South Australian abattoirs at Murray Bridge and Naracoorte, as opposed to sending their prime livestock to east coast processors because of these transport inefficiencies in South Australia. I am further told that this has significant implications for the South Australian meat processing industry, possibly denying South Australia hundreds of jobs.

The Hon. M.J. WRIGHT (Minister for Transport): That sort of work has been done. The member refers to costs. Obviously, there is a balance when decisions of this nature take place and one of the considerations, of course, that has to be taken account of is safety. In weighing up the cost, whether it be an economic cost or cost with respect to safety on the roads, this is really a balancing act and a decision has been taken accordingly.

ONKAPARINGA ESTUARY

Mr HANNA (Mitchell): Will the Minister for Environment and Conservation advise the house on the state of the Onkaparinga Estuary? Recent media reports have raised concerns over environment and health risks associated with pollution in the Onkaparinga Estuary. Pollution risks have been identified in relation to fishing in the estuary and the health of the Noarlunga reefs.

The Hon. J.D. HILL (Minister for Environment and Conservation): I expressed an interest in this, of course, because the mouth of the Onkaparinga is within my electorate. The recent study of the Onkaparinga Estuary, commissioned by the Onkaparinga Catchment Water Management Board, found that heavy metal concentrations and other pollution was present in the estuary. That work was done by a Dr Ian Dyson, who also resides in my electorate. The report was investigated by the EPA on my request and the EPA concluded that environmental risks associated with reported pollutants in the estuary are low. It is important that the community is aware that heavy metal concentrations occur naturally in estuarine sediments as a result of chemical changes where freshwater meets saltwater.

Another study by the Onkaparinga Catchment Water Management Board detected high microbiology results in groundwater near the SA Water sludge lagoons in the estuary. The EPA has requested SA Water undertake groundwater monitoring to determine if the lagoons are polluting the underlying groundwater. This monitoring commenced this week following discussions with the EPA. Should the lagoons be shown to be polluting the groundwater, SA Water will be required to take appropriate mitigating action.

Advice from the Department of Human Services is that eating fish caught from the estuary does not pose a risk to human health. In addition to this, the water in the estuary is also considered safe for activities such as boating. However, the estuary is subject to stormwater flows following storms which can make it temporarily unsuitable for swimming due to potential microbiological pollution. It is likely that nutrients and sediments discharged from the Onkaparinga during storms are one of the stressors on the Noarlunga reefs. Other stressors on the reef have included discharges from local stormwater drains, regional pollution from the Christies Beach Waste Water Treatment Plant, historical dredging activities, and even El Nino.

The EPA is currently undertaking a $3 million Adelaide Coastal Water study, which the member for Davenport is familiar with, to determine the impact of pollution discharged onto the metropolitan coast.

The Hon. I.F. Evans: You opposed it and now you're funding it!

The Hon. J.D. HILL: This study will provide management strategies to improve coastal water quality. The EPA—

The Hon. I.F. Evans interjecting:

The SPEAKER: Order! I do not know whether the member for Davenport has discovered a cylinder of nitrous oxide or not, but—

The Hon. I.F. Evans: I can confirm for you, Mr Speaker, that I haven't.

The SPEAKER: Then I will invite him to otherwise contain himself.

The Hon. J.D. HILL: I had a natural effect on him that was similar to that of nitrous oxide, sir. The EPA is working closely with the Onkaparinga Catchment Water Management Board to reduce pollution within the Onkaparinga catchment, and this work will reduce the pollution discharged onto our coast.

CLASSIC ADELAIDE RALLY

Mr HAMILTON-SMITH (Waite): Will the Minister for Tourism confirm the government's continued financial support for the Classic Adelaide Rally and, if so, will he say what level of funding will be provided through Australian Major Events in each of the next three years?

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): Indeed, I have known and been involved in this event for the six years since its inception. It was one of the first events I remember hosting at the Town Hall and supporting, in terms of the Adelaide City Council funding it. It has grown from a small event which was entirely owned, managed and run by Australian Major Events, to one that is now, if you like, outsourced to Silverstone Events Ltd, a company run by David Edwards, and he, with an extraordinary degree of personal commitment and vision, has marketed it so that it now produces nearly 200 entrants, 40 of whom come from overseas. This year it included three groups from overseas museums in Germany. I understand the Porsche, Mercedes and BMW museums sent some of their prize automobiles, with drivers, to take part in this elite event.

This year we have yet to catalogue the exact budget outcome. We have yet to assess the ROI—the return on investment—of this event, but it has given us the opportunity to extend its impact beyond the obvious tourism potential, in that the 600 or so people who come specifically to enter into the race and who are involved in the event, stay for at least two weeks, producing substantial bed nights. On top of that, we have been involved in several projects involving my other portfolios, education particularly, and science.

This year we encouraged the group to 'linger longer' and spend an extra day, so that it was a five-day event, and we focused on Murray Bridge, where we involved the local high schools and where up to 40 young people, predominantly boys, were given the opportunity to understand the future in automotive engineering and IT for the automotive industry. I was particularly impressed that small groups of children were involved who had previously a very strong record of truancy. The young boys involved were given exposure to some elite drivers: Win Percy, Vern Schuppan and Bobby Rahal, all of whom have won great races around the world. Bobby Rahal, in particular, won the recent Indy 500 and is iconic amongst young boys in their teenage years.

This is clearly a successful event. It clearly is well-managed and we have given a commitment to Silverstone Events Ltd for one year and, when we assess the outcome, the return on investment, the viability and the future potential of this event in conjunction with other touring rally events in Australia we will plan for the future.

GRIEVANCE DEBATE

ELECTRICITY PRICES

The Hon. W.A. MATTHEW (Bright): Again, today in this house it has been demonstrated that Labor has dropped the ball on the electricity issue. They have deserted South

Australian families, left them in the lurch and failed to implement the protection mechanisms which before the election they promised South Australians they would put in place. I think most members of this house would have found the minister's admission today absolutely staggering: that, after almost eight months in government, he has done absolutely nothing to establish the Energy Consumers Council which his government undertook to put in place.

This is something from which the minister cannot hide. It was a very clear undertaking, so much so that it formed part of Labor's key plank on election policy relating to electricity. I remind members what those important ingredients were. First, on day one of the campaign through the now Treasurer they promised: 'If you want cheaper electricity you vote for a Mike Rann Labor government.' They failed on that promise. Already, South Australians have found that they can expect power price increases of up to 32 per cent. Then there was another undertaking in a media statement issued by the Labor leader on 5 February 2002, as follows:

> State Labor leader Mike Rann announced today that Labor will form an 'Energy Consumers Council' to be chaired by Professor Richard Blandy to advise a future Labor Government on energy policy, including pricing, reliability of supplies and service.

The press release goes on to say:

> This council will put the interests of the power consumers first.

It is a bit hard to do that because the council has not yet even been formed. After almost eight months in government when prices are being determined, Labor's key undertaking is not in place. The Premier's press statement concluded:

> 'Labor intends to tackle the very real impact of power price rises and the knock-on effect it is having on our economy—and we will put the rights of power consumers back on the front foot with the Energy Consumers Council,' Mr Rann said.

Does that mean that they have not put the rights of power consumers on the front foot? The logic would have to flow that they have not done so because they have not acted on this key undertaking. They have failed to deliver to South Australians. It is vital that this government extend the time for submissions to the inquiry into power prices so that this group can be formed and it can advocate on behalf of South Australian consumers.

Members might well ask: what has the minister been doing? He tells us through one press release headed 'Conlon calls on SA to slay energy vampires' which he put out on 19 September 2002 that he has been overseas to the Berkeley Institute in the United States and that he has brought back the following information: turn off your video/cassette recorder and your microwave oven to save power. The minister did not need to go to the Berkeley Institute to find that out; all he had to do was go to his own web site. The Energy SA web site (established by the Liberal government and continued by the Labor government) since May last year has displayed that very advice to South Australian consumers. The minister did not have to go to the Berkeley Institute; the information was there.

This information was gathered through joint research conducted by *Choice* magazine with the Australian Greenhouse Office and the National Appliance and Equipment Energy Efficiency Committee (part of the ministerial committee on which the minister himself sits). I refer the minister to a summary of an article in the Hobart *Mercury* of 2 April 2001 headed 'Gadgets on stand-by eat power'. If the minister cannot find this newspaper article, I am happy to give him a copy. Even if he did not read his ministerial briefing notes or look at what is on the departmental web site, he could have read an Australian newspaper and found out what he travelled to the United States to visit the Berkeley Institute to find out. This minister is failing this state; he has not delivered.

Time expired.

PARLIAMENT, COMMITTEES

Mr CAICA (Colton): As we were informed in the house yesterday by the Minister for Environment and Conservation, the Minister for Government Enterprises launched National Water Week activities in South Australia earlier this week. Those activities include a major symposium to discuss water issues confronting South Australia. This is a very timely issue, but today I wish to focus on the work undertaken by this parliament's public works and environment committees in conducting the national conference of those committees from 30 September to 2 October this year.

The topic of the conference was 'Water—engineering solutions and environmental consequences'. I understand from information I have received that it is very unusual for public works and environment committees to run a completely seamless conference, but on this occasion it was determined by the steering committee to ensure that both parliamentary committees focused on that important and relevant issue which, as I mentioned, was water. Previously, the ERD conference would be held for one and a half days, followed by the public works conference, and they would be entirely separate. This year, however, we tried something different, and it was very successful.

I wish to highlight some of the people who attended the conference and to thank them for their participation. On the opening day (Monday 30 September) we were addressed by Dr Graham Harris, Chair of the CSIRO Flagship Programs, and he was followed by Graham Dooley, the Managing Director of United Utilities, who spoke about water as a finite resource, the price infrastructure and who pays for water. In the afternoon after the luncheon break at the Red Ochre Restaurant, we were entertained with a hypothetical conducted by Michael Abbott QC, which took us into the year 2050 and some of the problems that may be encountered by the population of South Australia at that time.

The Hon. M.J. Atkinson interjecting:

Mr CAICA: Not only did he do a good job but he charged us nothing whatsoever and conducted the hypothetical in a very professional manner. On the panel were such eminent people as Margaret Bolster of the Conservation Council; Anne Howe, the Chief Executive of SA Water; Kim Read, the immediate past Chair of the Water Industry Alliance; Professor Mike Tyler; Stephen Walsh QC; and Mark Brindal, a former minister for water resources.

Later that day we were addressed by Professor Mike Young, the Director of the CSIRO's Policy and Economic Research Unit, who took an economic perspective on water rights and a new definition of how water should be paid for in the future. He argued (as is common practice throughout Australia these days) that no proper value is placed on the price of water and that the pricing structure is in definite need of a review. On the Tuesday we travelled to Salisbury to look at some of the work being undertaken by the Salisbury council (with local business G.H. Michell) on recycling and the reuse of stormwater.

I can inform the parliament that every member who attended that tour was very impressed by what is being done by the Salisbury council and, indeed, by what is being done

here in South Australia. We often think that perhaps there is more that we can do—and that is the case—but this conference showed us through talking and networking with the members of the various committees from interstate that South Australia is as advanced in the area of recycling and the reuse of water as anywhere else in Australia.

Further on that day we were addressed by Tim Fisher, the Coordinator of the Land and Water Ecosystem Program of the Australian Conservation Foundation. Again, that was an interesting contribution, and later that night Ticky Fullerton attended a dinner hosted by the Speaker. I would like to thank the Speaker for kindly hosting that dinner for conference delegates. On the next day (Wednesday 2 October) Dr Peter Cullen—who, as everyone would know, won the Prime Minister's prize for Environmentalist of the Year in 2001—addressed us, and his focus was on the River Murray.

Later, during that morning and afternoon, we had panels that focused on public-private partnerships and what governments can do and how they can do it. I particularly commend the remarks of the member for Chaffey, who showed the delegates that projects do not need to total $50 million or $100 million to make a significant contribution and that, indeed, at the local level very important things can be done. We did South Australia proud.

Time expired.

GRAPEVINE RUST

Mr VENNING (Schubert): I congratulate Mr Malcolm Lehman on being appointed Deputy Clerk of this house. I also congratulate Mr David Bridges; I do not believe that I recognised his appointment the other day. Along with all members, I am very pleased with the appointment of both Clerks. They are not only professional at their job but they are also good men who have the respect of all members of this house.

I want to raise an issue in which you, Mr Speaker, may be directly interested. Yesterday, during question time, I raised the possibility of the spread of grapevine leaf rust from the Northern Territory to the southern and eastern states. This is a matter of grave concern. While the Alice Springs to Darwin railway will bring enormous benefits to the state through increased trade and efficiencies, it has the potential to unwittingly assist in spreading this exotic, quarantinable disease unless strong action is taken.

As the disease poses a serious threat to our multibillion dollar wine industry, joint efforts need to be made to identify and eradicate the fungus. The disease was discovered near Darwin last year, possibly originating from South East Asia via airborne spores. Grapevine leaf rust fungus is windborne and can be blown great distances. The symptoms of the disease include dark brown spots on the upper surface and yellow powdery spores on the under surface. The latter can become airborne and further spread the disease. The disease leads to defoliation and weakening of the vine and can affect fruit quality considerably and cause yield losses.

The impact of the disease in the southern and eastern states will be immense if it gets here. It would devastate the multibillion wine industry and it would be very expensive to control with chemicals if it became established in a major grape growing district, particularly an area such as the Barossa Valley. It could jeopardise our wine export industry and damage our clean, green image, as well as threaten the quality of the wine due to infected vines. It could also lead to expansive quarantining of our wine districts.

In relation to the Alice Springs to Darwin railway, there is a chance that the fungus will be removed by people once the railway is completed, due to the increased numbers of people in the area and the increased movements from one state to another. It will be difficult to control human traffic, so there will be an increased risk. There will be a need for possible quarantine areas very shortly.

We need an action plan to eradicate grapevine rust. A fortnight ago, members of the National Wine Health Steering Committee travelled to Darwin to inspect suspect vines. The only way to eradicate the disease is to remove all grapevines. That would be difficult to coordinate but, as I said yesterday, I think it would be necessary. There could be a major removal of all grapevines in the urban area of Darwin to prevent the spread to commercial vineyards. It will require federal, state and territory bipartisan action. We all need to work together to fund and implement the eradication program. At a ministerial council meeting held in Sydney on Thursday 11 October, it was resolved to eradicate grapevine leaf rust.

With such far-reaching implications, I implore our state government to join with the commonwealth, the Northern Territory and other states to speed up the process to reduce the spread of this disease. There is far too much at stake both environmentally and economically to leave this fungus unchecked in the Darwin region. I hope that the bureaucracy is able to implement a successful program, and that residents from Darwin are vigilant in identifying the disease and notifying authorities. I strongly support our government's making monetary contributions to eradicate grapevine leaf rust in order to protect our valuable wine industry.

On the weekend, constituents raised this matter with me. They are very concerned. They do not wish to be named, they do not wish to talk about the report and they do not wish to scaremonger but, obviously, they are very concerned about the matter. We have successfully kept the state free of phylloxera, and we must keep our state free of grapevine rust.

TELSTRA

Mr KOUTSANTONIS (West Torrens): Last week I was approached by a number of constituents in relation to their Telstra bills. As members may be aware, the federal Liberal government—the coalition government—and the ACCC approved an increase in Telstra's line rents policy, which I think involves an increase of about $2.66 on average per bill. Most people pay these bills three months in advance. I have become aware that Telstra is retrospectively charging people for line rental, backdating it to the date of the increase even though they paid their bill in advance. I do not think the federal government or the ACCC had any idea that Telstra was planning on retrospectively charging people for line rental.

I have spoken to representatives from Telstra about this issue and I was given an assurance that 16 million lines have been prepaid. It would cost about $18 million-plus for the federal government bureaucracy to send out refunds for $2.66. It is not important how much this debacle costs in refunds: what is important is the principle. Can we charge retrospectively for services? Are we entering a contract when we pay for something in advance? When Telstra sends out a bill, the client pays for line rental three months in advance. When the client receives the next bill and is charged retrospectively for something that occurred about two weeks after the client paid their previous bill, is Telstra entitled to make that extra charge? I would argue that it is not. I would argue

that, once the initial Telstra bill is paid in advance, the client has entered into a contract with Telstra for three months at that rate in connection with that line rental.

What Telstra has done is disgraceful. I am not trying to make this a party-political issue. I do not believe that the federal coalition planned on Telstra's making this charge retrospective. I have written to the federal minister, but I have not yet received a response. I am sure that Telstra is doing this off its own bat. I think it is absolutely disgraceful. The people who have approached me are business people. I am aware that a number of working families with busy lifestyles do not have the time to chase $2.66. It might not be that important to them, but the principle remains the same. These families are being slugged by the banks through ATM fees; they are being slugged increased charges everywhere across the board, both federal and state charges.

Now they are being hit with another charge retrospectively, and it is unfair. Someone in the federal government has to say that this is not good enough. I urge the federal Minister for Telecommunications, Senator Richard Alston, to investigate this matter immediately. If we allow Telstra to start retrospectively charging people for a contract into which they have entered legally, does that mean that we can retrospectively charge people for gas and water rate increases? Can we retrospectively charge people for registration increases on their motor vehicles?

I think that what Telstra has done is completely unfair and it is smacks of hypocrisy. There are people in the bush who rely on communications to keep in touch. As members opposite are aware—especially the member for Stuart—Telstra is a very important part of people's lives in regional Australia, as it is in metropolitan Australia. It is completely unfair and undemocratic to introduce these retrospective charges. I will be writing to the ACCC and asking it to investigate this matter, because I think that Telstra has taken a mandate for a charge increase too far. We all understand that the cost of telecommunications is going up every year, but does mean that Telstra can retrospectively charge on these bills? I urge other members who have had similar inquiries in their office to write to the federal minister urging him to investigate this matter; and also to write to the ACCC asking it to investigate the matter.

BUSHFIRES

The Hon. G.M. GUNN (Stuart): I reluctantly get to my feet on this occasion—

The Hon. M.J. Atkinson interjecting:

The Hon. G.M. GUNN: No, that is only wishful thinking on the part of the Attorney-General. If the Attorney-General continues to encourage me, he may have the pleasure of my company for many years into the future. I know he would enjoy that! He and his little group tried so hard to ensure that I did not come back. They spent, I am advised, in excess of $200 000 on the last occasion, and failed miserably.

Mr Koutsantonis: You wish!

The Hon. G.M. GUNN: It is not very hard to do the calculation—

The SPEAKER: Order! The member for West Torrens has already made one contribution, and he may find himself unable to make further contributions in later debates.

The Hon. G.M. GUNN: Thank you, Mr Speaker—and I will not comment on your last ruling, sir, even though at the moment I am tempted to do so. Yesterday, when I participated in the grievance debate, the member for Wright seemed to work herself up into a considerable lather over some of my comments; she became quite agitated. It is not unusual for the member for Wright to jump up. She always reminds me of someone who gets on a horse and there is a prickle under the saddle rug. She seems to jump to her feet and become very agitated very quickly.

The point that I made yesterday related to tree huggers and other groups that do not seem to have any commonsense or practical understanding of how the real world operates—and I note the comments of the member for Playford in relation to the difficulties that one of his constituents is having regarding a tree. I support his concerns.

The time has come, with respect to these little bureaucrats who want to impose their limited authority—and certainly limited intellect—upon long-suffering members of the public, for us to clip their wings and apply some commonsense in these matters. I share the member's concern, because many sections of the rural community are suffering on a daily basis from these little commissars who are running around the country imposing their rather narrow views on society. When you put a uniform on some of these people, they remind me of a turkey gobbler: they blow up and get red in the face and you get a gust of wind out of them, and that is about what it amounts to. But, in the short time during which they are red in the face and blown up, they annoy a considerable number of people and do nothing constructive.

The concerns that I raised yesterday in relation to bushfires seemed to have greatly annoyed the member for Wright. She obviously did not understand. This matter was emphasised again today: in my constituency, Highway One was blocked between Port Augusta and Port Pirie because there had been a motor vehicle accident and a car had caught on fire. I am not quite sure of the extent of the fire, but I will find out later today. However, it clearly indicates the need to have a positive and productive hazard reduction program; that is, we must reduce the amount of combustible material in our national parks and conservation parks. There must be adequate firebreaks and access tracks. If it means placing some sheep in some of these parks for a while, so be it. It is no good the environmentalists, the greenies and the other unwashed who race crazily around the country—

An honourable member: Unwashed?

The Hon. G.M. GUNN: Yes—a lot of these whom we see on television appear to me to be allergic to water. If ever there was an individual who needed to be shoved under the shower and cleaned up a bit, it is that character who is always on television talking about the Beverley and Honeymoon uranium mines, and other things, because we know that he tells untruths. Indeed, he has told the greatest pack of untruths about the Beverley uranium mine that one could ever imagine. I do not know whether he was subject to government funding. If the Auditor-General wants to productively do something for the people of South Australia he ought to have a look at that organisation, because they continually tell untruths about a very important industry in my electorate. I use him as an example of the same sort of radical group that does not want us to do anything to protect the public against bushfires.

Time expired.

AUSTRALIAN INTERNATIONAL PEDAL PRIX

Ms BEDFORD (Florey): I was pleased to welcome to the house today members of the board of the Australian International Pedal Prix—I am glad to say that a couple of them

have managed to stay until the very end to hear this contribution. I acknowledge, Mr Speaker, your continuing interest in the event, and I thank the Premier and the various ministers who made themselves available to speak to members of the board.

The year 2002 marked the running of the 17th Australian International Pedal Prix. The event is a race for human powered vehicles, with a strong bent towards participation, activity and education. It is run on the smell of an oily rag, I am afraid to say, with the help and generosity of many people in the community. These vehicles are propelled forward by pedal power, with riders seated in a recumbent position. Energy efficiency, aerodynamics, ergonomic design and light weight are the key to performance.

The event is held annually in the beautiful town of Murray Bridge, and has always been held in South Australia. It runs for 24 hours, from 1 p.m. on Saturday to 1 p.m. on Sunday, although teams and support crews begin arriving in Murray Bridge on the Friday beforehand. To provide equitable opportunity and competition, four categories operate: primary, junior secondary, senior secondary and open, which incorporates tertiary level and other teams. The event is contested by both males and females. In 2002, teams came from South Australia, New South Wales, Western Australia and Victoria.

This event is considered the largest of its type in the world and is the largest of our national competitions, as some 20 similar events are held each year, and that number is growing. It has been staged in Murray Bridge for the past five years, and is the biggest event in that town. All accommodation in and around Murray Bridge is booked out, including nearly 40 houseboats—and it was really beautiful to see these boats lined up against the river bank: I am told that, in the mornings, it is quite magical as the mist comes up off the river. Bookings for some teams stretch years in advance. So, it shows the commitment of the community to this event.

The event brings together students, teachers, parents and schools on a scale that is unmatched in South Australia, and provides a rare opportunity for all these parties to work together in a close, cooperative and community spirited way. The event was a 2001 SA Great Tourism Award winner.

Participation rates have steadily progressed from 130 teams in 2000 to 175 this year, and from 2 600 riders in 2000 to 3 500 riders this year. They reach speeds of almost 40 kilometres. Some teams train for months and are on special diets to enable them to reach the ultimate fitness required for this gruelling endurance event. Some 15 000 people attended the event in 2000, and between 25 000 and 30 000 came this year.

The event makes a substantial contribution to many aspects of education, including technology, the environment, transport, health, physical education and also to the personal development of the competitors in areas such as team work, tenacity, leadership, cooperation and discipline. In many schools, designing, building and racing the vehicles is part of the curriculum and, for most teams (including the teachers and parents), participation is a year-long activity.

This year, the event was the largest of four events for human powered vehicles now run by Australian International Pedal Prix Incorporated, which is the umbrella body in South Australia. The other events are the DMIT City Sprint on 6 July at Victoria Park; the Adelaide City Council Six Hour Challenge (which was held last weekend, on 20 October, also at Victoria Park); and we have one more event this year (so members should put it in their diaries), namely, the Velofest at Glenelg on 17 November.

I wish to make special mention of the team from Aberfoyle Park, Aberfoyle Hub Primary School's Hubcaps, which made it a hat-trick this year when its team of 60 took out the event for the primary school prize for the third time in a row. The event's overall winner was Airnet 1, a private entry in the open category. Geelong's Catholic Regional College entry, Woosh, took out the senior secondary section, and the junior secondary section was taken out by the Mecair Hubcaps team of Aberfoyle Park, about which I spoke earlier.

In closing, I would like to talk about the Modbury High School Cheetahs team. I was very happy to go down and find them in the pit line-up, and it was very exciting—

An honourable member interjecting:

Ms BEDFORD: Cheetahs—that is right; they would not do that. They finished fifth out of 58 teams in their category, coming 19th out of 175 teams in the outright positions. They completed 324 laps of the course, which equals approximately 700 kilometres, within the 24 hours of the race. Their machine performed brilliantly without any breakdowns. I thank everyone who was involved.

I would also like to make special mention of their sponsors: Nippy's Fruit Juice, Piccadilly Natural Spring Water, Balfours, San Remo Pasta, JT Cycles, Orchid River Holidays, Tip Top Bakeries and the Royal Australian Engineers. Without that continuing support, the Cheetahs will not be able to show them all how it is done again in 2003. I urge all members to keep the November date free and to go and support their schools.

Time expired.

SCHOOL COUNSELLORS

The Hon. P.L. WHITE (Minister for Education and Children's Services): I seek leave to make a personal explanation.

Leave granted.

The Hon. P.L. WHITE: Today in question time, in response to a question from the member for Reynell about the allocation of primary school counsellors, I said that for the first time all primary schools in categories 1 to 4 of the index of disadvantaged will receive counselling support for students. What I meant to say was that for the first time all eligible primary schools in those categories will receive that support. The difference is that, just as in previous years under the former government, only primary schools with an enrolment exceeding 70 students are eligible.

NURSES (NURSES BOARD VACANCIES) AMENDMENT BILL

The Hon. L. STEVENS (Minister for Health) obtained leave and introduced a bill for an act to amend the Nurses Act 1999. Read a first time.

The Hon. L. STEVENS: I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of the Nurses (Nurses Board Vacancies) Amendment Bill 2002 is to provide for the filling of a casual vacancy on the Nurses Board of South Australia without the need for an election.

The *Nurses Act 1999* ("the Act") establishes the Nurses Board of South Australia. The Board has responsibility for the registration of nurses, and the regulation of nursing for the purpose of maintaining high standards of competence and conduct by nurses in South Australia. The Nurses Board consists of eleven members appointed by the Governor. Five of these members are registered or enrolled nurses as defined under the Act, chosen at an election conducted in accordance with the *Nurses (Electoral) Regulations 1999* ("the Regulations").

The first Board under the Act was appointed in October 1999. In December 2000, one of the nurses elected in accordance with the Regulations resigned, creating a casual vacancy on the Board. The Act and Regulations make no provision for filling a casual vacancy, meaning that a casual vacancy may only be filled by a member elected in accordance with the Regulations.

The approximate cost of an election to the Nurses Board of South Australia to fill a vacancy is $42 000. All registration boards under the Health portfolio are expected to be financially self-supporting and are established and serviced outside of the Department of Human Services. Any income derived from these Boards is utilised for the day-to-day operations of the Board. As such, the cost to fill an election vacancy represents a significant expense to the Board.

While the resignation in December 2000 created the first casual vacancy under the Act, it is expected that there are likely to be future vacancies that would result in considerable expense and inconvenience to the Board if the Act is not amended. Continued incurring of those expenses may result in higher registration fees for nurses. This represents an unnecessary financial burden for the registered and enrolled nurses in South Australia.

Given the need to avoid increased expense and administrative complexity, it is appropriate to amend the Act to provide for the filling of a casual vacancy without the need for an election, but to continue to allow for the involvement of nurses in the selection of a replacement by requiring consultation with certain prescribed bodies who represent nurses' interests.

This Bill amends the Act by providing that, should a casual vacancy occur in the office of a Board member who is a registered or enrolled nurse chosen at an election conducted in accordance with the Regulations, the Governor may fill that vacancy by appointing a registered or enrolled nurse nominated by the Minister to which the Act is committed. This nomination may only made after the Minister has consulted with bodies representing the interests of nurses. These bodies are prescribed by the Schedule of the Act, and are as follows:

- the Australian Council of Community Nursing Services (SA);
- the Australian and New Zealand College of Mental Health Services;
- the Australian College of Midwives Inc;
- the Australian Nursing Federation; and
- the Royal College of Nursing Australia.

Both the Department of Human Services and the Nurses Board of South Australia were consulted and have nominated these bodies as representing the interests of nurses. The Governor may, by regulation, add or delete to this listing as required.

The Bill provides that a new member is appointed to the Nurses Board for the unexpired balance of the term of that person's predecessor.

This Bill achieves a balance in protecting the interests and continued involvement of nurses in the process of selecting Board members, whilst reducing unnecessary cost and administrative complexity.

I commend this bill to the house.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 5—Composition of Board

This clause amends section 5 of the principal Act by inserting new subsections (6), (7) and (8). The new subsections allow the Governor to appoint, without the need for an election, a registered or enrolled nurse nominated by the Minister to the Board where a casual vacancy has arisen in the office of an elected member of the Board appointed under section 5(1)*(b)* of the principal Act. The Minister must consult with those bodies representing the interests of nurses referred to in the Schedule before nominating a person for the position. A person appointed under the new subsection (6) holds office for the unexpired term of his or her predecessor.

Clause 4: Substitution of Schedule

This clause repeals the Schedule of the principal Act, which contains spent repeal and transitional provisions, and substitutes a new Schedule which sets out the bodies which must be consulted by the Minister under the new subsection (7) inserted by clause 3 of this measure.

The Hon. I.F. EVANS secured the adjournment of the debate.

STATUTES AMENDMENT (ENVIRONMENT AND PROTECTION) BILL

Adjourned debate on second reading.

(Continued from 28 August. Page 1401.)

The Hon. I.F. EVANS (Davenport): I indicate that I am lead speaker on this bill and I thank the minister's officers for their briefing. This bill is one of the first legislative initiatives of the government in relation to environmental matters and it sets out a number of changes to the Environment Protection Act, some of which the opposition will support and some of which we will oppose. The government proposes a number of changes to the Environment Protection Act. The first change essentially revolves around the make-up of the authority itself, and I think it is fair to say that this change comes out of the work done by the ERD Committee in the previous government under Ivan Venning's chairmanship. Those members who are new to parliament, and who will no doubt be reading *Hansard* with great interest, might want to refer to the ERD Committee's report of last year in relation to a whole range of matters raised and recommendations made regarding the EPA at that time.

Essentially, as I understand it, the government is moving to have two authorities—one being the formal board, and the other being an entity into which the public servants in what used to be the agency will move, to be also known as the authority and to operate under the board. So, rather than having two EPAs, which is the present arrangement—that is, the EP authority and the EP agency—at least publicly there will be some clarity and it will all be known as the EPA and will be run by the board. If I recall correctly, that was one of the recommendations in the report of the old ERD Committee.

The argument, as I understand it, is that this will clarify roles, in that the public servants—I think that about 220 are involved—who will make up the EP authority will report to the board and, ultimately, the board will meet with the minister from time to time to discuss issues. The theory is that, under the previous arrangement, there was some confusion or conflict as to who the EP agency, as it is now known, reported to, and it was in a position of conflict in that it reported to the minister via the head of the Department of Environment and Heritage but also had some responsibilities to the board.

In my briefings with officers, I asked whether there had been an occasion when a minister had interfered with an investigation, and the answer was no. I also asked whether there was ever a time when a minister had interfered with the workings of the current authority, and the answer to that question was no. So, this is really more about perception than dealing with a reported conflict, because there is no reported conflict in the history of the EPA under its current structure: it is really dealing with, to some degree, a perception that there might be a conflict for the 220 public servants con-

cerned. At the end of the day, I could argue for hours on end about the merits of both models.

Mr Snelling: As you would.

The Hon. I.F. EVANS: Don't tempt me, member for Playford. The reality is that the opposition will support the new structure. Ultimately, there will still be 220 public servants—the same 220 public servants who will deliver the same services. In fact, they will deliver fewer services, because their functions have been cut, but they will deliver approximately the same services. So, the reality is that this will make very little difference to the average person on the street and very little difference to the environmental programs. Of course, it still leaves the EPA open to the minister's influence through budget cuts, and that was confirmed to me through briefings: the way the minister can control the EPA is through restricting its budget. Of course, that is no different from the current situation, but that option is still there, in reality.

So, the opposition will not oppose the concept of moving to the new structure. As I say, basically there will be two environment protection authorities. One will be established under the Environment Protection Act and will be a statutory entity that will have a range of powers provided by the act. It will be the full, formal regulatory entity and will exercise its powers through the board and will be synonymous with the previous authority and its chief executive.

The second authority is the administrative unit, which, basically, is the unit under the Public Sector Management Act and where public servants will be located. The administrative unit under the Public Sector Management Act will be directed by the chief executive, who will be given powers and functions of a chief executive appointed under the Public Sector Management Act and, for practical purposes, in the public mind there will be a single EPA, which is a board established by statute and a staff established as an arm of the Public Service.

We are going through this exercise essentially to try, as the government would argue, to streamline the structure so that there is a clearer understanding. Of course, we still end up with an independent EPA which we have always had. I know the government is trying desperately to badge this as the EPA's being somehow more independent. As I said earlier, the officers confirm that there has never been a case where its independence has been questioned either at the public service level or the authority level. In the years that the EPA has operated that has never been questioned. What we are really dealing with is the perception that it might be questioned. We support the matter put forward by the minister. One question we will be raising in a general context is: will this EPA have to follow government policy? If it is absolutely totally independent, will it have to follow government policy?

If cabinet says, 'Our policy is X,' but it is the belief of the authority—whether the administration wing or at board level—that that is wrong, does it have to follow the policy of the government? We will tease that out during the committee stage. As I understand it, the model proposed by the government is similar to the Victorian model, if not exactly the same as the Victorian model—

The Hon. J.D. Hill: I wouldn't say exactly, but similar.

The Hon. I.F. EVANS: It is similar, particularly with regard to the role of the chief executive. We do not have a problem with this new statutory entity and administrative unit concept. As I say, it will basically deliver the same programs that have already been delivered. Then we can talk about the functions of the EPA. Again for those who are spending their nights reading the ERD Committee report, they will see that one of the discussion points was about whether the EPA should have its functions reduced so that it concentrated more on the regulatory arm of its current functions rather than the public awareness arm of its current functions. For those who have read the current act, as I know the member for Colton has, currently the EPA has a public awareness function, that is, an education role. As I understand the amendments to the act, the proposal is to reduce the functions by taking away the requirement of the EPA to run those public awareness type functions. The government's proposal is to hand them over to the Office of Sustainability probably, but somewhere else within the agency.

The other area that they are looking at taking away functions of the EPA is where the EPA was required to be involved in the development of the environment management industry. I understand that function is being deleted and also probably being moved over to the Office of Sustainability. What we have is a slightly different structure, exactly the same number of public servants, if members include the Radiation Protection Branch that came over from the health area, doing slightly fewer functions. However, in relation to the regulatory functions, the majority of members in this house would argue that they are the primary functions of the EPA with regard to its role within the South Australian community. Therefore, we do not see an issue with moving the lesser roles to other areas of the minister's agency; and we do not have a problem with the change in functions with regard to the EPA.

As I understand it, an office of chief executive will be established in the authority. The chief executive will chair the meeting of the board. The chief executive will be appointed by the Governor for a term not exceeding seven years and is eligible for reappointment. I will come back to the term of appointment in a minute and debate the term and the concept of being eligible for reappointment. The chief executive is subject to the control and direction of the board, as I understand it. The chief executive will be a member of the board ex officio. I am not quite sure whether I have got that right but that is how I understand the briefing notes, and the minister can correct me if I am wrong. The opposition has a few issues with how a chief executive can be subject to the control and direction of the board but chair the board, because he or she will be both the policy maker and the policy implementer.

Has the government taken any advice in relation to governance issues regarding that? The previous government always had a philosophical position, as I recall, when trying to separate those two roles. We are just wondering what advice the minister has taken concerning those government issues. How can you have a chief executive who is subject to the direction and control of a board that he or she is chairing?

The Hon. J.D. Hill: Like the Premier perhaps.

The Hon. I.F. EVANS: The minister says that it is like the Premier. I do not know whether the Premier would equate himself equal to the EPA head. You might argue that as a minister at your peril; I will not. I think that needs to be fleshed out. Other people have raised issues with me about trying to provide greater independence to the chair. If you have a reappointment process—that is, up to a seven year appointment and then being able to be reappointed—some might argue that, as the reappointment date gets closer, the fearlessly independent EPA might become more compliant to the government's wishes, and whether the minister might

not be better to go to a model where the head of the EPA, say, is appointed for seven years, 10 years—pick a reasonably long time—and then put in the legislation that there is no reappointment process. That means the person, whomever that is, has a guaranteed tenure.

They are totally independent, they are appointed for seven or 10 years, whatever the time frame, and then there is no perception about decisions being taken at the end of an appointment period. Some have raised that matter with me as a concept. Given that we are changing 220 public servants into a different stream, if you like, a different authority, because of the perception that there might be a conflict, some people have pointed out to me that it might be worth raising the issue that, if you are going to appoint a chief executive for seven years with reappointment, in effect that is 14 years. We might get a more independent authority by saying that we will put someone in there for 10 years. On their appointment, they know that they have 10 years employment, they are totally independent and that they do not have to worry about trying to please the next regime about reappointment matters, and so they have a totally clear mind when making decisions. I raise that with the minister and he can consider that in due course, but if the minister is trying to fix perceptions about the EPA, then that is one he also might want to look at.

We then move on to the board. As I understand the bill, the board has been expanded to somewhere between seven and nine members. They are obviously appointed at the government's discretion. Two new skill sets have been added to the members of the board; that is, someone with a legal qualification and experience in environmental law (and we can guess who that might be), and the qualification and experience relevant to the—

The Hon. J.D. Hill: Who?

The Hon. I.F. EVANS: No doubt it would be the best person for the job—management generally in the public sector. So, the board is expanded to comprise seven or nine members, and new qualifications are specified.

I received a letter from the LGA which indicates that it has written to the minister with respect to the appointment process.

The Hon. J.D. Hill: I have picked up their suggestion. I have tabled an amendment.

The Hon. I.F. EVANS: The minister says that he has tabled the amendment. Have you tabled more than one amendment?

The Hon. J.D. Hill: No, just one.

The Hon. I.F. EVANS: Only one amendment? The minister says that he has tabled the amendment, and I assume that it is the amendment about consulting with the LGA. For the record, the LGA has written to the minister saying that it was unhappy with the change to the appointment of the authority. Currently, if my memory serves me correctly, under the act the LGA has a nominee process to the minister, who can then choose from a panel of three.

The Hon. J.D. Hill: You remember it well.

The Hon. I.F. EVANS: I do remember it well. In his original bill, the minister proposed not to have that process at all but simply to seek someone with local government experience, and that person would be nominated by the government. So, under the minister's bill, government does not need even to consult with the LGA, because it can pick anyone at random from Australia who has local government experience.

Naturally, the LGA was upset at losing its capacity to nominate a panel to the minister, and it suggested that it wanted the old provisions reinstated in the new act. As a secondary measure, the LGA said that, if that was not possible, at least it wanted to be consulted with respect to who might be appointed. The minister has tabled an amendment which deals with that second option; that is, the minister will consult with prescribed bodies in accordance with the regulations in the selection of persons appointed under that section. So, the LGA has had a win with respect to that matter.

That is the make-up of the board, but the opposition has concerns about the way in which the chief executive will be subject to the direction and control of the board but will also be the chief executive of the board. We will flesh out that matter during the committee debate. Given the numbers on the bill, the opposition recognises that the other changes will be passed by this house.

We have some issues with the minister's proposal as to penalties. I will read out some figures to the minister. During the committee stage or in his speech closing the second reading debate, he can confirm whether these are accurate. Some business organisations have contacted the opposition about the level of penalty that is proposed in the bill. I am told that South Australia will have the highest penalty in Australia under the new EPA Act and its equivalent in other states. The business community is telling me that the government proposes to double the penalty from $1 million to $2 million where someone has intentionally and recklessly caused serious environmental harm.

I am advised that in Queensland the equivalent penalty is $1.5 million; in the Northern Territory the equivalent penalty is $1.25 million; in Tasmania, it is $1.1 million; in Western Australia, it is $1 million; in the ACT, it is $1 million; in New South Wales it is $1 million; and in Victoria the equivalent penalty is $500 000. So, the government is proposing to increase the penalty to four times that in Victoria. Given the Victorian and South Australian manufacturing base, on an industry basis Victoria would probably be the closest match. The Labor government is proposing to increase penalties to give South Australia the highest penalties in Australia.

The Hon. J.D. Hill interjecting:

The Hon. I.F. EVANS: I am advised that 'recklessly and intentionally cause serious environmental harm' is the same as the provision interstate. I know the minister will argue that, if someone is intentionally and recklessly causing serious environmental harm, of course they should receive the appropriate penalty, and the minister will say that that penalty should be $2 million. Every other parliament in Australia has said that it should be less than $2 million: in Victoria, it is $500 000; and in Queensland, it is $1.5 million.

The Hon. J.D. Hill: We are trailblazers.

The Hon. I.F. EVANS: The minister says that they are trailblazers. We will argue that the bill sets out a philosophy about how to administer environmental matters. It is taking a stick approach to environmental matters and, if you talk to the business community, you will hear that this bill lacks a 'carrot and stick' approach. This bill tackles only the administrative niceties of the Environment Protection Authority, and it provides the government with a very big stick to concentrate on the statutory offences.

The functions have been restricted to concentrate only on the statutory side of the equation. The penalties have been increased; in almost every case the penalty has doubled. For 'intentionally or recklessly causing serious environmental harm', the penalty has doubled to $2 million for body corporates and to $500 000 for natural persons. For a person

who pollutes the environment, causing serious environmental harm, the penalty has doubled to $500 000 for a body corporate and $250 000 for a natural person. For a person causing material environmental harm, intentionally or recklessly, the penalty has doubled to $500 000 for a body corporate and $250 000 for a natural person; and for a person who pollutes the environment, causing material environmental harm, the penalty has doubled to $250 000 for a body corporate and to $120 000 for a natural person. In almost every case the minister has doubled, or slightly more than doubled, every penalty.

Nowhere in the bill can I see one incentive to business. No incentive or benefit is offered in the bill if business does the right thing. What benefit is there for business? The answer is that I cannot see one in the bill.

The Hon. J.D. Hill: They are existing already.

The Hon. I.F. EVANS: The minister says they are existing, but we will have that argument during the committee stage. He may want to clarify my memory or my interpretation of the bill.

Within the scope of penalties is the concept that the minister has introduced the bill to make it easier to prosecute the offences of intentionally or recklessly causing serious or material environmental harm. As I understand it, the bill achieves this by simplifying the degree of knowledge that the person is required to have about the level of environmental harm that would or might result from their actions. For example, in relation to offences of causing serious environmental harm, the current act provides:

> A person who causes serious environmental harm by polluting the environment, intentionally or recklessly and with the knowledge that serious environmental harm will or might result, is guilty of an offence.

It is clear that the person must have knowledge that serious environmental harm will result, or might result. So, a threshold is included in the question about whether the penalty should apply. Under the minister's proposal, the word 'serious' is deleted from the last half of that sentence. The bill will now provide:

> A person who causes serious environmental harm by polluting the environment, intentionally or recklessly and with the knowledge that environmental harm will or might result, is guilty of an offence.

The threshold is therefore lowered, and anyone who is undertaking an activity with knowledge that it will cause environmental harm, or environmental harm might result (and I repeat 'might result') in any level of environmental harm, and that then goes on to cause serious environmental harm, is then open to the more significant penalty.

As I understand it, it is a double whammy. Not only is the government doubling the penalty but also it intends to lower the threshold. Not only does it want to catch more people but it wants to catch them for a larger amount. So, there is a double whammy in relation to environmental harm. Section 5 of the current act provides that environmental harm is any harm or potential harm to the environment of whatever degree or duration, and it includes an environmental nuisance, which is also set out in the definitions of the current act, under which environmental nuisance means any adverse effect on any amenity value of the area. One could argue that even train noise would come under that definition of environmental harm and environmental nuisance.

Mrs Redmond: Doing the washing.

The Hon. I.F. EVANS: As the member for Heysen says, doing the washing could easily come under that definition. Under 'environmental harm' the act provides that potential harm includes the risk of harm and future harm. Under the bill now, if someone is undertaking an activity that might cause future harm and they have knowledge of that, then before the harm has even occurred, as long as they have knowledge that it might cause future harm, they are open to a penalty of up to $2 million. There would not be a petrol station in Australia with underground tanks that would not have a concern about potential future harm. In fact, the EPA has a program with the oil industry about trying to manage that exact thing, that is, underground tanks leaking.

One could argue that the oil industry has the knowledge that there is a potential for harm because they undertake the activity of underground storage of petrol. Because the government has lowered the threshold, that is what the bill implies: it clearly refers to 'a person who causes serious environmental harm by polluting the environment intentionally or recklessly with the knowledge that environmental harm will or might result,' and 'potential harm' is defined under section 5 of the act as including the risk of harm and future harm. As long as you have some knowledge that there is the potential for future harm, you could easily be exposed to that provision.

I know what the minister is trying to do, but I wonder whether he has consulted with Business SA, with the petroleum industry, with the Motor Trade Association on their grease pits, with restaurants on their grease traps or with SA Water in relation to sewage treatments. There is a whole range of issues, and I wonder whether he has consulted with those groups. The minister will need to clarify whether it is possible to be licensed in terms of causing environmental harm under these provisions. In other words, as long as you pay the EPA for a licence if you know that you are causing environmental harm, does that exclude you from these provisions? A good example of that would be the foundry industry, which has been the subject of a number of programs involving the EPA. The minister will need to clarify that matter for us.

The Hon. J.D. Hill: It won't change the rules as they apply now.

The Hon. I.F. EVANS: The minister says it will not change the rules, but it does change the rules where the threshold now applies.

The Hon. J.D. Hill: It changes that aspect of it, but none of the other aspects is changed.

The Hon. I.F. EVANS: But that is a pretty important aspect, because it differs from a provision whereby they had to have a knowledge that serious environmental harm will or might result.

The Hon. J.D. Hill: That's what's there now.

The Hon. I.F. EVANS: So, that 'might' means 'potentially result'. That is the provision at present, but there is a higher level of threshold.

The Hon. J.D. Hill: There's only one word difference.

The Hon. I.F. EVANS: But it is a very important word. It is a double edged sword; it is a double whammy, and the business community has raised very serious concerns about the impact of this double whammy. As I say, there would not be a petrol station operator within South Australia who would not have concerns that there might be future harm if their petrol tanks leak. It involves their day-to-day activity. Another issue involves diesel trains. We had a derailment today in my electorate, in the area of Belair or Blackwood. I do not have the final briefing, but I think it was at the Blackwood or Glenalta crossing.

The Hon. J.D. Hill: Anybody hurt?

The Hon. I.F. EVANS: No-one was hurt, as I understand it, but I have not had a briefing on it. Everyone knows that there is a potential for trains to derail. The minister shakes his head, but I do not think he has actually licensed the railway lines yet, so they are unlicensed as we speak. If the licence issue is that great, show me the licences, because I have been encouraging that issue for some time. But if they are currently unlicensed and there is a potential for harm, as there is—

The Hon. J.D. Hill: Environmental harm.

The Hon. I.F. EVANS: There is a potential for environmental harm. How does the minister think hazardous chemicals get imported and exported? It involves trucks and on railways. As the minister involved with water, I think that the minister would be concerned about the possibility of trains being derailed in the Hills, with hazardous chemicals affecting our drinking water. The EPA has an interest in wineries on that issue, but apparently we cannot get them that interested in trains, which I think involve a similar risk. So, the issue of penalty now is a double whammy. We have lowered the threshold and doubled the cost and are now the highest penalty state in relation to intentionally and recklessly causing serious environmental harm.

The opposition will be opposing those penalties, particularly as a double whammy. If the minister consults with the business community and the business community comes back with a different view from that which they have currently given us, we might reconsider that matter between houses. But the very strong evidence given to us by the business community is that those two penalties as a double whammy are a major concern for business investment in this state, because that sets us far apart from other states in relation to environmental penalties.

I thank the minister for providing answers to my questions that arose out of the briefing, and I think it is important in the context of penalties to go through the penalties that have actually been applied. When the penalty was $1 million, the courts could impose an amount of up to $1 million against corporations and $500 000 against individual persons. I will refer to the completed prosecutions. Mobil Refining Australia Pty Limited at Lonsdale was charged with causing material environmental harm, and there was a fine of $24 000 and costs of $600. General Motors-Holden's Limited at Elizabeth was charged with causing environmental nuisance, and the penalty was $20 000, with $5 000 for a breach of licence condition. Brambles Australia, trading as Cleanaway, was charged with causing an environmental nuisance and the fine was $18 750. Pasminco was charged with causing material environmental harm, and the fine was $40 000.

Southcorp Wines was charged with serious environmental harm, failure to report an incident and a breach of licence conditions, and the fine was $118 000, with $21 000 in costs. At Gawler River, the charge against G. & V. Trimboli at Gawler was a breach of licence conditions and the fine was $2 000. I will not go through all of them, but the highest penalty I can find is the $118 000.

So, we have a system where a fine of up to $1 million can be imposed but, in all the years that the EPA has been running, the highest fine that the courts have been able to establish is $118 000. That is about 10 per cent of the maximum amount, so I wonder why we need to go to a maximum penalty of $2 million.

The minister will probably argue that a heavier penalty is a greater disincentive, but I would argue that there are not too many companies with a lazy million dollars around. If the courts are finding the maximum they can impose is $118 000, I question, as does the business community, the need for an increase up to $2 million in relation to those offences or, indeed, a doubling of the penalty for the other offences. I know that not all of those to which I referred relate to the 'intentionally or recklessly' provisions. But, even so, the other penalties are all being doubled. We question, as does the business community, the need for the doubling of the fines up to $2 million.

The third penalty that has been introduced by the government is what we might call a super penalty. It is the penalty which relates to economic benefit being acquired by a person. As I understand it, this is something that the minister has picked up on one of his trips to America. The bill proposes to penalise those who illegally accrue an economic benefit as a result of committing an offence under the act, that is, through environmental harm. As I understand it, that was picked up in America: the minister said as much in his reading explanation or a press release somewhere.

I am not quite sure how this works. It is so arbitrary. How is a court meant to judge how much of an economic benefit has been accrued because of the commissioning of an offence under the act? It seems to me that any court's judgment will be an absolute stab in the dark. I take Shell as an example. How much of Shell's profit in Australia or indeed South Australia (unless it goes down to the entity; I assume it goes to the company as a whole), is attributed to the fact that it let a petrol tank leak underground. If, for example, it was pumping petrol for six months and suddenly discovered the leak, how does a court establish that that has been a commercial benefit to Shell of x dollars? In fact, it has probably been of no commercial benefit to Shell.

The Hon. J.D. Hill: They would not get the penalty then. That's not a good example.

The Hon. I.F. EVANS: Well, it is. The minister says it is not a good example, but I disagree because—

The Hon. J.D. Hill: If they were putting an additive into the petrol which was cheaper and which had a pollution benefit: that would be a better example, I think—ethanol or something like that.

The Hon. I.F. EVANS: The minister gives an example that he thinks is better: I will use his example. The minister's own example is if they were putting an additive, such as ethanol, into the petrol that causes environmental harm, one would then assume that the EPA would have to prove that no other competitor had the same commercial advantage.

The Hon. J.D. Hill: No they wouldn't.

The Hon. I.F. EVANS: They don't have to prove that?

The Hon. J.D. Hill: Why would they have to prove that?

The Hon. I.F. EVANS: They have to prove that they have a commercial advantage, surely.

The Hon. J.D. Hill: Over a company doing what is legally correct in terms of the environment.

The Hon. I.F. EVANS: All right, so even though every company might be doing it, it might be standard industry practice—

The Hon. J.D. Hill: We'll ping them all.

The Hon. I.F. EVANS: Well, I am just trying to tease it out. Even though every company might be committing the same breach, the court will benchmark it against someone who is supposedly doing the right thing?

The Hon. J.D. Hill: As I understand it.

The Hon. I.F. EVANS: As you understand it, okay. So, then the court will have to establish the legal industry standard.

The Hon. J.D. Hill: Well, that is easy enough to do.

The Hon. I.F. EVANS: It is on certain matters, but it is very unclear on other matters. So, we would prefer, and support, that provision (not the whole bill, just that provision) going off to the ERD Committee to tease it out and look at exactly how it will work. It can get some information from America and look at exactly—

The Hon. J.D. Hill: I can see the study tour now.

The Hon. I.F. EVANS: The minister suggests a study tour. I am not suggesting that. I think I am wise enough to know that if the minister knocks back a trip to Spain he certainly can knock one back to the United States!

We think there is some benefit in sending that provision to the ERD Committee of the parliament so that it can look at how the provision will work on the ground. We would recommend that the minister do that. I cannot move to do that during debate or the committee stage, so I ask the minister to consider that option. Rather than members on this side having to vote against it, and having it dealt with in the upper house, we think a reference to the ERD Committee may clarify, for a whole range of members, exactly how that provision will work.

To penalise those who illegally accrue an economic benefit as a result of committing an offence is not sufficiently specific. If we were to consider the trucking companies, for example, we would find that a big percentage of the trucks on the road would be causing pollution—environmental harm—and their owners would be getting an economic benefit from having the truck on the road. I understand that the minister is trying to narrow the provision to profiting directly from the environmental harm.

The Hon. J.D. Hill: The illegally obtained environmental harm.

The Hon. I.F. EVANS: What is 'illegally obtained'?

The Hon. J.D. Hill: That is a matter for the courts to determine, isn't it?

The Hon. I.F. EVANS: The problem with it is that there is so much left to arbitrary judgment. So much judgment is left in the hands of officers—

The Hon. J.D. Hill: No, the courts.

The Hon. I.F. EVANS: What does the person preparing the case benchmark against? There is no benchmark in that judgment. If the government was really fair dinkum it would go through every business—and that will never happen; I know. Hopefully, the business community will not suffer that pain. We tend to tackle the major polluting industries, and there would hardly be a business around that was not causing some environmental harm. The definition of 'environmental harm' is as follows:

> any harm or potential harm to the environment of whatever degree or duration.

I understand where you are coming from. If a vineyard sprays their neighbour's vineyard and reaps a higher price, the argument would be that the vineyard that reaps the higher price should pay some bonus penalty. But the concept is so complicated that, at this stage, it needs to go to the ERD Committee so that we can have a good look at it and work out exactly what it means on the ground. It is so arbitrary that, were officers to attempt to apply it on the ground, they would be ostracised by those whom they approach because there are really no guidelines or examples of how it will work. So, I think there is some sense in sending it to the ERD Committee at this stage. Given that the minister has other amendments to the EPA act, relating to civil penalties, coming back next year, and given that it is such a new concept, there seems to be no need to rush this through.

It may well be that the Liberal Party's view of that concept will change once it has been better explained but, from the briefing that we have had so far and the limited information that we have been able to obtain from various sources, we think the whole process is so complicated that you are setting up your officers to be ostracised when they do not need to be. So, we will not support the amendment at this stage, but we will support its going to the ERD Committee if the minister so chooses.

Another issue relating to the board which I meant to raise is that one would assume that the minister, in moving an amendment to commit to consultation with the Local Government Association, is agreeing to consult with the business community and appropriate associations about those appointments.

The Hon. J.D. Hill: They will be part of the prescribed bodies.

The Hon. I.F. EVANS: I was hoping that was why the amendment was written in such a broad manner. So, the business community will be consulted in regard to these matters. I think that is a reasonable summary of where the government is heading with the bill. Obviously, there will be a whole range of questions in committee when we deal with the minister's amendment. Essentially, though, I think we can summarise it by saying that what the government is trying to do is to streamline a perception in the administration of the authority. No more public servants will go into it than already exist, and the activities of the EPA will be narrowed so that they can concentrate on their regulatory functions. The reason they want to concentrate on regulatory functions is that the penalties are to be increased to $2 million, the freehold will be lessened so that will make it easier to prosecute, and new penalty regimes will be introduced for those businesses that profit from illegal and environmental harm. I think the government intends to go after business in a very strong way.

The Hon. J.D. Hill: It's unfair to say that.

The Hon. I.F. EVANS: The minister says that that's unfair. I do not know what other interpretation you can put on it.

The Hon. J.D. Hill: We want to go after polluters, not business.

The Hon. I.F. EVANS: The minister says that they want to go after polluters, not business—

Mr Venning: What if your officers don't know the difference?

The Hon. J.D. Hill: We'll teach them.

The Hon. I.F. EVANS: The proof of the pudding will be in the eating. The minister is saying that the penalties are not high enough even though when the penalties were $1 million the best the courts could cough up was about $120 000. Now we need to be the highest penalty state in Australia. I guess it comes down to your view of where South Australia sits on a whole range of issues. This state competes aggressively with Victoria on a whole range of matters, particularly the manufacturing and wine industries. What we are really doing is bringing in penalty regimes that will be four times higher than those of Victoria, if my advice from the business community is right.

We will have the super penalty (which is not in the Victorian act) for anyone benefiting from an illegal act or environmental harm. So, when you are looking at similar economies, the penalty regime that will apply here will be significantly greater—four times greater, in fact—than that

which applies in Victoria. What we argue—and this is what the business community argues to us—is that South Australia needs to be competitive with these sorts of regimes. Just as we are competitive with payroll tax and other issues, we need to keep around the mark as far as business issues go when comparing South Australia with Victoria.

The business community argues that there are already twice the amount of penalties here than in Victoria, so why do we need to increase them to four times the amount? Where is the cry (other than from within government circles) to go to higher penalties? The business community raises a whole range of issues in this regard. We are placing them on the record, and we would like to hear the minister's reasons and whether he consulted with the business community on the bill. Did he actually send a copy of the bill to the business community and say, 'Here's your copy of the bill; what's your view?'

Another issue of concern to me is whether this new super penalty about the gaining of an illegal benefit is retrospective in any way. If the illegal act or environmental harm has been taking place for some time before the act is proclaimed and then the act is proclaimed, will the environmental harm caused before this clause comes into play cause the penalty to be applied, or what will happen in that circumstance?

The Hon. J.D. Hill: An interesting question.

The Hon. I.F. EVANS: I thought it was an interesting question. I could not quite work it out, so I thought that maybe it could be sent to the ERD Committee and give them a headache working out exactly what is meant by it.

I do not have a lot more to add, but I should make some comment about the changes to the Radiation Protection and Control Act and the Protection of Marine Waters (Prevention of Pollution by Ships) Act. In relation to the Radiation Protection and Control Act, that matter has come across to the EPA from the health area. It shows that this government views radiation matters as more of an environment issue than a health issue. Previous governments of all colours have always had it in the health area because there was a view that whilst it was certainly of interest and importance to the environment the primary concern to the general population involved health issues related to radiation protection. This government has decided (probably for political perception reasons) to flick it across to the EPA so that it can deal with it.

Under the amendments to the bill, the deletion of section 7(2)(c) will make all the activities under the Radiation Protection and Control Act subject to the provisions of the EPA Act. The exception will be licensing. Schedule 1 of the EPA Act will not be amended to make such activities prescribed activities requiring licensing under the act. The effect of the proposed amendment then is that the general environmental duty will now apply to users of radioactive substances. Therefore, clean-up orders and environmental protection orders can now be applied to uranium mines if there is a breach of the general environment duty.

Further, persons must now notify any incidents relating to radioactive substances causing serious or material environmental harm from pollution. It will be an offence not to report an incident such as a spill at a uranium mine whereas currently there is no such obligation to report. This will also have the effect of placing such spills on a public register, and the board of the authority will now have a role to play in radiation control. The minister previously advised the house that the EPA is doing an audit of where radioactive waste is stored. So, the minister will need to clarify for us when these audits are undertaken whether those people will be caught under this new provision.

The Hon. J.D. Hill: 'Those people' being?

The Hon. I.F. EVANS: Those people who have radioactive waste stored who have not necessarily had it licensed under the previous act. There is a view among some that the easiest way to get around the old Radiation Protection and Control Act is to say that what is actually waste material is not waste material but that it is needed so it is stock and therefore does not need to be declared under the act. I wonder whether this changes anything at all in relation to the matters that are being audited by the EPA in relation to radioactive waste storage in South Australia.

The other amendment involves the Protection of Marine Waters (Prevention of Pollution by Ships) Act. The draft bill amends the Environment Protection Act to remove section 7(2)(b) so that the act may apply to circumstances to which the Protection of Marine Waters (Prevention of Pollution by Ships) Act 1987 applies. The example that the government gives is in relation to the spill that occurred from the apparatus from Mobil Oil Refinery in 2001. If that spill was to occur again, then the EPA would have the power to prosecute under the Environment Protection Act. The amendment would also broaden conditions of licence relating to Mobil's control of the pipeline that the authority could impose. As I understand it, that means that both the EPA and the Department of Transport could have a turf war over who is responsible for a future oil spill. I know they will have an MOU—as there is already an MOU—between the agencies. This matter has already been clarified by an MOU; now it is legislating to clarify that both can be involved. We do not have an issue with that, as such. With those few words, the opposition looks forward to the committee stages of the bill.

Mrs REDMOND (Heysen): The member for Davenport has clearly covered just about every aspect of this relatively short bill, but I want to make a few comments. The act seems to have three essential elements: first, according to the second reading speech, it aims to ensure the independence of the EPA and to clarify the lines of reporting for that; secondly, to increase the penalties payable under the act; and, thirdly, to make it easier to prosecute offences under the act.

I want to make a couple of comments on the new structure. It is interesting to note that one of the aims of trying to clarify the lines of reporting is to overcome any apparent, actual or potential conflict of interest by making those reporting lines clearer. I believe that the new legislation does that, but that brings me to the first comment I want to make on what is proposed under the legislation. New section 14B(6) provides that the CEO of the authority—which is a new appointment—will chair meetings of the board. That is something which makes me particularly uncomfortable. There is a huge potential for conflict of interest if a CEO chairs meetings of a board.

The CEO, as appointed under new section 14B(3), will be a member of the board ex officio, but to have him chair meetings of the board seems to me to be contrary to the way most boards and authorities in which I have been involved run. Normally, board members would be the people to whom the CEO answers. The board of any organisation would set the direction for what would happen, and the CEO would be responsible for ensuring that the board's direction—

The Hon. J.D. Hill: What about a legal firm? Who chairs the board in a legal firm?

Mrs REDMOND: I am here to discuss not that but, rather, what is normal procedure. Whilst the CEO is an ex officio member of the board—and certainly present at all board meetings—it is my view that it is not appropriate for the CEO to be the person who automatically chairs that meeting. Indeed, I would prefer that it not be mentioned at all in the legislation.

I also note new section 14B(5). My view is that it is time we moved into the 21st century and stopped stipulating that one person must be a male and one person must be a female on any board. I do not intend to pursue that issue in this legislation, because it is something which I am convinced needs to be pursued on a more general note.

The Hon. J.D. Hill interjecting:

Mrs REDMOND: I will never forget the tapestries. Having said that, I do not intend to propose any amendment, because there are a number of pieces of legislation in this state which require one male and one female. I am firmly of the view that, if there are seven, eight or nine good men or women, there should not be a provision in our legislation that requires us to not have one of those people but, rather, to substitute someone else, simply on the basis of their sex. I will speak more on that on another date, no doubt.

As I understand it, clause 11 proposes to amend section 16 of the act. New subsection (1) provides:

> The Board must meet at least 12 times in each calendar year or more frequently where necessary for the performance of its functions.

I understand that amendment has been put in place to make things more flexible than they have been to date—which makes provision for a monthly meeting. I have had a lot to do with boards over the years, and over the Christmas period there is often a difficulty and there is a board meeting one week after a meeting or one week before the next meeting, and so on. It would be more sensible to provide 11 meetings per year—and more frequently, if necessary—simply to overcome that problem. I am not terribly uncomfortable with it, and it is not something I will push by proposing an amendment.

The Hon. J.D. Hill interjecting:

Mrs REDMOND: At present, new subsection (1) provides that the board must meet at least 12 times in each year.

The Hon. J.D. Hill: But it's not monthly.

Mrs REDMOND: I appreciate that the minister is indicating that it is not monthly, and I appreciate that is the essence of the change being made. It is changing from a stipulated 'monthly' to a stipulated '12 meetings a year'. Because of the nature of Christmas breaks, I think it is easier to provide 11 meetings, plus any extra meetings that are needed—but I will not put up an amendment in that regard.

The second area this bill hopes to deal with is the increase in penalties. Like the member for Davenport, I note the previous level of fines. I am not uncomfortable with the idea that we will have the highest fines in the country—in fact, I think we have already got the highest fines in the country and we will make them even higher. I suppose it could be argued that courts might be encouraged to set fines higher, if the best we have done so far is $118 000 when the maximum fine is $1 million—or maybe they have left room for what they consider to be more serious problems.

I do not have the same difficulty that the member for Davenport has in relation to section 133. I note that in relation to section 133 there must be a conviction for an offence—so that is the first element to be got over. Once there is a conviction, if the prosecutor can then establish that a material benefit has resulted to them and can have the court reach a reasonable estimation (in the court's opinion) of the material benefit, then they can order that it be paid back. That sits comfortably with other legislation we have in this state, where people cannot benefit from their criminal activity. As well as being fined for selling drugs, a person has to pay back the money. Similarly, if a person undertakes some activity on their land which incurs a $118 000 fine but which gives them a $1 million benefit, then they are not able to keep the bonus; and to not have that in place would encourage people, in some circumstances, to take the risk that their fine would be low enough that the benefit they would gain would overcome the level of the fine and they would have a benefit, notwithstanding that the court did impose a fine for the breach of the act. I do not have any difficulty with section 133.

However, I do have some difficulty with the matters that the member for Davenport raised in relation to section 5 definitions, and the proposal to change the threshold in section 79 offences. I do not want to spend a lot of time going over matters that the member for Davenport has already covered, but section 5 provides the definition. It is a separate section. Rather than being in the definitions section, 'environmental harm', 'potential harm', 'material environmental harm' and 'serious environmental harm' are put into this separate section. 'Environmental harm' is defined as follows:

> . . . any harm, or potential harm, to the environment (of whatever degree or duration), and includes environmental nuisance.

Of course, there is a separate definition of 'environmental nuisance' within the definitions section, which provides:

> (a) any adverse effect on an amenity value of an area that—
> (i) is caused by noise, smoke, dust, fumes or odour; and—

note the 'and'—

> (ii) unreasonably interferes with or is likely to interfere unreasonably with the enjoyment of the area by persons occupying a place within, or lawfully resorting to, the area; or—

note the 'or' rather than 'and'—

> (b) any unsightly or offensive condition caused by waste;

So, it becomes a very low threshold, and therein is my concern. I can appreciate that the government wishes to remove the high level of threshold that currently appears in section 79 because, at the moment, the provisions of that section—and I will turn to it—

The Hon. J.D. Hill: They have never been used.

Mrs REDMOND: I can appreciate how hard they would be, having undertaken the odd prosecution in my career. Section 79(1) provides:

> A person who causes serious environmental harm by polluting the environment intentionally or recklessly and with the knowledge that serious environmental harm will or might result—

I can understand that that is a difficult threshold to get over. I think it would be reasonably straightforward for the prosecutor to prove that serious environmental harm, under the definition, did result, or might have resulted. However, to show the knowledge that serious environmental harm will or might result is pretty difficult, and I would imagine that, in some courts, it could be overcome simply by the person saying, 'Well, I didn't realise.' Therein lies the dilemma.

Most members would be aware that there are two elements for general criminal offences. They are the actus reus and the mens rea—the first being the actual act and the second being the intent to commit the offence. For instance, if a person

kills someone, if there is both the act and the intent to do it, they might be found guilty of murder. However, if a person simply killed someone, but without having the intention to do it, there might be a finding of manslaughter—just to take it to a common level in terms of understanding.

I can appreciate that, under section 79, there is a current difficulty with the threshold's being too high, because the mens rea element of the offence becomes extremely hard to prosecute successfully. It may indeed be for that reason that there has been a failure by the authority thus far to get fines over $118 000. However, to then lower it to the point defined under section 5 as simply 'environmental harm', which includes environmental nuisance in those definitions that I read out previously, goes too far in the other direction, in my view. It removes any threshold. As I said to the member for Davenport while he was talking, even doing the washing will come within the definition, strictly speaking, of 'environmental harm' as opposed to 'serious environmental harm' or 'material environmental harm'. However, within that definition of 'environmental harm', which is a very—

The Hon. J.D. Hill: How could you do serious environmental harm by washing? What do you wash with?

Mrs REDMOND: Well, with anything—anything that is going into our water system. If I wash my car in the driveway instead of on the lawn, we all know that that potentially has a consequential effect ultimately on our water. The threshold has become too low. I support the concept of what the government is trying to do—

The Hon. J.D. Hill: What is the alternative?

Mrs REDMOND: —in putting in place a better and more achievable threshold. The minister asks me what is the alternative: I am still contemplating that, and I am hoping to come up with some suggestion to help the minister. But, certainly, it is not to go to the opposite extreme, whereby one can have a successful prosecution and an automatic finding in circumstances where there is simply no justification for it. That is my concern about this legislation. I appreciate that there is a difficult threshold, and we need to come up with a better way of defining it. Maybe it is as appears in some other pieces of legislation: instead of saying, 'with the knowledge that serious environmental harm will or might result', it has to be some sort of provision about whether a reasonable person would be expected to have that knowledge, or some such thing. As I said, I agree that the provision is too hard to meet at the moment and will inhibit prosecution for what are clearly intended to be caught as offences under this act. But to go to the other extreme and make the definition simply any environmental harm within that incredibly broad definition under section 5, in my view, goes too far the other way.

The Hon. R.B. SUCH (Fisher): I welcome this bill. The EPA, as we know, has struggled in the past to deal with its charter and to adequately, as its name suggests, protect the environment. I am reluctant to call it a toothless tiger, because I do not think that it approximated a tiger in any way, shape or form—it was more like a lynx cat or a domestic pussy cat. The measures are outlined in the bill, and I will not canvass them again. The important aspects, I think, include greater independence. That means that the selection of the board becomes critical, so that people on the board have a good cross-section of knowledge and balance in their views, amongst competing interests.

I think it is important to note that smart business people do uphold environmental principles, but there will always be a few cowboys—and cowgirls, I guess—out there who want to do the wrong thing. However, it is pleasing that, if one looks at what has transpired since our major environmental legislation (which I think was in about 1972), one will see that there has been a huge change in attitude and behaviour in the wider community in relation to the environment—but there is still a way to go. That also applies, I believe, to the business community which, in the main, is very responsible. People in business realise that they and their family—their grandchildren—live on the same planet and will experience the consequences if the environment is not protected. So, smart businesses recognise that good economics is good ecology, and vice versa. As I said, it is pleasing to note that that message is increasingly being adopted.

We heard earlier today about the good work being done by BRL Hardy with respect to its wetlands at Banrock Station. That is just one example, but there are plenty of others. Some companies that are often maligned do quite a bit of good environmental work on their own properties, in terms of supporting, for example, the protection of native vegetation. As I also said earlier, there are a few cowboys around; there probably always will be those who want to cheat on the environment—in America years ago some were called the Dirty Dozen; they were the worst polluting companies in the United States.

This revised bill will toughen the powers of the EPA. It will substantially increase penalties. We know that the maximum penalty is rarely, if ever, imposed. But it does send a clear signal to judges, magistrates and others that the parliament is serious about environmental issues. So, whilst it is probably unlikely that the maximum penalties, which are now being doubled, will ever be implemented, at least they are there in cases of gross misbehaviour. But it will send a signal which will result in the penalties that are applied at the lower end being much more substantial than has been the case in recent times.

The bill addresses the issue of ill-gotten gains, which is, I think, a very good provision. It will make it easier for the EPA to prosecute, and it includes for the first time the role of the EPA in terms of monitoring radioactive waste storage and uranium mining. I welcome this bill. It is a positive step forward, and I look forward to its speedy passage through this house.

Mr VENNING (Schubert): I welcome the introduction of this bill. I support most of it—and some of it on, certainly, severe conditions. As has been said previously, some of these recommendations have come directly from a report of the ERD Committee. Of course, as members know, I was Chairman when the committee handed down this report. I certainly support that report, which made 40 recommendations.

After we tabled the report we attended the EPA round table conference a few weeks later at Glenelg—I think the minister was there, from memory—and it was certainly well received. This was two years ago, and the committee thought that the report would have been picked up pretty well straight away, but it was not. The structural changes to the EP authority and the agency that we flagged at the round table were welcomed because there has always been confusion when talking about the EPA—are you talking about the EPA the agency or the EPA the authority? It was also of concern that the general public was always very confused in relation to the capacities and the powers of the authority under the act. Further, the public never saw the authority because there was no shop and no visible presence, and the recommendations

of the committee certainly picked that up. I pay tribute to the Chairman of the EPA, Mr Stephen Walsh QC, whom I found to be particularly knowledgeable. Is he continuing in the role?

The Hon. J.D. Hill: He cannot, under the change, but he is certainly pro tem.

Mr VENNING: You kicked him out.

The Hon. J.D. Hill: I did not kick him out.

Mr VENNING: That is a shame. He was too good to kick out but he was structured out and that is sad, indeed, because I believe that there should be a place in the new structure for a man of his fairness, capacity and knowledge, and I hope that the minister will address that. In all fairness and with an impartial point of view—

The Hon. J.D. Hill interjecting:

Mr VENNING: I work with the interjection although I know that interjections are out of order. But I am a little stunned—and, in fact, I am off my game—now that I find out that Stephen Walsh is not continuing, because I believe that he, as chairman, and Rob Thomas, as executive director, were a very good team. I note that the new government did not leave Mr Thomas in the position, and that saddens me.

But the ERD Committee tackled this problem in a very bipartisan manner, because it is an area in politics that is normally aligned with the left, the trendies, the greens or whoever you like; but I think the committee was very responsible and came up with very good recommendations, and I believe that the previous government should have implemented at least some of these recommendations, but it did not. I do not know why—I have no idea—but maybe we did not have time. I have always said that committees exist to do the work. If a minister has a problem, he can always implement a measure and, if it goes wrong, he can blame the committee, because that is why it is there.

I hope that this minister will see the light. Some of the stuff he has to implement is not popular—you are damned if you do and damned if you don't. He can pick up one of the recommendations of the committee—selectively choose it if he wishes—and implement it and, when the heat comes from half of his electorate, blame the committee. I think the committees are fair game, because they are set up on a bipartisan basis with representation from all parties. In this instance I think parliament did not use the committee, because there were 40 recommendations that covered a very wide area and the government could have picked its way through and taken what it wanted and left what it did not want. I am sure that members of the previous government and the minister could have made good fellows of themselves. I know that the minister read the report, and it was not addressed. But the committee is there to be used and, in this instance, as I said at the time, I was very proud to be its chairman and I think we did a very tidy job, and now the new government has picked it up.

But I believe that the government has selectively taken some of those recommendations and deliberately left some out and, in fact, gone stronger on some issues and weaker on others. The statutory entity and the administration unit, as I said previously, pick up pretty well what the ERD Committee recommended to solve the confusion of having the two bodies. So the government—in an unusual way, I believe, but at least it does it—puts together the formal regulatory entity and the administration unit, both to be called the Environment Protection Authority, which I think is fair enough, and I believe that the agency, therefore, is abolished, although it still exists under a different name. So that is a good move.

The accessibility of the authority is also not addressed. The recommendation that the committee made is that it ought to have a shop front so that people can walk off the street and see that the authority is visible and not just a political enforcement group, as some people think it is—although it is that.

The environment management industry is transferred to the Office of Sustainability, and I have some concern with that. Even though it previously came under two ministers, the concept of 'sustainability' is a new area for this government and I am still not sure about it. We will see: time will prove whether it will work. As I said, there were two ministers before. This is changing the act but we still have the same problem. To me, the Office of Sustainability has an unfortunate connotation—soft and rubbery and cuddly—and I do not think it is quite the thing that I would like to see to encourage the rank and file person out there to think that this is business friendly or development friendly.

The board is to be expanded from seven to nine members, with qualifications. I will read the ERD Committee recommendation No. 1, because I agree with the government on this aspect:

> The committee recommends the appointment of two new members to the EP Authority at the expiration of each term of four years. The new members may have practical knowledge and experience in environmental conservation. Advocacy on environmental matters on behalf of the community would be another favourable attribute.

The government has picked that up holus bolus with regard to not only the numbers but also the expertise of members serving on the board. So I have no beef with that: the government has picked it up exactly.

I note that the chief executive is mentioned and will be a member of the board. There is some debate about this and I will read recommendation 34 of the committee, which covers this topic:

> The committee recommends that a variation of model 5 (as follows) be adopted for environment protection administration in South Australia:
>
> The legislation establishes an Environment Protection Authority answerable to the minister with the full range of specified statutory functions which it implements through staff answerable to it. This would involve:
>
> · making staff involved in administering the act employees of the authority—

which has been covered—

> · the Chief Executive Officer being answerable to, and an ex officio member of, the authority.

It is quite clear. There is some debate about that now but I had no problem then and I still have no real problem.

Mrs Redmond interjecting:

Mr VENNING: Whether the officer chairs it is a good point and I could certainly listen to debate on it, but the committee at the time thought that it was a bit ridiculous that the CEO was not on the board: we did not agree with it. For the benefit of the Chairman of the Public Works Committee, this is an example of committees at work, and it is good that some committee work ends up on the floor of the house: it does not happen enough. The last point in recommendation 34 is:

> · making the authority directly responsible to the minister, with the act providing power for the minister to direct the authority but not in specified areas (e.g. authorisations, conditions of authorisations, decisions re prosecutions).

So, certainly, the government quite clearly picked up the recommendations of the ERD Committee. I was concerned

that there was no mention of the inordinate amount of time taken to produce an EPP, and I do not know why the government did not pick this up. Recommendation 12 states:

The committee recommends a streamlining of the EPP process to shorten the amount of time taken to produce an EPP.

It does not appear in my documentation. It could at least be included in the bill and, if you achieve it, okay, but, if you do not, at least you have tried. The question is: why is it not addressed?

There is no mention of the water quality policy in this bill. Recommendation 14 of the ERD Committee—and I am only picking up the important ones—states:

The committee recommends the rapid introduction of a Water Quality Policy.

I note that it talks about the marine waters—that is, prevention of pollution by ships—but it does not pick up the other very important issue of water quality. If it is taking it out, then it ought to say so, particularly in a year when we are so much water focused. I think that ought to be included in this bill and clarified. It was a very important part of the ERD Committee recommendations. There is no mention of odours and air quality. Recommendation 15—and I thought that was an easy one—states:

The committee recommends the introduction of an EPP to be used for the management of odour issues, or the incorporation of odour standards into the Air Quality EPP.

Whether that is an omission or whether I have not seen the small print, I do not know, but air quality, particularly today, is important. We are continually having community disputes about slow combustion heaters, smoke and so on. I think this is a glorious opportunity to put into legislation clear guidelines about how an EPP is set up in relation to air quality.

There is also no mention of improved licences. Recommendation 18 states:

The committee recommends the improvement of licences to make them clear and readily interpreted.

We believed that the licence fees should also be pollution load based; in other words, the higher the polluter, the higher the fee. Recommendation 19 states:

The committee recommends that a significant component of licence fees be pollutant load based.

This is a touchy recommendation which could have been picked up by the government and handed fairly and squarely back to the committee, because we were quite strong on that. If you are in a polluting industry, I believe that your licence fee should be adjusted accordingly, and if you pollute, your fee should certainly reflect that.

We did not consider the new area relating to the economic benefit acquired by a person at the time, but it did come under the penalty area. As I said, this bill does propose to penalise anyone who illegally accrues an economic benefit as a result of committing an offence under the act. We had some discussion on this matter. I am sensitive to this issue because I have vineyards in my electorate. Some time ago, we had a dispute about a few trees in a vineyard which were to be bowled over. There is a complicated arrangement between the EPA and the native vegetation people on these matters. Certainly, I would like this clarified.

The idea of sending this issue to a committee to nut out in a bipartisan way is a very good one. I hope the minister supports this suggestion because the ERD Committee—and some members of the committee were members back then (this is probably three years ago now)—could pick up the matter very quickly. I have had no indication from the minister whether he supports this idea. He is normally very demonstrative in the house, but at the moment he is not giving any indication—

The Hon. J.D. Hill: I am thinking about it.

Mr VENNING: I hope he will consider that because it is a very touchy area. By sending it to the committee it buys time. The rest of the bill can be passed into law, but that part can catch up with it later. The radiation protection and control part of this legislation was not before the ERD Committee for consideration. I do not know why it was not mentioned. It did not come under any of the 40 recommendations, nor did the pollution of marine waters. Whereas I support this part of the bill, it certainly did not come to the attention of the ERD Committee.

I certainly support the implications of this bill. As I said, I was cross that it was not implemented by the previous government. I do not think it was politically too hard. We had a big backlog of legislation and a lot of it jammed before the election, and that is probably why it did not happen.

I welcome this bill because, if nothing else, being a member of the committee which undertook a study on the EPA—a body which previously I regarded as a bureaucratic pain in the backside and which made it harder for industry and development—I think it is a very valuable authority and a much needed umpire, especially today, when development is under much pressure because of where people want to live and there always being disputes about noise and odours and whether it impacts on the amenity in which one lives.

I congratulate the minister for introducing this bill. I am confident that he will look at my comments with an open mind and, hopefully, at the end, we will come up with a good bill. I support it, hopefully with those recommended amendments.

The Hon. G.M. GUNN (Stuart): I was wondering whether others wanted to participate in this debate. I do not share the enthusiasm that some people have for this proposal, because, at the end of the day, commonsense must apply. People should clearly understand that, if you want to make life continually difficult for people in business, commerce and agriculture and if you want to create more regulatory controls, bureaucracy, red tape and nonsense, then you kill the goose that lays the golden egg.

I am aware of the grossly misleading, inaccurate nonsense and sheer untruths which are being peddled about the Beverley uranium mine. If ever there has been a storm in a teacup and nonsense put out about that particular enterprise and the so-called leaks that have taken place, this is it. It is hogwash and nonsense.

If members visited the site and spoke to the people who work there, they would know that it is just publicity seeking stunts by a few malcontents and other individuals who have nothing better to do than cause mischief and make trouble. The so-called leaks which have taken place have caused no environmental damage and have not been a danger to the community. People would not work there if it was true. It has been a valuable source of employment to my constituents. The people who operate the mine are good corporate citizens. They have been good for South Australia. I am looking forward to the Honeymoon development coming on site. I also have the support of the Mayor of Broken Hill and members of his council who also understand that that project is in the long-term interest of the people of South Australia.

If environmentalists are really concerned about the greenhouse effect and pollution, they ought to look at the

option of nuclear power, because the time is long since past when this emotional nonsense has been used to cloud over commonsense. Go around the world to places such as France and so on which have nuclear power. The decision of this government in this legislation—

Mr Caica interjecting:

The Hon. G.M. GUNN: I have been to South Africa.

Mr Caica interjecting:

The Hon. G.M. GUNN: I have a few other places to go to yet, too, and I make no apology for that. I suggest to the honourable member, who is new to this place (in the short time that he will be here), that he avail himself of the opportunity because he will be a better member of parliament if he does. I could be unkind and say that he has a long way to go, but I will not say that—

The DEPUTY SPEAKER: The member for Stuart is straying somewhat.

The Hon. G.M. GUNN: Uncharacteristically, I was sidetracked, and normally I do not allow myself to be sidetracked. This legislation provides for the Radiation Protection Unit to be placed under the control of the EPA. I wonder why! In my view, that organisation has a great deal to answer for.

I had a high regard for Nicholas Newland, with whom I had contact in various organisations. However, he has now been pushed aside for some reason, and no explanation has been given, and the reason for that would be interesting to know; we will probably know before this debate is over. I thought that Mr Newland had considerable experience in the areas with which he had to deal. He was a reasonable person, and I thought that he would take a balanced view of these issues. Some rather arrogant people work within the department who do not seem to understand at all that commonsense has to dictate.

The way in which sections of the EPA treated a number of my constituents has been of great personal annoyance to me. A sawmill had been operating at Wirrabara for 100 years. As has happened from time to time, a dole bludger, a malcontent, parked himself in the town. He was hardly there a few weeks when he started to complain about the noise of the sawmill. He knew that before he went there. In its great wisdom and foresight (this lot of banner-wavers will save the world), and with great gusto, the EPA came to Wirrabara and videoed the operation of the sawmill, which had been operating and employing people in the town for 100 years.

What happened when the sawmill shifted? What happened to those poor people? They were not getting paid an obscene salary, unlike the situation concerning bureaucrats in the EPA, whether they performed or not (and most members of the EPA do not perform at all). These poor people had to shift to Jamestown, and the cost of a house in Jamestown is much higher than in Wirrabara. The community was angry because of the activities of this insensitive, unwise bunch of dills in the department—and that is the only way to describe them.

I cite a situation that arose at Quorn, where the District Council of Flinders Ranges wanted to burn their rubbish dump. There was nothing unusual or unwise about this, and it caused no problem at all. The mayor was upset that one particular woman refused to return his telephone calls. She was an appointed person, and he was an elected person. In a democracy, he had every right to expect that he be treated with courtesy and that his telephone calls be returned. In our system, he was elected as the spokesperson for that community—and a good one at that.

This rude person, who did not seem to think that someone who is elected has any right, imposed her rather odd views upon that community and then had the audacity to suggest that it did not matter if the council had to wait; it could burn at the end of October. That is how much sense these people make. I know the name of that person, and if we do not get some decent responses we will take it further in this house. I am one of those people who firmly believe that, in a democracy, people do not have to put up with these little commissar types of people, and that is what they are. They think they will get away with it, but the community has had enough of these people. We will pursue them in this place day and night, if necessary, when they treat citizens without any regard for their feelings, for decent practice, or for the rules of natural justice. We will pursue them, and they will be subject to censure motions. They have a bit of power at the moment by one vote, but that can change very quickly. We have long memories. My constituents have long memories and we will not and should not forget them for one moment. I always believe, when dealing with these sorts of things, that one unreasonable act always creates another unreasonable act, and these people have acted unreasonably, so people in this place will act unreasonably.

I will go through the people who will be put on the board and look at the criteria in relation to their status, why they are there, whether they are there as political apparatchiks, purely as agents to frustrate, or whether they are there to genuinely look after the long-term welfare of the people of this state. This parliament has a responsibility to ensure that balance and commonsense prevails in dealing with these matters. Where you make it easier, as this legislation does, for people to be prosecuted, do you think that is a good thing?

People should be very careful indeed because those of us who think about these things carefully—and I hope all members do—and have had the experience of seeing horrendous and shocking things perpetrated against people who cannot defend themselves understand quite clearly that the average citizen is at a great disadvantage when they are taken to the courts, prosecuted or investigated by the government or its agencies. I do not know whether the minister has ever been involved in private business, commerce or industry, and particularly small organisations, which are often difficult to keep economically viable. One of the things that causes problems is the attitude of an insensitive bureaucracy. Not only is it the time involved but in many cases these people are not aware of their rights or their ability to defend themselves.

Mr Hanna: How do you think the refugees feel?

The Hon. G.M. GUNN: If you want to have that argument, sunshine, I am happy to have it whenever you want it—it suits me fine. I know the views of the Australian people and you could come to my electorate and debate it tomorrow.

Mr Hanna: They are not all like you, though.

The Hon. G.M. GUNN: They have sent me here 11 times. You will never be able to say that. I can come back a twelfth time, if I want to—you won't have that luck.

Mrs Geraghty interjecting:

The Hon. G.M. GUNN: You have been encouraging me today. I can easily come back again. One of the things I have learnt from my time in this place is that members of parliament should vigorously question any legislation, because once it passes this chamber we lose control of it and then we have to take other action to stick up for our constituents. I do not care who the minister is: it is not the role of the parliament to rubber stamp. We should not pass legislation at the

behest of bureaucracy or make it easy for public servants with their own agenda or desire to make life difficult or some other hidden agenda. That should not be our role.

Our role is to ensure that we have good legislation that will be on the statute book for a long time. The community wants consistency, fairness and rational decision making. It does not want to see petty bureaucracy or people who disregard the rules of natural justice. People should have the ability to properly defend themselves without being sent broke, have their businesses destroyed or their family relationships distorted. These are absolutely fundamental in a decent society. One of the things that distinguishes a society like ours from other forms of government is that we respect the rights of the community against arbitrary, insensitive or vindictive decisions on behalf of a government by its officials. Some of these increases in penalties that we have in this legislation may make certain people feel good. They may be there to appeal to a few minority groups who have no understanding but who want to exert political pressure. It may make them feel good, but I say to the members of this house, and to the member who is about to leave, that he will realise the difficulties with some of these things when one of his constituents is unfairly dealt with.

That is when the chickens come home to roost: when people are unfairly dealt with or are the victims of this insensitivity. I do not have any personal problem with the minister: I have found him to be straightforward. Obviously, he has to serve his political masters.

Mr Hanna: He is a political master!

The Hon. G.M. GUNN: He has a few others. He is a politician, too. We are all politicians. I understand that, you know. I have not been around here for just a few days and not understood that a certain part of the exercise is to create that right impression, the perception that we are doing great things. Sometimes the perception of doing great things has a reaction the other way and can have very serious ramifications for the economy. Labor governments traditionally are not good at maintaining sound economic growth or looking after the economy and, in the end, it catches up with them. We have seen that happen before. I remember when John Bannon was Mr 80 per cent, and we know what happened to him. He had all these sorts of ideas and all these people sitting behind him.

Nevertheless, my concern is how these provisions are going to operate in the real world and what effect they are going to have on small business and people in the rural areas, what rights these people are going to have to complain and defend themselves against an action, and what rights the sorts of people they send around have to impose their own views. Lots of the problems are that these people have their own agenda. It is nothing to do with good government or legislation, but they want to impose them in an arrogant fashion. The minister and I have our difference, and we have not quite finished that debate yet, over the powers of inspectors under another bill. That will come back. The minister may wonder why I am so determined about those issues. I have seen people treated in the most disgraceful manner by the bureaucracy, and on each occasion when I have been convinced by the bureaucracy to back off, I have greatly regretted it later.

I will give members one example, and that is the poor lady whose abalone diver husband was taken by the shark in Streaky Bay, and how she was treated. When I complained and went to fight the case I was assured that I was wrong, yet the people who were telling me to back off are now leaving or retired with huge superannuations paid for by the taxpayers, and this poor lady was left in a most difficult financial position. It was an absolute outrage, and all those responsible should hang their heads in shame and be condemned. If ever there was a need to bring back the birch it was for those people, in my view, because of the way they treated that poor defenceless person. And this is what will happen here.

You are going to send out this army of people, and you only need one or two malcontents and agitators and they will cause small businesses tremendous difficulty. I have had it in my constituency and I know the member for Flinders has had it. I want to know from the minister whether the aim of his exercise is to administer this legislation with a bit of commonsense and compassion and to work with industry and commerce, or whether it is to have arbitrary decision making, with people imposing unreasonable and unwise acts and forcing people into bankruptcy, generally acting in an un-Australian, unwise and unnecessary fashion.

The member for Davenport has, quite properly, gone through this legislation in some detail in relation to the views of the opposition. I commend him for the work he has done and the detail he has put into it.

We have a number of very reasonable amendments which will greatly improve this legislation. I look forward to debating those amendments and to the application of commonsense. I do not share the enthusiasm of some others for this proposal. I think you judge people on how they have acted—on their track record—and, in my view, the track record in my constituency has left a fair bit to be desired. I sincerely hope that if these people have been born again—and I have some doubt about that—if they have seen the light on the road to Damascus, they will have permanently seen the light and will act reasonably, fairly and sensibly and realise that people in business and commerce—

Time expired.

The Hon. J.D. HILL (Minister for Environment and Conservation): I thank all members who have participated in this debate, and I thank them for their contributions. By and large, I think the debate has been constructive and that requests for information have been reasonable.

Obviously, I will not conclude before the dinner adjournment. However, I will go through some of the points made by the member for Davenport, the lead speaker for the opposition, to try to address some of the concerns he has expressed. I thank him for his positive comments about those bits of the bill that the opposition will support.

The member for Davenport started off his address by talking about the establishment of two authorities which, in the public's perception, is a single authority. He talked about this being more about perception than reality. He based that comment on information provided by the authority in relation to whether or not there were examples of ministers interfering with the independence of the EPA. The answer that came back was, 'No, but there were no examples.'

I take the point that this is partly about perception. We want the public to believe and to know that this EPA is an independent body which will make decisions based on the best interests of the community when it comes to environmental protection and that it is not being held by a string or connected in some way with the political arm of government which is saying, 'We don't want you to go hard on that; we want you to go soft there,' to try to manipulate the process.

In part, it is about perception; but it is also about reality. Persuasion and interference can happen in a variety of ways. It does not have to be a blatant example of the crude exercise

of power. It can be done by a subtle approach—by a kind of attitude developed or promoted in either a minister's office or a departmental office.

The Hon. I.F. Evans: I can't believe you operate in that way.

The Hon. J.D. HILL: I am not accusing the former minister of operating in this way. I am just saying that it is a reality that power can be exercised in a whole range of ways: it does not have to be active or deliberative. It is to allow the authority to feel and be independent of that kind of influence. In addition, it also makes it independent of the Department of Environment and Heritage, and that is an important act of independence in itself.

Prior to the changes I made on 1 July there was some confusion within the bureaucracy about what the proper trails and the proper process of accountability were: are you subject to the direction of the head of the EPA; are you subject to the direction of the head of the Department of Environment and Heritage; or are you subject to the direction of the presiding officer of the EPA? As the member has said, this will clarify this and will provide a very clear, simple and straightforward process of accountability. It will also ensure that the EPA is in fact as well as in theory an independent body.

[Sitting suspended from 6 to 7.30 p.m.]

The Hon. J.D. HILL: Before the dinner adjournment, I had just begun to respond to members' contributions, and I was talking about the Environmental Protection Authority. The EPA is an independent authority both in perception and in reality. The government was keen to do this—and the member for Davenport would be aware of this—because the public perception was that the EPA was something of a toothless tiger (that is not a phrase that I use—not terribly frequently, anyway) and that it was not able to do the job that it was supposed to do. There were concerns in the community, and the strategy that the then opposition—now government—adopted was threefold: we wanted to make the EPA independent; we wanted to give it stronger powers; and we wanted to provide it with more resources. So, we are certainly going through the process of making it an independent authority.

The member for Davenport talked about the board of the authority. I would say that in changing the structure of the board (and perhaps this is a matter to be raised later on), we certainly want to strengthen the board. At the moment it is subject to appointment on the basis of recommendations made by outside authorities. I do not think that is the best way to get a strong, independent board. That is one of the other aspects of independence: this will be a board that will be appointed on the basis of the skills and character of the individuals involved, not on the recommendations of other entities.

I do, of course, have an amendment before the house to impose upon the minister the obligation to consult, and I am more than happy to do that with a range of bodies.

The Hon. I.F. Evans: And then you will ignore them.

The Hon. J.D. HILL: No, that is not true. I certainly will not ignore them. I will certainly consider all the points made by the various prescribed bodies. The member for Davenport asked whether the board will have to follow government policy, and I think that is an interesting point. It will when that is appropriate, but the point is that the independent authority has certain obligations under the law where it cannot be bound by government. It has duties and obligations which it will have to apply on its own cognisance. If, for example, the government has an equal opportunity policy, it will have to abide by those general kinds of policies. That is a matter of commonsense and working through those issues.

The member for Davenport talked about the change in the functions of the board, and it is true that the government is keen (and this bill does deliver upon this) to make it a regulatory-focused entity. At the moment it has various educational roles, and it also has roles in relation to policy development.

As the member for Davenport said, some of those issues will be referred to the Office of Sustainability. However, that is not to say that the EPA will not still have an educative role. When it comes to technical matters in particular, and working with small business, for example (a question that one member raised earlier), we would expect the EPA to educate small business about how to do certain things and better manage their business to get good environmental outcomes.

In relation to whether the chair of the board should also be the CE, which was raised not only by the member for Davenport but also by a couple of other members, I must say that I thought about this long and hard. The best advice I received was that the Victorian model, which is essentially the model that we are adopting in relation to this matter, was the best. In Victoria, the CE is also the chair of the board.

The member for Heysen raised the question, too, and I asked her how it worked in legal firms, because I would imagine that in most legal firms the chair of the board is also one of the lawyers who works for the company. We do not have an outside board which directs the lawyers in the entity about how they do their business. So, it is not an unusual model that is being promulgated.

The best advice I have is that the Victorian system works best. There is a very strong relationship between the board and the bureaucracy which supports the board and which is directed by the board. There is not a division between the two bosses, if you like: the boss of the board and the boss of the bureaucracy. When they are one person they can work in a seamless way. Time will tell, of course, whether this model works, but the best advice I have is that that system has worked well in Victoria and it ought to work well here. In relation to appointment of the CE, the member for Davenport says, 'Well, the person can be appointed for up to seven years. Will that person, in the last year or two, start becoming more cowardly in the way in which they do their business and more aware of what government wants and start changing the way they behave?'

If that is true of that CE, I suppose that is true of every CE in the Public Service, because all CEs are appointed on a limited tenure basis. It is also true of principals in schools. It is true of a range of public servants who are appointed on a limited tenure basis.

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: Well, what about the Ombudsman or the Attorney-General? Who appoints them? They are not appointed for life, are they?

Mr Venning: What about the Auditor-General? What about MPs?

The Hon. J.D. HILL: That is what I said: what about the Auditor-General or MPs? A range of people have limited tenure appointments.

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: Is he a judicial appointment? Yes, you might be right. I beg your pardon. The argument then ought to be: should we appoint this person until they are 65?

I think not. I think it is appropriate to have an appointment review; but, if the honourable member wants to move an amendment, I guess we could consider it. However, up to a seven-year term seems to me a reasonable amount of time. I am not concerned that that person, over the last two years or so of their term, will start to become a puppet of the government. The current arrangements, of course, are that the Chair of the EPA is appointed on term by the government and can be subject to replacement at the end of that term and, under the current arrangements, the CE of the EPA is also appointed on that limited tenure basis.

So, putting them together into the one person I do not think changes those sets of relationships, and I do not think that it would make a significant difference. The member for Davenport mentioned that there will now be up to nine members. He said that he supported that and I am pleased about that. We have talked about the correspondence from the LGA. I picked up the amendment that it has suggested and I am happy to consult with the LGA and any other prescribed organisations that are to be put in regulation—the Conservation Council, Business SA and a range of others may well be listed.

I am happy to take advice from the member for Davenport about appropriate people who should be consulted. The honourable member talked about penalties and on that issue, I suppose, there is the greatest difference between the two parties. The honourable member makes the point that the penalties will now be the highest in Australia. I think he mentioned that Queensland's maximum penalty was $1.5 million. Our penalty will be $2 million. I am not upset about that. I believe that sends a clear message that South Australia is serious about environmental pollution, and that it wants to send a very strong message to the community and to business that polluters have no place in our state.

The honourable member says that this is using a club approach: a stick but not enough carrot. I made a point by way of interjection that there are plenty of carrots in the legislation already, and I will perhaps go through some of those. First, of course, something like 1 800 licences are currently in place. So, 1 800 or so businesses are licensed to go about their operations and those licences allow them to pollute, if you like, to a certain extent. The EPA does, by its very operations, allow some level of pollution, in a reasonable sense. The EPA, as one of its objectives, must take into account economic outcomes as well as environmental outcomes, and that is, if you like, a carrot.

The EPA also has a process known as the environment improvement program, and that is usually its first port of call when it comes across a business or a polluter whose activities need to be constrained in some way. So, the EPA has a range of mechanisms at its disposal to bring a company into line without going through the courts system. The courts system is the last resort. The history of the EPA suggests that that is the way that it has approached it, and I see no reason for that to change. The other incentive which the government recently announced was the introduction of a load based licensing system so that a levy on licensed businesses that pollute would be based on the pollutant content of the effluent of which they disposed rather than the volume. So, there is a range of incentives already in place.

The member for Davenport raised a whole range of issues to do with the amendment in terms of the degree of knowledge required by polluters who knowingly have polluted to a serious or material degree. The bill attempts to reduce the knowledge that is required to be proved in the courts. At the moment, for someone to be convicted of pollution to a serious and material degree it must also be proved that they knew that they were going to pollute to that level. That is a very tough standard. There have been no successful cases in South Australia and I think there have been only one or two attempts to get a conviction under that provision, but it has been too difficult to achieve.

In some jurisdictions you only have to prove that there has been pollution at that level; you do not have to prove any knowledge at all. That is the extreme position. We could have removed the need to prove any knowledge at all of any pollution, but we have not done that. We have said that in order to get a conviction under that section of the act you have to demonstrate that there has been pollution of a serious or material extent which was done intentionally or recklessly and that the polluter knew that it would cause some environmental harm.

The committee was consulted about this particular measure in terms of a discussion paper entitled Offences and Penalties in the Environment Protection Act 1993 put out by the former minister for environment and heritage, the Hon. Dorothy Kotz. That discussion paper was based on the work done by the member for Schubert's committee, it was put out to public consultation, and the business community raised no objection to it. I think only two groups opposed it, and they were both groups of lawyers.

The Hon. Trevor Griffin (the former attorney-general) and his department objected to it and one of the environmental lawyers groups objected to it, but the business community did not object to it at that time. In fact, I think this report was tabled when the member for Davenport was the responsible minister, but I could be wrong about that. Certainly, there has been wide consultation about this particular measure and there have been no complaints from the business community about it.

The member for Heysen said that she is sympathetic to the direction in which we are trying to go but that she could not make a suggestion about what the level of knowledge ought to be. I suggest to her that we have struck the right balance. The alternative to what we propose is that there should be no proof of knowledge at all; all we would need do is prove that there is serious material and environmental harm and that it is done in an intentionally reckless way.

The member for Davenport questioned the proposal in the legislation dealing with economic benefit and the notion that a company which had polluted knowingly and derived an economic benefit should be penalised to the extent of the economic benefit which they received. He suggested that there be an arbitrary judgment of that. I guess that is correct, but it should be arbitrary in the sense that it is independent and non-partisan, that any judgment made by any court is arbitrary, and that it be a dispassionate and objective view of the facts.

This measure is based on legislation which is currently in place in the United States of America. As we all know, the United States of America is the home of business and the capitalist system and, if it works okay in the United States of America without upsetting the business community, then I would suggest to members that it is perfectly reasonable for it to work in South Australia. It is a very sensible measure, and it would send a very clear message to businesses. It is not all businesses; one should make a clear distinction. Most businesses want to do the right thing. Occasionally they will have an accident and will get caught out, and they will cop the fine and get on with it, but there are some people who just

do not care about the environmental consequences of what they do. They will happily pollute if they think there is a quid in it. This is a measure to say to those polluters, 'If you get caught, not only do you cop the fine but you also cop a super penalty which is equivalent to the economic benefit you have made and which would put you in the same position as you would have been in if you had done the right thing.' I would have thought that that was not a difficult thing for the courts to work out, and certainly it would be up to the courts to determine how that would occur. It could only occur after a company or an individual had been convicted of one of those other offences.

I would also say to the member that in the second bill that I will introduce I wish to include the capacity for the EPA to enter into arrangements with businesses or individuals who have polluted to reach a settlement with them so they do not have to go through the court system. This is another measure that is extant in the United States jurisdiction, and it works very well. I certainly know from my conversations with business that this is something they would like, because the last thing business wants to do is to go through not necessarily a costly but a lengthy court process. If a business pollutes they know they have done it and would like to pay the fine and get on with it so they do not have to go through this drawn-out process where their good name is taken through the media on a regular basis. This is the process that operates in the United States, and I would like to introduce a similar measure here. That is not in this bill, but will be in a subsequent bill. The member for Davenport raised the issue of retrospectivity. I can certainly seek some better advice during the committee stage but, as I understand it, if my measure comes into play, a company which had been profiteering from polluting would pay that excess penalty only from the point at which the legislation became active, so it would not apply to previous acts.

The member for Davenport also raised the issue of the radiation protection act and said this is a government that wants to put the environment before health. I do not think that is the case. We think that both environmental and health issues are important, but we want to give the EPA the power to look at radiation issues when it comes to environmental pollution. Currently the EPA has no say in relation to accidents or occurrences which may damage the environment from radioactivity, so it is really just to extend the EPA into an area which most people would think was a sensible extension. He mentioned the marine issues and said he would support that, and I thank him for that.

The member for Heysen had a number of issues, and I think I have covered most of those. I think she was more sympathetic to the legislation than was the member for Davenport. She had some concerns about the level of knowledge that was required under sections 79 and 80. I think I have addressed those issues. These are offences which are subject to court action; the fines and level of knowledge all have to be determined by the courts. While it is true that the maximum fine has increased to $2 million, it is up to the court to determine. If they are trivial circumstances, such as those that the member for Davenport described in his address, the court will not fine a company or an individual the maximum amount. Clearly, that will not be the case.

I thank the member for Fisher for his support for the legislation. I also thank the member for Schubert for his comments and for the work that he and his committee did. It is true that the government has picked up a lot of measures suggested by that committee, and indeed in our second piece of legislation will pick up many of the other recommendations made by the committee. He made reference to Stephen Walsh QC, who is currently the head of the EPA. I support what he said about Stephen Walsh. Stephen Walsh is an outstanding chair and he has given me (as minister) very good advice. I have relied to a great extent on his advice. If he wished to stay on the EPA, I would certainly be very pleased for that to occur.

The member for Stuart made a number of comments and, in part, made reference to Mr Nicholas Newland, who is the current director or CE of the EPA. I concur with the member for Stuart that Mr Newland is a public servant worthy of great esteem, and I hold him in great regard. After we established the new body—and Mr Newland agreed with this—we decided to go through a process of competitive interview. We advertised nationally and Mr Newland applied. He understood the process we were going through and he agreed with it. Unfortunately for him, he was not selected as the CE. This was not something I orchestrated. It was a process gone through with an objective board. I hold Mr Newland in high regard and I have said elsewhere that I would want him to continue working for me within my portfolio area, if he chose to do that. I put on record my great thanks to him for the advice he has given me and for the hard work he has given the people of South Australia through his directorship of the EPA.

I make one final point in relation to a number of things the member for Stuart said. I do not do this in a disparaging way, but the member for Stuart made a number of comments about officers of the EPA. I do not know the examples—

The Hon. G.M. Gunn: It is my right to bring them to the attention of parliament!

The Hon. J.D. HILL: I do not know the examples to which he was referring, and I do agree that it is his right and duty—rather than just his right—to bring his concerns to the parliament. I do not challenge that at all. I want to put on the record my view about the officers of the EPA. Since I have been the minister, I have met many officers; I have visited their workplace to talk to them, and I have to say that the officers I have met are an outstanding group of people who are well-educated, passionate about what they are doing, and very committed to the service of the public of South Australia.

There may be incidents where individual officers, past and present, may not have been as diplomatic as they ought to have been and they may have done things they regret after the event, but they would be the exceptions. The great bulk of public servants who work in that department and who work in all my departments—in fact, who work for the government—are decent people who work hard and who want to achieve things for the environment and for the state of South Australia. I do not accept the general criticisms made of public servants by the member for Stuart, but I do accept absolutely his—

The Hon. G.M. Gunn interjecting:

The Hon. J.D. HILL: —right to make those comments. Certainly, I am happy to listen to them. If there are specific examples that he wishes me to follow up, I am always happy to do so. With those words, I commend the bill to the house.

Bill read a second time.

The SPEAKER: Order! Before proceeding to committee, as has been my wont in the past and without any desire to have affected the second reading decision of the house, I nonetheless believe it is important that my own constituents understand my views of the matter and that, as the house goes

into committee, those views may be taken into consideration in the course of any debate on any of the clauses. My remarks in this instance are no different from what they were in 1993, where they can found from page 289 through to page 291 of *Hansard*. As I recall upon glancing through them, I was at that time in August suffering from the flu.

The Hon. J.D. Hill: I am glad you recovered, Mr Speaker.

The SPEAKER: Recovered or not, my concern expressed then remains now that there are too many subjective interpretations to be made of the definitions of the terms upon which it is possible to prosecute people and that, in the intervening period of nine years and more, it should have been possible for us to come up with a better, clearer definition in law than otherwise compels us to rely upon the subjective interpretation which has been and will be given to it, not only by those required to enforce it but also those who are required in the courts to make judgments upon it.

The more important element I wish to place on the record, without disparaging any remarks or being seen necessarily on the other hand to be supporting other remarks, is that it would be better, if we must rely on such subjective interpretation of the terms we use to describe the circumstances we aim to achieve and the manner in which we would seek to achieve it, to have the board, if not comprised instead by a committee of the parliament, at least accountable to a committee of the parliament. In ideal circumstances, my model for the better operation of democracy in parliament would have such a committee established properly in the house of review and purposely established to give oversight on a quarterly basis to the actions taken by the public servants, as well as the board itself, were it seen desirable to retain it rather than have a minister responsible, so that the minister can be criticised and the whole of the matter politicised to the detriment of the public interest in the process.

In the Legislative Council, were it to be so comprised, the committee could more objectively assess what the community's mores would require, rather than have the minister, and/or the minister's advisers influencing him or her, making such decisions. A committee is more likely to be realistic in reflecting the values of the wider community if that committee comprises members of parliament than is otherwise likely to be the case, and citizens are more likely to feel comfortable with the way in which oversight will be given to the operation of the regulatory authority established in law than can be the case if no committee examines what the paid servants are doing.

I conclude by saying that I think that those servants, particularly led by Nicholas Newland, have done well, in spite of our indifference to what I have seen as our duty, and I hope that we do not fail in these matters much longer. It is not appropriate to leave such ambiguity in the law and to give such wide discretion to those who are not going to be as directly accountable to parliament through these changes as proposed as they have been in the past. I thank members of the house for their attention.

In committee.

Clauses 1 to 6 passed.

Clause 7.

The Hon. I.F. EVANS: This clause strikes out paragraphs (b) and (c) of section 7(2) of the existing act, referring to noxious substances, etc. It does not delete the Environment Protection (Sea Dumping) Act 1984. Will the minister inform the committee why it does not delete that act—why the minister has not brought the powers contained in that act under the EPA?

The Hon. J.D. HILL: The member has asked a very good question. There is no particular reason why we had not reviewed that. I am certainly happy to have another look at it. We will have another bill before the house in due course, and we can consider that matter then. But there is no particular reason why it has not covered that act.

The Hon. I.F. EVANS: I am not passionately of one view or the other. But it intrigued me, and it might intrigue the minister and his officers, to read that the penalties contained in the Environment Protection (Sea Dumping) Act are only about $10 000—I think the highest I could find was about $25 000. I have had only a cursory glance at this during the dinner break, because I did not become involved in the intimate reading of it and I have not had a briefing on that measure. But it seems to me that it is one that is trying to put in place appropriate processes about dumping at sea. It seems to me that an argument would be mounted by some that there is as much environmental harm to be done at sea as there is by businesses on land. It seems extraordinary that the government is proposing a $2 million penalty for businesses on land and a $25 000 penalty under the Environment Protection (Sea Dumping) Act. I just bring it to the minister's attention. As I said, I have not had a briefing on it and I have not gone into detail, but it seems to me that there might be some inconsistency there. I would be interested if the minister could advise the chamber about that matter in due course.

The Hon. J.D. HILL: I thank the member for the suggestion. This has not been a problematic act; it has not raised its head as a particular issue. But now that the member has raised this issue we will, of course, look at it seriously. As I said, we have another bill, the environment protection bill No. 2, coming before the parliament in due course. What the member says sounds sensible, and I will have a look at it.

The Hon. I.F. EVANS: The minister will take this on notice, I am sure, but I bring to his attention that the amendments effected to the Environment Protection (Sea Dumping) Act 1984 by the Environment Protection (Sea Dumping) (Coastal Waters and Radioactive Material) Amendment Act 1991 have not yet, according to my copy of the act, been brought into operation. Will the minister tell me why the government has not implemented those amendments?

The Hon. J.D. HILL: Obviously, the member had a very interesting dinner break discussion with someone. I am not sure of the answer to that question. I am certainly happy to bring back an answer. As I said, I will take on notice the first two questions that the member asked on this matter and consider them. If it seems sensible, I will bring it into the next bill.

The Hon. G.M. GUNN: During the minister's second reading speech—and this is the right clause under which to raise this matter as it deals with the functions of the authority, which are broad—the minister referred to my comments in relation to certain powers that people have in this organisation. He also went on to talk about other public servants. I have no personal desire to denigrate, criticise or be in conflict with any public servant. In my time in this place I have learnt that the average citizen is seriously disadvantaged when confronted by the government or its instrumentalities.

One of the hallmarks of a decent society—a democracy—is that we treat those people with respect. We should respect their rights and ensure that they are not disadvantaged because they do not have the resources to fight government. The average citizen does not have such resources; for example, they do not have access to adequate legal advice. My points are not only valid but they are becoming more

relevant every day. In many cases it is like *Yes, Minister*, with Sir Humphrey advising the minister on what powers Sir Humphrey should have and then administering them.

The member for Giles would know of some of the difficulties her constituents experience when confronted by bureaucracy. It is happening on a daily basis. It is no good ministers making out that people do not have a problem. When someone such as a mayor or small business person is confronted, they need to be treated with respect, and their point of view and their ability to make a contribution need to be considered. The only alternative is for someone such as me to get up in this place and make a contribution. If it happens again—and I do not care what line of bureaucracy is involved—I will name the person and move a censure motion against them. That is the only alternative available.

I would think that the minister would agree that the mayor of a district council is entitled to have his telephone calls returned by a fairly junior ranking person within the authority. That individual is aware of the role of members of parliament, because his father served in this house and in the federal parliament. So, he was not unfamiliar with the situation but he was most annoyed. In my view the public servant should have been suspended. I spoke to the public servant, and I was appalled at his attitude. It happened two for three years ago, so it was not during this minister's time. The minister should not think that my criticism today has been strong. Ministers on my side of politics have had far greater tongue lashings than that.

Members interjecting:

The Hon. G.M. GUNN: I make no apology for it. People are elected not to take a rubber stamp role or to be nice to the ministers but to ensure that the rights of the citizens of this state are properly protected against arbitrary decision making. I have some sympathy for the views expressed by the Speaker in this matter; in fact, I support many of them. With regard to the functions of this board, one thing greatly perturbs me: members opposite want to set up this autonomous body. To whom will it be accountable, and to whom will it answer? I ask the minister that because it is quite indecent that it will not be subjected to review by a committee of this parliament.

We have set up water catchment boards in this state, as the minister is aware, and they are subject to review by the Economic and Finance Committee. We have various requirements in relation to emergency services and they are subject to certain inquiry by the Economic and Finance Committee. There is no reason a committee of this parliament should not have the ability to annually review and question the operation of this body, because we will get an annual report but we have no control over what is in that report and we have a very limited ability to question it. You can say we have an opportunity in budget estimates—we might have 20 minutes and the minister can filibuster and grandstand if he or she wants to. I am not saying that this minister would do that, but we could have any sort of minister in the future.

So I am very strongly of the view that it is a very dangerous practice to create an autonomous body which is not answerable to anyone. They can act quite arbitrarily and become very self-righteous on many occasions and full of their own importance, when that is unnecessary. So I am very much of the view that they should be subject to at least annual questioning by a natural resources committee, or some committee of this parliament, to ensure that members of parliament who have concerns can have their questions answered. I put this to the minister: if members of parliament are concerned about arbitrary decision-making or causes of action in relation to the way the authority operates, they do not have to take any notice of the member of parliament who complains. We will get the old tactic and they will say, 'We have this authority, parliament has given us this authority, so we will continue.'

I have seen that sort of behaviour in the past and I seek a response from the minister to ensure that the public of South Australia, not only today but also in the future, is protected against creating a monster which is not subject to adequate and effective supervision by this parliament. Ministers' Sir Humphreys can pat them on the back and say, 'What a great job you have done, minister: we have passed a new law and we all feel warm and cosy,' but the first question I always pose is: what good have you done; have you actually done any good; have you improved the welfare of the people of South Australia or have you put another impediment in their way; have you created a monster which is purely there for its own survival? When you set up bureaucracies and you read the minutes, half of the discussion is about where to have the next meeting, not about what good they will do or whether they will be aware of due process and whether they will apply the laws of natural justice. That is what is important. We can have an emotional argument about protecting the environment—that is fine—but there are other aspects that need to be carefully considered when we establish organisations of this nature.

I do not mind if people think I am hard to get on with and I do not want to unduly delay the process, but I believe these questions need to be answered and we need to know what the minister has in mind; otherwise, grave injustices will be perpetrated against people who do not have the ability to look after themselves, and I will not sit idly by if there is anything I can do to stop that taking place.

The Hon. J.D. HILL: I thank the member for his comments and the opportunity to address this point. I know the member means it seriously and I do not denigrate him for the passionate way he has put it, and I know this has been one of the great themes of his 11 terms in this place. I was reflecting, when you made a comment before, member for Stuart, that if I were to serve 11 terms, I would be 88 years of age by the time I retired. So, I think it is highly unlikely that I will be emulating your great record.

The comparison, I suppose, is with the South Australia police. This is not a policing body, although it does have some parallels with the police. What do we have in the police? We have a Police Commissioner who is able to make decisions at arm's length from the government; he has a police minister to whom he reports, but only on some issues, and certainly not on operational issues; there is no police board; and he does not report to parliament. Very strong powers are given to the Police Commissioner, but—

Mr Hanna: Graham Gunn probably disagrees with that.

The Hon. J.D. HILL: No. Just a second. So, that is one model. But that is not the model that we are adopting with this particular agency. What we have is a range of checks and balances, if you like. We have a board, which will be an independent board; it will be a strong board, I can assure you. It will have a range of skills. It will not be run by a bunch of environmentalists with a particular ideological framework. The act does not allow me or any other minister to do that. It will be a balanced group of people. So, there will be people from industry; people who know about government processes; and lawyers. A whole range of skills will be in place. So, it will have a very strong board which will direct the operations of the authority.

It will then have to report to me as the minister; so it will have a ministerial relationship and, on some issues, I can have an influence. When it comes to the pure regulatory functions, of course, they have to be independent; and I should hope the member would understand that they have not only to be seen to be independent but also, in reality, to be independent so that they can do things in an objective way.

In addition to that, there is an annual round-table process where the EPA meets with the community and invites hundreds of people from every possible background to come along and consult; they go through an elaborate process to find out what the community is thinking. In addition to that, the EPA decisions are subject to consideration by the Ombudsman. The Ombudsman can overturn processes that the EPA has gone through, and the Ombudsman is regularly called in to be involved.

Then, of course, there is the judicial process, because in order to get a prosecution the EPA has to go to the courts and, of course, every citizen has a right to appeal those processes. So, I would say to you: there is a whole range of processes in place.

Of course there is the ERD Committee, and there is nothing to stop it calling the head of the EPA to appear before it to go through a whole range of measures. In fact, that is what happened in the late 1990s when the ERD Committee went through and reviewed the act. In addition to that, there is the annual report which is tabled in the parliament, and there is the estimates process which the member went through.

I ask the member for Stuart to compare all those measures with what happens in relation to the police force; I think he will find that there are more checks and balances in place with a body which has only 224 officers and which has fewer powers than the police force. So, if we keep this in perspective, we can see that the EPA is pretty well regulated.

It is independent—we want it to be independent—but it is not isolated. And I say that to the officers when I talk to them: 'I want you to be independent. I want you to use independent judgment when it comes to regulatory matters, but you are not separate from government. You are part of government. You need to be part of the policy-making process. You need to talk to people and be involved, and so on.'

So, I hope—and I say that in a sincere way—that that addresses the member's concerns. I am not opposed to the suggestion made by the Speaker about some sort of regular reporting process perhaps to the ERD Committee, or some other committee of the parliament. I am happy to consider that and discuss it with the authority and with the ERD Committee, because I am not exactly sure how it might work. I need to think through the model, but I do not have any objection to that process.

The Hon. G.M. GUNN: I am somewhat heartened by the minister's final comments. I understand that another piece of legislation will come before the parliament, and I would ask the minister seriously to consider in that intervening period the proposition that, on an annual basis, the authority be examined by the appropriate committee of this parliament or, if necessary, a new committee, which, in my view, should consist of members from both houses—

The Hon. J.D. Hill: The members of the ERD Committee are from both houses.

The Hon. G.M. GUNN: An appropriate committee. I ask the minister that he properly consider that because, in my view, the ability of a parliamentary committee to look at their functions and operations has very good effect. From my experience of dealing with water catchment boards, I have to say that, having on one occasion taught one of them a couple of lessons, it did not take long for the message to spread throughout the system that the committee was not a rubber stamp and that it had a proper role and function to play on behalf of the people who were supervised and who were involved with the water catchment boards. Mr Deputy Speaker, you would also be aware of what took place because you were a member of that committee on those occasions.

I will leave it at that if the minister is happy to consider that proposition. I would be happy to talk with the minister and to look at a suitable form of words for when we deal with the matter on a future occasion, because I believe it would be in the long-term interests of everyone in South Australia.

The Hon. J.D. HILL: I am happy to consider it. I have said that, in fact, to be perfectly honest, I see some merit in it. However, we have to be very careful about what such a committee would review. Forget about the EPA for a minute and think of it as the police. For example, I think the commonwealth parliament has the National Crime Authority, ASIO or whatever, reporting to a particular committee. They ask some questions but they do not second guess them in relation to their operational matters and how they did particular things. If the member can understand it in that context, it could be beneficial. I need to think about it. I have not thought about it before; it is a fresh idea. I am happy to think about it, and I will take it on notice when we review the act for a second time.

Clause passed.

Clause 8 passed.

Clause 9.

The Hon. J.D. HILL: I move:

Page 5, after line 18—Insert:

(3a) The minister must consult with prescribed bodies, in accordance with the regulations, in relation to the selection of persons for appointment under this section.

This amendment provides that I or any future minister should consult with a number of prescribed bodies. I have already indicated the LGA and Business SA, and I think I mentioned one other, namely, the Conservation Council, and so on. I would happily take suggestions from other members for appropriate bodies. I cannot guarantee that I will approve them all. If someone suggested the RAA, for example, I am not too sure that it would necessarily be an appropriate body, but there would be some bodies which would be appropriately consulted, and I am happy to do that. I encourage members to support this amendment.

The Hon. I.F. EVANS: I am glad the minister supports his own amendment, and we support it for the LGA for the reasons outlined in our letter.

Amendment carried; clause as amended passed.

Clauses 10 to 12 passed.

Clause 13.

The Hon. I.F. EVANS: I have some questions in relation to this clause but, again, the minister may wish to think about some of these questions for the future. Section 13(1)(b)—

The Hon. J.D. Hill: Are you talking about the original bill?

The Hon. I.F. EVANS: No, I am talking about the amendment of section 13 of the principal act, referring to the functions of the authority.

The Hon. J.D. Hill: I think we have just passed that.

The Hon. I.F. EVANS: No, we have done the repeal of section 12.

The Hon. J.D. Hill: I think you are talking about clause 7.

The Hon. I.F. EVANS: I apologise—I have misread that.

The Hon. J.D. Hill: I am happy to go back to that.

The Hon. I.F. EVANS: I will raise these issues now, because there are no amendments. I thank you for your tolerance. I have misread that clause. At the top of page 4, clause 7 (1)(b) provides:

> To conduct regular reviews of the environment protection policies, regulations and other measures and practices under this act.

Given that it is an independent authority and it has a whole-of-government responsibility, as I understand your vision for the role, why is it restricted to 'under this act'? This clause restricts the authority to regular review of environment protection policies, regulations and other measures under this act. Some would argue that there are other regulations that you may want to pick up.

The Hon. J.D. Hill: I think paragraph (j) already covers that.

The Hon. I.F. EVANS: Paragraph (j) provides:

> To provide advice to the minister in relation to the administration and enforcement of this act and in relation to other legislation that has, or may have, an impact on the environment.

That is true, but I wonder whether that paragraph gives a broad enough power to do everything in paragraph (b), but I will leave you to contemplate that. A similar issue is raised with respect to paragraph (f). I was going to raise some other very minor points but, given the circumstances, I will not.

The CHAIRMAN: Technically, we are on clause 13, but I have allowed you to pursue clause 7.

The Hon. I.F. EVANS: With respect to clause 9, we raise the issue of the chief executive being the chairman of the board; in other words, he has responsibility for giving effect to the policies and decisions of the board. In his second reading speech, the minister raised a comparison with the chief executives of government departments. I make the point that they are subject to the direction of the minister, and this person is not because it is a far more independent role. So, we still see some governance issues in relation to that.

I accept that we do not have the numbers on the floor in relation to this issue, so I do not intend to divide, but the opposition makes it clear that it opposes this clause and that it has some issues with governance.

The member for Heysen asked me to raise clause 12 with the minister in relation to the committees that can be established. It was my understanding that when the EPA establishes committees they can be people from outside the EPA—ordinary members of the community. The suggestion of the member for Heysen is that that should be made clear in the act. It does not need to be picked up in this bill, but in the next bill the minister may want to make that clear. It was unclear to the member for Heysen. It is minor in the scheme of things, but it is a tidying up exercise.

The Hon. J.D. HILL: I am happy to pick up the suggestions the honourable member has made and we can make clear the point the member for Heysen is concerned about. To address the issue of the chief executive, which is causing some concern to the opposition, I see some advantages in having a CE who also is chair of the organisation. A number of businesses have a managing director with that kind of role. It is not an unfamiliar role to some organisations.

The current arrangements are that the chief executive officer runs the organisation on a day to day basis and a part-time committee and a part-time chair come in perhaps once a month for a meeting. I know Stephen Walsh is available more often for consultation over the phone, but the decision making body is there only infrequently. That means that the bureaucracy has to second guess what the board might do. By bringing them together in this one person there is a greater chance of better integration between what the board wants and believes and what the organisation will do. It is trying to marry the two bits of the organisation. I understand the point the honourable member is making because it is clear that the person we are creating will be powerful.

To use the comparison I used for the member for Schubert, the Commissioner of Police is an incredibly powerful person, but he has no board around him to constrain, direct or control: he is the authority in his own right. At least in this model we have a CE with an organisation which he or she can direct, but hopefully if the government appoints correctly there will be a board of powerful, intelligent and independent people who will be able to direct the body and ask the right questions to ensure that it operates in the right way. Only time will tell.

There are a variety of models. This is the Victorian model, and on the best advice that I got it is the model that works best and it is the longest serving model in Australia—it is has been around for 20 or 30 years and has been proven. It is up to this parliament. If in a few years we do not like it we can revisit it, and there is no problem with that. I would be the first to amend the law if it was not working. I am convinced that this is the best way of proceeding.

I take on board the comments made, and maybe the recommendation made by both the Speaker and the member for Stuart is the way to go. If we have a parliamentary process to examine the authority from time to time, maybe that is a way of putting some more balance into the equation.

The Hon. I.F. EVANS: The contrary argument is that currently you have an independent chair from outside the Public Service who can give an outsider's view on a whole range of agenda items and direction in relation to the EPA. By bringing in the bureaucrat to be the chair—

The Hon. J.D. Hill interjecting:

The Hon. I.F. EVANS: Or the chair to be the bureaucrat—either/or—and essentially making it the same, you are in essence taking one small step to further isolate the non-Public Service influence on the board, because at least under the current scenario the chair (Stephen Walsh) can have an influence on the agenda items and the way things are investigated and can chase up an issue on behalf of board members. What you will have now is that the bureaucrats will essentially report to a bureaucrat and the outside people who come in only once a month, as the minister says, actually have less chance of influence now because the chair is in effect also head of the bureaucracy. Previously, in Nicholas Newland's position, we had an independent chair and the way the policy was delivered really depended on the relationship between Nicholas Newland, the EPA and the chair. We have now got rid of one of those elements. The independent chair representing the outside community is no longer there and, despite the concern the minister expresses about having the people come in only on a monthly basis, what you now have is that the person keeping a watching brief on the bureaucracy on a regular basis is the bureaucracy, through the chair.

That is why some people have a concern, because that watching brief from the chair's position on the way that decisions are being implemented, briefing notes being written and items raised is now more internal than it was to the bureaucracy. As the minister rightly pointed out, the proof of the pudding is in the eating. Someone down the track will

have this argument. Maybe when the minister is 88 we will still be having that argument: who knows? I know that there is an argument on either side, but there is an issue about how much influence the board members will actually have on the day-to-day operations of the administration of the EPA.

The Hon. J.D. HILL: I have gone through this before, but I will make one final point. I said by way of interjection that it is either the bureaucracy taking over the chair or the chair taking over the bureaucracy. I would prefer to see it in that way. What we are doing is having an independent board with an independent chair who has been appointed through a particular process, who will be running the bureaucracy on a day-to-day basis. If you look at it in those terms, you are actually giving the board greater control over the organisation. Without labouring the point, it is something that perhaps we need to review at a future date. We do need to be careful about these things; I concede that.

Clause passed.

Clause 14 passed.

Clause 15.

The CHAIRMAN: I point out that there is a clerical error in line 13 and that (1) should be (3).

The Hon. I.F. EVANS: That clarifies the point I was going to raise.

Clause passed.

Clause 16 passed.

Clause 17.

The Hon. I.F. EVANS: This clause sets out the new penalty regime for the EPA as proposed by the government. As I noted in my second reading contribution, assuming that this is passed by both houses this will make the EPA in South Australia the EPA with the highest penalties in Australia. While I can understand that the government is trying to badge itself as environmentally friendly and tough on the environment, you still have to keep things in balance. As a former environment minister, I have an interest in matters environmental, but you would have to ask yourself to what end we increase from a $1 million penalty to a $2 million penalty when, under the $1 million penalty regime that currently exists, I have been advised, the highest fine imposed during the life of the EPA is about $118 000. As I understand EPAs in other states, I think the highest penalty is in Queensland and is about $1.5 million, and it ranges down with a number of them at $1 million and Victoria at about $500 000.

South Australia will put itself right up there with the highest environmental penalties by doubling the environmental penalties in this particular section, and that will send two messages. First, it will send a message to those interested in matters environmental that the government is tightening the regulations somewhat in that respect. Secondly, it will send a message to the business community that there is a higher risk, if you like, of investment in South Australia.

Mr Hanna: There is a higher risk of offending in South Australia.

The Hon. I.F. EVANS: That certainly is the case when you consider clause 17(a), which provides:

by striking out from subsection (1) 'serious' (second occurring);

In English, that means reducing the level of knowledge a person must have when committing an offence. Previously under the act, someone would have had to have knowledge of causing serious environmental harm. Serious environmental harm is defined under section 5 or 6, I think, of the act of causing approximately $50 000 worth of damage. You would have to have knowledge you were going to potentially cause damage worth $50 000 or more, that is, serious environmental harm, before being charged under that section. We are now saying that someone could be penalised for knowing they were going to cause any level of environmental harm. If the level of environmental harm is estimated to be $50 000, the new fine will be $2 million instead of $1 million. As I said in my second reading speech, I see this is as a double whammy.

There is no doubt, as suggested by the member for Mitchell's interjection and the minister's second reading speech (where he indicated that there has yet to be a successful prosecution under this section in the current act), that the government is clearly seeking to lower the bar so that it can impose more penalties.

My understanding of the act is that, if the court found that there was not enough evidence to sustain a charge of seriously offending, it could find the party guilty of material environmental harm, which is the middle offence between causing environmental nuisance and causing serious environmental harm. So, there is actually a discretion for the court. It is not as though they would automatically walk away with no conviction and no fine. It is not as though the court would say, 'Well, we couldn't prove serious environmental harm so we will charge you with nothing.'

If the EPA has such good evidence that it can lay a charge of serious environmental harm if there is not enough evidence to prove serious environmental harm, it can, by its own decision, drop down to the slightly lesser charge of guilty of material environmental harm. From memory, the current penalty is $500 000 and $120 000, but it will, I think, increase to something like $1 million and $250 000. So, that offence incurs half the penalty. Therefore, the court does have discretion in that regard. I point out that we are not only lessening the level of knowledge required but, at the same time, doubling the penalties.

The only reason for lessening the level of knowledge required is to achieve a higher success rate in the courts. The minister could have achieved a similar result by simply doubling the penalties, because those not successful on the higher level (that is, serious environmental harm) could easily be successful on the lesser charge of material environmental harm and, if that were doubled, the minister could have achieved the same outcome of more funding for the Environment Protection Fund, and some might argue that is what it is all about.

Earlier, I read out a series of successful prosecutions by the EPA over the years. Those who think that the EPA has been a toothless tiger might like to look at some of those prosecutions. The charge against Mobil Refining Australia was 'cause material environmental harm'; it is the middle charge. The charge against Holden Ltd was 'environmental nuisance'; that was the lower charge. The charge against the Pasminco Port Pirie smelter was 'cause material environmental harm', that is, the middle charge. Southcorp Wines, of course, was 'cause serious environmental harm'.

The minister said earlier that there had never been a prosecution for serious environmental harm. In the briefing notes he gave to us, it is clearly stated: Southcorp Wines, Nuriootpa; ERDC charges: cause serious environmental harm under section 79(2) of the Environment Protection Act.

The Hon. J.D. Hill: Section 79(2), yes.

The Hon. I.F. EVANS: So, the minister agrees there has been—

The Hon. J.D. Hill: Not under section 79(1), though, which is the area that you are talking about.

The Hon. I.F. EVANS: So, there is a whole range there that have been successful, and there are others that I could read out. However, I will not hold up the house by doing that. The briefing notes show that there has been a reasonable number of prosecutions on the 'cause material environmental harm' charge. The opposition would therefore argue that the lessening of the level of knowledge and the increase in the penalties is a double whammy, and the minister would have been better to consult with the business community more actively to see if there was some middle ground solution to that.

During the second reading debate the minister said that the business community had been consulted about this when the former minister, Dorothy Kotz, put out a discussion paper in 1999, I think—

The Hon. J.D. Hill: 2000.

The Hon. I.F. EVANS: Okay, 2000. So, nearly three years ago, the former government put out a discussion paper. The government has never sent the business community, as I understand it, a copy of this bill. It may have received a discussion paper nearly three years ago, but it has not received a copy of this bill to my knowledge. The minister can correct me if I am wrong. To my knowledge, it has not received a copy of the bill during the consultation process and, frankly, I think it is a bit rough for the government to say that the business committee was consulted two and a half years ago and has no objection to this bill. I have had telephone calls from the business community about the bill.

The Hon. J.D. Hill: Whom?

The Hon. I.F. EVANS: I will talk to the minister afterwards and tell him from whom. They did not know the bill was coming on this afternoon. I therefore rang them yesterday and told them that it was, asking if they had any concerns, and I received telephone calls from interstate from people who had concerns with it. So, the business community does have serious concerns about the double whammy nature of this.

Mr Hanna: Why didn't they phone the minister?

The Hon. I.F. EVANS: I will repeat it for the member for Mitchell. I know he is asleep behind the column there. As I just mentioned, firstly, they did not know that the bill was coming on this week and, secondly, they were never sent a copy of the bill, to my knowledge. If they were sent copy, I am surprised that the business community did not contact the minister directly, and that would then be on their heads, not the minister's. I accept that, if that is true, but it is not my understanding.

I do not think anyone would accept that a discussion paper three years ago somehow constitutes consultation on this bill. I accept that the issue may have been raised; I would be surprised if some concern was not raised at that time, but there is no doubt that this issue will cause problems.

The member for Hammond, in his speech tonight, made a reasonable observation about why some groups have concerns about the bill, and that is the subjective nature of a whole range of judgments that need to be made within the bill, and the lack of definition about a whole range of issues.

The opposition opposes this clause—taking the whole clause as one, minister, rather than arguing about it bit by bit. The definition of 'environment' includes land, air, water, organisms and ecosystems.

The Hon. J.D. Hill: You're referring to the master act.

The Hon. I.F. EVANS: I am referring to the master act. I am just wondering where arson fits within this act because I would think—and I am not a lawyer, as the minister well knows—that someone could mount a very good argument to say that a person could be charged under this act for the act of arson.

The Hon. J.D. Hill: Would that be a bad thing?

The Hon. I.F. EVANS: I am just wondering whether that is the minister's interpretation or the officer's interpretation, because I think that when you light a fire you are causing significant harm to ecosystems and you are certainly looking at causing more than $50 000 worth of damage; and you certainly knew that, when you lit the fire, there was a fair chance that you were going to cause more than $50 000 worth of damage. I am just wondering whether someone can be charged with arson. I am not even sure at what point the CFS and others need to obtain any approvals in relation to burn-offs: for instance, officers of national parks burning off in national parks. The reason I raise the issue is that there has been a number of circumstances where national parks officers have burnt off in national parks and the fire has escaped.

The Hon. J.D. Hill: It's a bit of a long bow, I think.

The Hon. I.F. EVANS: No, I am just wondering where it goes. I am only teasing it out to find out what is and what is not covered. There have been a number of cases where back-burns in national parks have escaped and caused damage, and the member for Stuart has raised that issue on a number of occasions. This bill reduces the level of knowledge required.

The Hon. J.D. Hill interjecting:

The Hon. I.F. EVANS: No, it reduces the level of knowledge required. Must those organisations obtain authorisation from the EPA to back-burn, or do CFS regulations override the Environment Protection Act? We do oppose the penalties and we do oppose the lowering of the test—the lowering of the level of knowledge. I want clarification as to whether someone could be charged under this act for an act of arson.

The CHAIRMAN: I will give the minister equal right of reply time.

The Hon. J.D. HILL: It is fascinating stuff. A range of issues have been raised in this debate but I will deal with the arson issue. Advice to me is two-fold: first, we should look at the word 'pollute' rather than just the word 'environment'. The definition of 'pollute' talks about discharging, emitting, depositing or disturbing pollutants. It is arguable, I guess, that lighting a fire may mean that there is a discharge of pollutants into the air, although the advice I am getting is that this normally would not apply. But, even if it did, the penalties under other provisions relating to arson are greater than the penalties that would apply here and, of course, they include imprisonment.

So, normally that act would apply. I can obtain some more advice in relation to this but I think it is unlikely that arson would be caught by these measures. Even if it were, there is nothing that I am doing that would include arson: this would be something that would already be captured by the bill. The measures I am introducing do not make it either more or less likely to cover arson. Perhaps I could deal with the more substantial elements of the honourable member's statement. The member for Davenport referred to serious environmental harm, material environmental harm and then also—I think in passing—environmental nuisance, which includes the three provisions, all of which impose penalties. Section 79 deals with serious environmental harm. Subsection (1) provides:

> . . . with the knowledge that serious environmental harm will or might result. . .

That is the current offence. Under section 79(1) you have to prove three things: first, that serious environmental harm has been caused—that is the first element; the second element is 'by polluting the environment intentionally or recklessly'; and the third element is 'with the knowledge that serious environmental harm will or might result'. Under section 79(2), where there has been one successful prosecution as a result of a guilty plea by South Corp, it is not necessary to prove knowledge. It is a strict liability offence. All that you have to do is prove that it caused serious environmental harm and that it polluted the environment; you do not have to prove knowledge. That is my point.

No cases have been successfully prosecuted under section 79(1), which refers to 'serious environmental harm' or section 80(1), which refers to 'material environmental harm'. Section 80 is the equivalent of section 79 with the exception that the word 'material' occurs rather than the word 'serious'—and, of course, it is a lesser offence. The equivalent to section 79(2) is section 80(2), and that is also a strict liability offence. There have been three prosecutions under section 80(2), so where there is strict liability you can get a prosecution.

What we are trying to do with sections 79(1) and 80(1) is not to make them strict liability offences but to reduce the level of knowledge that is required. Arguably—and we do not have full details of this—sections 79(1) and 80(1) are unique to South Australia. The comparisons that the honourable member makes with the other jurisdictions are more equivalent to section 79(2) and 80(2) offences, because in, I think, Western Australia and New South Wales—I will get some more detail on this—there are strict liability offences to which the penalties that the honourable member describes apply.

So, we have a different offence from that of other states where there is a higher level of knowledge. Where there is a higher level of knowledge, a greater fine is justified. If we compare the strict liability offences, under section 79(2) we are saying that where pollution of the environment has caused serious harm—which, arguably, is equivalent to the Victorian offence—the body corporate will be charged a maximum of $500 000. That is what we are suggesting and that is what Victoria is suggesting. We also have another level of offence where knowledge has to be proved. I will do some more work on this because I want to have a closer look at it to compare it with the other states, but I think the offence in South Australia is different from the other states. I think Tasmania is the only other state that has a similar offence.

The committee divided on the clause:

AYES (22)

Bedford, F. E.	Breuer, L. R.
Caica, P.	Ciccarello, V.
Conlon, P. F.	Foley, K. O.
Geraghty, R. K.	Hanna, K.
Hill, J. D. (teller)	Koutsantonis, T.
Lomax-Smith, J. D.	McEwen, R. J.
O'Brien, M. F.	Rankine, J. M.
Rann, M. D.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. N.
White, P. L.	Wright, M. J.

NOES (20)

Brindal, M. K.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Evans, I. F. (teller)	Goldsworthy, R. M.
Gunn, G. M.	Hall, J. L.

NOES (cont.)

Hamilton-Smith, M. L. J.	Kotz, D. C.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McFetridge, D.
Meier, E. J.	Penfold, E. M.
Redmond, I. M.	Scalzi, G.
Venning, I. H.	Williams, M. R.

PAIR(S)

Atkinson, M. J.	Kerin, R. G.
Key, S. W.	Chapman, V. A.

Majority of 2 for the ayes.

Clause thus passed.

Members interjecting:

The CHAIRMAN: Order! Will members please take their seats or leave the chamber?

Clause 18.

Mr HANNA: My question is in relation to this clause, but also in the context of section 5 of the act, which defines 'material environmental harm'. I have a situation in my electorate where considerable environmental damage is being done—

Members interjecting:

The CHAIRMAN: Order! It is impossible to hear what the member for Mitchell is saying. Will members have a coffee or resume their seats?

Mr HANNA: Considerable environmental damage is being done by vehicles in the form of four-wheel drive vehicles or motor cycles across open space grassland, and so on, including the wrecking of fences and that sort of thing to gain entry to land on which those vehicles are not meant to be. Damage is caused by vehicles making tracks inappropriately across that open space but also, as a result of that, there is considerable erosion. On hilly country, water follows the tracks as the path of least resistance down hillsides; therefore, a crisscrossing series of streams develops and carries dirt down the hills, thereby degrading the area.

Without going into further details about the area itself, I ask whether that could amount to material environmental harm or whether there is some other provision under which people going about that sort of activity could be prosecuted or sued?

The Hon. J.D. HILL: Section 5(3) provides:

> (a) environmental harm is to be treated as material environmental harm if—
>
> (i) it consists of an environmental nuisance of a high impact or on a wide scale; or
>
> (ii) it involves actual or potential harm to the health or safety of human beings that is trivial, or other actual or potential environmental harm (not being merely an environmental nuisance) that is not trivial—

and this is probably the element that would best answer the question—

> (iii) it results in actual or potential loss of property damage of an amount, or amounts in aggregate, exceeding $5 000.

If it is between $5 000 and $50 000, it is material; if it is beyond $50 000 it is serious.

Mr HANNA: What if it is less than $5 000?

The Hon. J.D. HILL: I guess it would be an environmental nuisance. Section 3 provides:

> 'environmental nuisance' means—
>
> (a) any adverse effect on an amenity value of an area that—
>
> (i) is caused by noise, smoke, dust, fumes or odour; and
>
> (ii) unreasonably interferes with or is likely to interfere unreasonably with the enjoyment of the area

by persons occupying a place within, or lawfully resorting to an area; or

(b) any unsightly or offensive condition caused by waste;

Of course, environmental nuisance is subject to a fine of up to $30 000. This bill does not affect that.

The Hon. I.F. EVANS: The minister quoted the definition of 'environmental nuisance' and raised the issue of noise. I wonder whether noise fits into the definition of serious environmental harm, material environmental harm, or environmental nuisance. Is it possible to get a prosecution for a 'serious environmental harm' because of noise? Is it possible to get a charge of 'material environmental harm' because of noise? Are we restricted to the environmental nuisance provisions?

The Hon. J.D. HILL: Theoretically, I guess that is true. This bill does not address that particular issue.

The Hon. I.F. Evans: What is true?

The Hon. J.D. HILL: The point the honourable member makes. Noise could well be something which would be captured, for example, by section 80 if it constituted an environmental nuisance of a high impact or on a wide scale. That would be up to the courts to determine, and this bill certainly does not deal with those matters. It really deals with the element of knowledge that would be required before that could be proved. If a court were to find that the environmental harm was of such significance that it was environmental nuisance of a high impact or on a wide scale, yes, it could be captured.

The Hon. I.F. EVANS: In the principal act under definitions, 'environmental nuisance' refers specifically to noise—any adverse effect on the amenity value of an area that is caused by noise, smoke, dust, fumes or odour. There is a second condition, 'unreasonably interferes with', etc. The definition of environmental harm does not really specify noise, although it talks about environmental nuisance. So, yes, it would cover it. That has clarified the position. For the benefit of the committee, I advise that we are not dividing on all the penalty clauses. We took the first clause as the test clause.

Clause passed.

Clauses 19 to 21 passed.

Clause 22.

The Hon. I.F. EVANS: Again, I put on record the opposition's concern with this clause, but we do not intend to divide. It is clear that the government has the numbers, given the previous division, so we will not divide on it. But, again, we place on record our opposition to this clause.

The Hon. J.D. HILL: I did not realise this, because I thought it came directly from the United States. However, I gather that this form of words has come from the New South Wales EP act and it is consistent with the American model, which is where I got it from. I should have gone to New South Wales instead.

Clause passed.

Clause 23 and title passed.

Bill reported with an amendment.

The Hon. J.D. HILL (Minister for Environment and Conservation): I move:

That this bill be now read a third time.

I put on the record my thanks to the members who have spoken for their contributions to the debate and to the opposition for facilitating the reasonably speedy passage of the bill. I also thank the officers of my department, the EPA and parliamentary counsel for their assistance in developing this legislation.

Bill read a third and passed.

FREEDOM OF INFORMATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 August. Page 1404.)

The Hon. D.C. KOTZ (Newland): The government has declared this bill to be a matter of significant reform in the area of freedom of information. Several provisions in the bill cause the opposition considerable concern, and I will address these as I go through the various amendments contained in the measure. The government has stated quite categorically that the policy contained within the bill is fundamental to the conduct and direction of this government. In the minister's second reading speech he states that it is his belief in openness and accountability that has driven this legislation. It is on the very basis of openness and accountability that the opposition has, indeed, considerable concerns. One would think that the meaning of the two words being used as the new theme for the Labor government would be simple to understand. However, these amendments to the act cause concern to the opposition, as many restrictive practices are being introduced setting precedents that have not previously been discussed with the opposition or other members.

The bill, in the first instance, seeks to address the objects of the act. Many of the changes that have been made in this bill seem to be more a rewording of the present act to suit the government's purposes. The first of the changes occurs in relation to the objects and, of course, the objects have been altered to reflect the theme of this government of openness and accountability. I certainly have no objection to that, nor do my colleagues. Clause 3 inserts a substitution of existing section 3 in the act, reflecting the provisions contained in the act but rewording them with small changes. In terms of the changes to the objects in promoting openness and accountability, paragraph (a) provides:

ensuring that information about government operations is published and is readily available to members of the public (including rules and practices facilitating public involvement in government);

The current act talks about ensuring that information concerning the operations of government—including, in particular, information concerning the rules and practices followed by government in its dealings with members of the public—is, in fact, made available to the public. So it is quite apparent that the words have not changed a great deal but their positioning in the clauses certainly has. One word that is apparent in paragraph (a) that was not in the current act is 'published'. The previous words sought to ensure that information concerning the operations of government was made available to the public and is as follows:

Information concerning the rules and practices followed by government would also be made to the public.

In using the word 'published' after ensuring that information about government operations will be made available to the public, I wonder whether in this instance the minister is talking about published documents rather than the overall aspect of information, or access to other government documents rather than those published, such as annual reports. The minister's second reading explanation refers to documents such as annual reports being readily available to

the public. Does changing the text of the current act to include information about government operations being published in this instance mean that the response to FOI requests will be such that published documents only will be readily available to members of the public?

I also question the difference in the words used by the government in the current act in its dealings with members of the public to facilitate public involvement in government. Freedom of information measures are in place so that members of the public can gain access to information from government departments. It also means that rules and practices regarding how the government deals with the public are made available to members of the public. The changes to these words involve facilitating public involvement in government. I suggest to the minister that a question will be asked in committee regarding that textual change which, in my view, has two quite separate and different meanings. In terms of facilitating public involvement in government, is the minister talking about encouraging volunteers who deal with different aspects of government services as opposed to the practices of the government in its dealings with members of the public?

I will raise in committee other aspects of the changes to those words in each of the clauses that now constitute the substitution of section 3, and I will seek the minister's understanding of the new interpretation of these aspects of the change. However, the significant reform the Labor government has been promoting will be delivered to the South Australian public, namely, their right under this bill and other bills to access information regarding services provided by government departments. However, after perusing the bill, it is my impression that there is a great deal of window-dressing rather than substance in terms of significant reform, particularly in many of the areas where huge textual changes have been made. The text incorporates more of the current act than changes to legislative reform. That in itself might give the impression to people looking at the changes made to this bill that, indeed, a great deal has been offered by the government. However, I do not know that this bill stacks up to that premise.

In his second reading speech the minister talked about many of the areas that he and his government looked at in terms of developing this bill to suit the purposes of access to government information through the changes that they promote. In his second reading speech the minister states:

> In undertaking this review, extensive consideration was given to alternative freedom of information regimes in other jurisdictions, including the New Zealand regime.

I can say to the minister that, when reading this bill, I have at no time seen anything that relates to the New Zealand freedom of information regime. In fact, the New Zealand regime, as I understand it, has a very open policy on freedom of information and all documents are available except, of course, for a ministerial determination. However, on re-reading the words that the minister used to imply that in some way this New Zealand regime is held in high esteem in other jurisdictions, you would believe that he is suggesting and, therefore, implying that aspects of that regime and its freedom of information legislation were incorporated into this bill, and that would be a mistake. But, as I say, a rereading reveals that the minister said:

> In undertaking this review, extensive consideration was given to alternative freedom of information regimes. . .

I accept that the minister may have given extensive consideration to this, but it appears that he has not taken up any of the aspects of the operation of the freedom of information legislation in the New Zealand jurisdiction which, as I said, has been held in high esteem.

The minister also states in his second reading speech that, in preparing the bill, consideration was also given to the Legislative Review Committee report into FOI, which was tabled in September 2000 by the Hon. Angus Redford. He also goes on to state:

> While I acknowledge that the previous government introduced an amendment bill, it failed to act on many of the committee's recommendations.

It is a shame that the minister considers that it was of no import to talk about the bill as it left this parliament, because it certainly was a great improvement on what we had in legislation prior to the amendments moved in 2000. I agree with the minister that we did not pick up on some of the committee's recommendations and I certainly would not, and neither would any of my colleagues, apologise for not taking up some of those recommendations.

The minister goes on to say that the Legislative Review Committee report identifies that the external review process was slow and cumbersome, creating a perception that existing mechanisms were being used to deliberately obstruct access to documents. He says that the government agrees with this statement and has streamlined the external review process. There is one aspect of the minister's comments in that area with which I concur. There are always difficulties in terms of different areas of government departments, either in their culture or attitude or in the manner in which some departmental officers proceed because of what they believe is their rightful status when dealing with FOI.

However, in overall terms of how the new legislation was put in effect, the annual report on freedom of information for the year ended June 2002 disputes that the minister queried the fact that things had not been progressing as well as he would have thought. I am surprised that the minister did not have the background information to determine that the annual report makes quite strong comment on the improvements that the new streamline process, under the amendments passed in 2000, has brought to fruition in this area of legislation.

The summary shown in the annual report advises that there were some 9 427 freedom of information applications received by state government agencies, representing an increase of 19 per cent over the previous year; the requests for non-personal information increased by 30 per cent, double the corresponding 15 per cent increase in requests for personal information, which was an overall increase in FOI applications of some 10 per cent.

The figures relating to the time taken to deal with applications, and the number of unfinished applications, are of particular significance, as stated in the annual report. Specifically, some 95 per cent of applications were finalised within the 45-day time period, and there was a 56 per cent decrease in the number of unfinished applications. The other key data relating to state government agencies shown in the annual report indicates that some 81 per cent of finalised applications were granted full access. Of those agencies which received one or more applications, 54 per cent received 10 or fewer.

It is also interesting to note on page 8 of that annual report when it talks about the volume of applications received by the top five agencies—and, again, that figure of 9 427 applications that were made during the reporting year (the period

analysed)—that the analysis of the same five agencies has been continued for each subsequent year. This year, however, a sixth agency has been included. The Lyell McEwin Health Service has experienced a 34.6 per cent increase in the number of FOI applications received and has superseded the Flinders Medical Centre in the volume of applications received.

When you consider that we are talking about almost nine and a half thousand FOI applications, it is interesting to note that very few people understand where these applications for FOI come from. In fact, in this place, it is more than likely that the term of interest would relate to members of parliament rather than members of the public who, in effect, are the major applicants in making freedom of information requests. I make that point and will come back to it later.

But, in terms of the top six agencies, it is interesting to note that they include the South Australia Police, but the others are all medical centres and hospitals: the Royal Adelaide Hospital; the Queen Elizabeth Hospital; the Women and Children's Hospital; the Lyell McEwin Health Service; and the Flinders Medical Centre.

The South Australia Police had almost two and a half thousand of those applications; the Royal Adelaide Hospital almost 2 000; the Queen Elizabeth Hospital, 832; Women's and Children's Hospital, 692; Lyell McEwin Health Service, 622; and Flinders Medical Centre, 580. The Women's and Children's Hospital experienced a 46 per cent decrease in the number of FOI applications in the last year.

So, it can be seen that, although we talk about huge volumes of applications coming through, it is important—and I again say to the minister that is it extremely important—to remember that the majority of these applications are from citizens of this state seeking, for many reasons, the information that they require from government departments.

The types of applications that would be included under areas such as personal affairs are: applicants applying for access to their own personal information; and parents seeking access to their children's information—although that does not apply where a child is able to prove consent and has not given it. There are also requests from solicitors, personal representatives, insurance agencies and guardians, etc., that are acting on behalf of another for access to personal information where consent is given without requiring the agency to consult the person concerned.

There is also next of kin seeking access to a deceased person's personal information. Applicants applying for not only their own personal information but also other information. In terms of the breakdown of applications received by the state government, the total of 9 427 applications is broken down into personal affair applications, 6 928, and other applications totalling almost 2 500.

When it comes to looking at this bill and any aspects of it that might cause restrictive requirements to be instigated in it, this opposition will not support it. The minister in his second reading explanation also highlighted that a change would be made to certain areas of official records of cabinet and executive council. He states that, in order to receive exempt status, a document must be specifically prepared for submission at cabinet or executive council. Merely because a document is attached to a submission is not enough to give the document exempt status. The bill reaffirms this by further limiting the potential for abuse of the cabinet confidentiality exemption.

In promoting this bill, the minister has talked quite considerably about the fact that cabinet and executive council material need not and should not be classified if there is no good reason for that to happen. Again, we have no objection to this. However, the bill, I believe, once again, introduces only a matter of window-dressing when it comes to this area because it will be up to a minister of this government to determine whether or not a particular document may be assessed as an attachment or something that is not necessarily contrary to public interest, and it will gain some credibility by the minister's accepting that that document can be released to the public after assessment. Cabinet documents, as the minister has promoted, will have an area on the face of the document where ministers can and will address that matter. However, again it comes down to whether or not government and its ministers are as willing to be as open and accountable as they suggest.

There is no absolute requirement in this legislation to determine what particular document will be classed as something that may be released to the public. Certainly there is no legislative requirement in the bill which ensures that the minister will make this determination. What the minister is saying to all members is that we are about to produce these magnificent and significant reforms, but what we are asking you all to do is take it all on a matter of trust.

We can only go as far as suggesting that these things could happen; and by suggesting that we will indeed make ourselves open and accountable by making very significant cabinet documents available to the public would be a good means of gaining credibility in the community. Although, as I said, there is no legislative requirement which enables that to become a reality, it certainly sounds good. In theory, it will certainly mean that people will stop, look and listen because we are talking about cabinet documents, and I guess the public of South Australia also believes that cabinet documents are a very significant item because matters of state are discussed and determined in those documents.

However, I suggest that this is not a significant reform, because at this point, without some greater legislative determination, I do not believe that ministers of this government will readily assess a document and say, 'Yes, this can be released in the public interest.' I would like to think that they would agree to such release but I am afraid they will not. The minister says that the second area of significant reform is that of commercial confidentiality, and he cites the previous government's use of exemptions and suggests that they cause serious concern within the community. I suggest that the minister read his annual report, because I do not believe that that is the case; in fact, the statistics and the comments within the report indicate otherwise.

Interestingly, the minister goes on to tell us a story which is in the form of an allegation. The story relates to a fellow minister who talks about an opposition frontbencher who repeatedly called for information from the government about the nature of financial payments made by the government to a company undertaking business in Adelaide. Allegedly, the former government refused on the basis that the information was commercial in confidence. The minister then says that it was with some surprise that he found the very same information whilst flicking through the company's annual report. As I say, it is a very good story, but it is also an allegation.

Mr Brindal: Innuendo and hearsay as well.

The Hon. D.C. KOTZ: Absolutely. I hope that the minister reflects on that particular story, because I have a story of my own which I want to relate to the minister now and which also picks up my previous point. If this minister

wants to set standards, obviously it will be a matter for his own government and his own ministerial colleagues to make sure that those standards are upheld. It is no good ministers attempting to cast aspersions on others without being able to stand up in this place and hold their head high, knowing that they have integrity and principle and that they are prepared, as ministers of the Crown and ministers of this government, to uphold the standards that they are now preaching.

Coming back to my interesting little story, as recently as 9 September this year, in my capacity as shadow minister for government enterprises, I wrote to the Minister for Government Enterprises. On 9 September, my office contacted the Minister for Government Enterprises' office and sought a briefing on his portfolio which I shadow. By 25 September there was no answer, so a follow-up email request was made, which was refused by the minister. However, he was advised that I still wanted a briefing on all matters pertaining to his area of responsibility. On 22 October, I received a letter from the Minister for Government Enterprises. Again, I remind the minister that we are talking about this interesting story that he related in his second reading speech. The letter states:

> Dear Miss Kotz—

and I will have to tell him that it is 'Mrs'—

> I refer to your recent request for a briefing about my government enterprises portfolio. I believe there is ample information about this portfolio in the public domain. I have, however, compiled some briefing notes, which are enclosed, covering each of the government enterprises for which I am responsible. If you have specific questions about the portfolio, please forward them to my office and I will address them.

This is the irony of that letter because, as the minister reiterated an allegation about previous ministers in his second reading speech, he stated:

> You would also be aware that the annual reports of the government enterprises are now available. If you would like copies of these, please advise my office and I will arrange for them to be sent to you.

I thought that was quite ironic, having read through the minister's second reading explanation. As I started to say, when it comes to placing integrity into acts of parliament, and therefore legislation, I suggest that government ministers first have to show that they are prepared to uphold the standards they are trying to apply within the act. I say that having received a letter like this from the Minister for Government Enterprises—one of the foremost frontbench ministers in this government—telling me that the information I was hoping to get is available to me in the public arena through the annual report of his department.

It is a bit difficult when you are asking us in this instance to place trust in the ministers of a government when there is nothing that requires a minister to do more than just assess whether or not a cabinet submission or Executive Council document will be released to the public. We will probably hold our breath until that aspect comes to fruition.

In terms of commercial confidentiality, the minister again referred to the previous government in certain analogies to suggest that this government will be far better than the previous one in terms of releasing documents that have been assessed in the past as commercial in confidence. The minister stated that currently documents that contain confidential material, trade secrets and commercially valuable information are exempt from disclosure, the last being subject to a public interest test. This bill proposes to limit the application of these exemptions by requiring that all contracts signed after the commencement of the bill will be disclosed when requested by an FOI application. It goes on:

> However, the exemption from disclosure will still apply if it contains a confidentiality clause which has been approved by a minister. This proposal only affects the actual contract and not pre-contractual documents or documents generated in the course of the administration of the contract. Additionally, the confidentiality clause may only apply to specific provisions of the contract, leaving open the option for confidential material to be omitted and the remainder of the contract disclosed.

I thought that that is what we in government also ensured happened. The minister goes on to say:

> The government's proposal complements the contract disclosure policy currently followed by agencies and represents a major step towards openness and accountability.

I thought that we as the previous government introduced the contract disclosure policy, so I suggest that at this point that policy appears to be the ultimate because it appears to be doing exactly what the minister appears to want in the bill. However, it is remarkable how we seem to have come down to the similarity of no change and that, wherever there is an in-confidence or confidentiality clause, the minister in all areas has the right to have that document remain exempt. I suggest again that there is no change and no significant reform. Where matters of state, public interest and business interest are concerned, particularly if it affects trade, the economy and the commercial confidentiality of a particular business that may be wishing to contract with the government, I suggest that the first thing that a minister will do is make sure that the contract is signed with an exempt certificate.

I suggest that the first thing the minister will do is make sure that that contract is signed with an exempt certificate quite smartly, so I do not see that that is any particular change. There is quite a considerable amount more that I would like to say on the bill, but I will take the opportunity later when the committee stage arises. I know that there are people in the chamber who want to comment on some of the other aspects of this bill, so I will hold off my further remarks until that time.

The Hon. J.W. WEATHERILL (Minister for Urban Development and Planning): I move:

> That the time for moving the adjournment of the house be extended beyond 10 p.m.

Motion carried.

The Hon. R.B. SUCH (Fisher): This is a very important piece of legislation and I commend the government and the minister for bringing it forward. More than a year ago I introduced a private member's bill much along the lines contained in this bill. There are some differences, but the general thrust of what I was seeking is contained in this bill. The Legislative Review Committee (chaired by the Hon. Angus Redford), reporting in September 2000 on the Freedom of Information Act of 1991, made the point that in relation to personal information the FOI Act was working well but in relation to policy areas it was not working well at all. We all know that oppositions love FOI more than governments and, as I pointed out in my speech on 15 March 2001:

> When you are in opposition, you like freedom of information legislation more than when you are in government, but we all know that the wheel turns and that those in opposition may become government and vice versa.

That is very true. In a democracy it is essential that not only members of the public at large but MPs in particular and others in positions of authority have access to information.

Democracy cannot function if legitimate information is denied. There is some information that legitimately can be withheld, but we have seen, sadly, in recent years in Australia the tendency to restrict information to a point where the public ceases to be fully informed and, therefore, denied its democratic right to information. This bill should bring about a more responsive and accountable FOI regime. It should promote openness and lean towards disclosure rather than the opposite.

It certainly increases the amount of material that is available. In other words, it reduces the exemption provisions that have been abused in the past. The external review process has been streamlined and it has a lot of other very good features. It differs from my private member's bill in that I sought to reduce the then processing request time from 45 working days down to 20, and I still think that the 30 days limit introduced last year is a very generous number of working days, and this bill maintains the 30 working days. The review mechanisms differ from what I put forward, and reviews to the District Court are available only on questions of law under the government's bill.

There seems to be no provision for training to assist agencies to comply with the act, and that has been one of the problems: that agencies have interpreted the act in different ways and there have been different approaches to the act in various agencies and with the officer in that agency who has authority to deal with information.

The definition of 'exempt documents' is not as broad as that contained in my private member's bill. Nevertheless, this is a big step forward, and I welcome it. I guess one contentious area will be whether MPs and others should have to pay to access documents under FOI. I understand that the minister has something of an open mind on this matter and it can be further negotiated. However, there has to be a balance between people who abuse the system by putting in a ridiculous number of requests, tying up the bureaucracy in answering a whole lot of what amounts to unreasonable requests, and the need for information and knowledge.

There is no easy solution but I am sure that, by the time this bill has passed through both houses, this issue will have been sorted out. It may be that members will be entitled to an annual quota of requests free of charge after which they will be required to make a contribution out of their allowance or from another source. It could be that a deposit would be required but refunded where the request is reasonable and does not take up an inordinate amount of an agency's time.

Obviously, a new opposition will seek to put in a lot of requests to get information out of a new government. There is nothing unique or surprising about that. This act is really a balancing act between the opposition of the day and the government of the day. However, more importantly, it is about the right of the public to know what has happened and is happening within government.

In recent years, we have seen a gross abuse of the term 'commercial in confidence', accompanied by the biggest load of ballyhoo of all time. If you look at the United States, it would not tolerate for one moment the amount of secrecy tolerated in our society, but we hear people saying that if we become too open the world will end. As I have said, the United States has a very open system and I see no evidence, in terms of its governmental processes, that it is on the verge of collapse.

I support the bill, and I look forward to some refinement in relation to what MPs will be required to pay and, as I indicated earlier, the format that that may take—whether it be by quota or by some type of deposit provision or some other variation. With that particular issue resolved, we could achieve a lot in making South Australia a much more open society and making government in South Australia much more open and, therefore, more accountable.

With respect to the other issues I raised in my private member's bill and in particular in relation to processing request times, I will consider some of those issues together with the possibility of putting forward amendments if there appears to be support for some of those changes I canvassed in my bill over a year ago. In conclusion, I commend the bill to the house, and I look forward to its prompt passage and implementation in the interests of openness and democracy in this state.

The Hon. W.A. MATTHEW (Bright): This bill demonstrates yet again that a leopard does not change its spots. In this case, the leopard is the Labor Party, and it certainly has not changed the spots it exhibited during its previous period of mismanagement. I am probably one of the few members who served in this chamber during the time of the last Labor government when we saw a number of odious things occur. It was a government of cover-up; a government of deceit; a government that said one thing while doing another, often doing precisely the opposite to that which it claimed to be doing; a government of smoke and mirrors; and a government of media manipulation.

What we now see with this government is a reincarnation of its previous form. We again have a Labor government of media manipulation; we again have a Labor government of smoke and mirrors; and, in particular, we again have a Labor government which is purporting to do one thing while doing exactly the opposite, and this bill is a classic case in point.

By way of evidence, I would like to refer initially to the minister's ministerial statement that he made in this chamber on Tuesday 27 August 2002. He said, in part:

> It is important that the purpose of this 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.

They are very noble words and, indeed, words in themselves with which few would disagree. Most South Australians, I am sure, want to see a government that is about openness and accountability. Most South Australians, I am sure, therefore, want to see a freedom of information act that enshrines those qualities. But, of course, the devil is often in the detail, and it is that the detail in this bill which starts to show the true devil of the Labor Party.

As we start going into that the detail, we see what this government is really all about, for I put it to the house that this Labor Party is not about openness or accountability; it certainly is not about honesty in government. Rather, it is about cover-up, deceit and manipulation. This bill actually makes some things far more difficult to obtain than they are presently under the existing freedom of information regime.

When we start to look at the detail of this legislation we are told the following, from the minister's second reading explanation:

> Currently, protection from disclosure of personal information is limited to 30 years. The bill proposes to protect documents affecting personal affairs for 80 years after the document was created, a period more likely to cover the lifetime of most individuals.

Of course, you can weave 'individuals' into an awful lot to do with government disclosure. So, what this government is about is not openness and accountability: it is about hiding

Labor misdemeanours of the past so that they are not available after 30 years because 30 years starts to get a little bit too close to the odium of the Dunstan era, that appalling era that wreaked devastation and havoc upon the economy and the social fabric of our state. This is about protecting the folklore rubbish aura that has been built around someone like Don Dunstan, who caused devastation in the state.

In Britain, after 30 years you can obtain information about War Cabinet documents, but this government wants to be able to hide things. So, we will have open and accountable Labor government in 80 years' time. It will not be open and accountable government of what happens in 2002. We will have open and accountable government in 2082. If you want to find out what the minister and his colleagues have got up to, you will have to wait for a further 80 years so that the minister, as an individual, is not offended by what might be disclosed. That is great open and accountable government—an open and accountable government in 80 years time. Well done, minister. That is great stuff.

It does not change as you get further into the detail of this legislation. There is an amazing quote in the second reading explanation which must be put on the record again. In part, the minister states:

> Currently, members of parliament are given access to documents without charge unless the work generated by the application exceeds a threshold presently set at $350 per application. I am advised this threshold is applied inconsistently across agencies and, in some cases, not at all. I do not see why politicians should be treated differently from the general public. I think it is very difficult to explain to an ordinary member of the public that they should have to pay $21.50 but the Leader of the Opposition—whose salary is quite substantial—gets it for free.

What a joke! What is happening—

The Hon. P.F. Conlon: What about your crossing it out with Peter Lewis when you signed the compact? The one thing you did not sign: freedom of information. You hypocrite!

The ACTING SPEAKER (Ms Thompson): Order!

The Hon. P.F. Conlon: You hypocrite.

The Hon. W.A. MATTHEW: It is interesting—

The ACTING SPEAKER: Order! Both members should be quiet and the minister needs to withdraw.

The Hon. P.F. Conlon: You crossed it out with Peter Lewis, didn't you, on the compact?

The ACTING SPEAKER: Order!

Members interjecting:

The ACTING SPEAKER: Order! The member for Bright will resume his seat and the minister must withdraw the use of the word that he knows he needs to withdraw.

The Hon. P.F. CONLON: I withdraw the use of the word 'hypocrite'. I was trying to make the point that they crossed it out on the compact with Peter Lewis. Freedom of information is the one thing they would not accept.

The Hon. W.A. MATTHEW: Thank you for your protection, Madam Acting Speaker. I know that the Speaker is quite capable of speaking and, if he does, I am sure the minister might be interested in his contribution—it may not be as he expects it to be. I know that many members of parliament are not prepared to sit back and allow this impost to be placed on the community. The fact is that there is a very big difference between ordinary members of the public and members of parliament; that is, members of parliament are elected to represent the public in this place.

If members of parliament, in undertaking their duties to represent South Australians, lodge freedom of information requests to expose things that are occurring within government, or to obtain information about things that are occurring in government, it is only fair and reasonable and right and proper that they have the opportunity to do so. But this government wants to block the ability of information being extracted from government. There is very good reason for that, and that is revealed as we get further into the detail (the devil is in the detail) of this legislation.

In his second reading explanation, the minister refers in part to documents that are prepared as part of the budgetary process. This minister wants to ensure that any document that is prepared as part of the budgetary process is exempt from freedom of information. At the moment those documents are exempt from freedom of information only if there is just cause given to exempt them. In other words, they are documents that might inadvertently reveal secrets of state that should not otherwise be disclosed; otherwise, they can be revealed.

What happened is that, in the last budget estimates round, this opposition requested ministerial briefing notes and they have had to be provided and, because they have had to be provided, this government has got cranky about it. It does not like the fact that it has had to hand over its ministerial briefing notes that were prepared as part of the budget estimate process, and this act is now designed as further cover-up.

Members interjecting:

The Hon. W.A. MATTHEW: I do not have to reveal those documents. The government is tightening up the existing legislation so that less information will now be available for public scrutiny. This legislation is not about accountability, openness and honesty: in fact, it is inherently dishonest in its approach because it prevents public access to information. It endeavours to restrict members of parliament from access to information by imposing heavy charges on members of parliament endeavouring to obtain information about government conduct.

It endeavours to restrict access by members of parliament to information that is essential to the understanding of the preparation of budget documents. This is a government of secrecy; a government of non-disclosure; a government of behind-closed-doors dirty deals. This government has not changed its spots: the leopard is exactly the same as the one that we saw here before with the State Bank. Some of the faces might have changed. There are not too many left from the State Bank days apart perhaps from the Treasurer who was an adviser—his face was in the corridors, not actually in the chamber. The faces might not be the same, but the Labor Party is exactly the same dirty, filthy Labor Party involved in scandal and cover-ups.

So, this document is not what it purports to be. The absolute irony is that after it was introduced in the house the debate on this bill for honesty and accountability took place. What a joke! The minister laughs, but does he seriously expect both houses of this parliament to allow this impost through? Whether his legislation passes this chamber intact is irrelevant; this minister ought to be aware that it is very unlikely to pass in another place in its present format—very unlikely indeed.

It is important that all members acquaint themselves with the detail of this legislation because it does not match the words of this minister in his second reading explanation. I refer to another interesting comment in the minister's explanation where he states:

> An internal working document of government is exempt if it contains information reflecting opinion, advice, recommendations,

consultation or deliberation which has been part of the official decision-making function.

Good grief! That covers a heck of a lot of government documents: any government document that can be regarded as an internal working document of government that contains information reflecting opinion, advice, recommendations, consultation or deliberation. That does not leave too much else. Effectively, this bill is endeavouring to preclude anyone from getting very much information at all about government activities.

The Hon. P.F. Conlon interjecting:

The Hon. W.A. MATTHEW: It is absolutely ironic that the Minister for Government Enterprises is acting in an unruly manner following the revelations made by the member for Newland about his leader in the chamber during her contribution to the debate. If he was not listening to that contribution, I encourage him to read it in *Hansard* tomorrow.

I will close with the following facts that have been provided to me by the member for Newland, who has been through the Annual Report on Freedom of Information in great detail. She advises me that 9 500 freedom of information requests were received in the last financial year but that of those only 48 were from members of parliament. This minister is endeavouring to home in on that level of activity. In fairness, it may be that was the level of activity of a Labor government whose laziness is notorious. Perhaps there will be a heck of a lot more applications under the FOI Act from a Liberal opposition. That is quite likely, but at the end of the day this bill is about deceit and cover-up, and frankly it is repugnant.

Mr BRINDAL (Unley): I rise to contribute to this debate, because I happen to think it is a very important bill. I read the minister's second reading speech with some interest, because I am aware that this is the first bill which this new minister brings into this place and which he handles so, as I shadow him in a number of portfolios—

Members interjecting:

The ACTING SPEAKER: Order!

Members interjecting:

The ACTING SPEAKER: Order! Come on; settle down. Could those who wish to conduct a verbal battle do so outside the chamber, and allow the member for Unley to continue. The member for Unley.

Mr BRINDAL: It is not often I need your protection, madam, but I feel totally inadequate in the face of this harangue.

The Hon. P.F. Conlon interjecting:

Mr BRINDAL: The minister opposite frankly would not know what I like; I have never given him the opportunity to find out. I am aware that this is the first bill brought to this chamber by the minister and, as I shadow him on a number of portfolios, I am very interested in his second reading speech and how he handles this bill. I honestly believe that this is an important measure to be brought before the house. When I read the words I had a lot of time for a government that would introduce a bill for greater accountability and openness in such things as freedom of information. As the member for Fisher pointed out, we may for a time serve as government or as opposition in this place, but we are merely custodians on behalf of the people of South Australia, and the people of South Australia deserve honest, open and accountable government. It may be that sometimes when you have ministerial responsibilities there are things you do not quite want to tell people and there are things that you do not quite believe should be made public, and you genuinely try to use whatever artifice you can to see that the public's right to know is in some way protected by some measure of commonsense.

Against that are bills such as this, so I was very interested in the minister's second reading speech and then, I must admit, very disappointed with the contents of the bill. Like other speakers, I frankly do not believe that what the minister has said and what I would hope he genuinely believes was matched by provisions in the bill. I can tell the minister and other ministers on that side from experience that I do not like sitting on this side of the chamber. It was not my choice. I would prefer to be on your side of the chamber, and some day the wheels will certainly turn. Whether or not I get to sit over there, one day some of the ministers will be sitting over here and enjoying it as little as I am enjoying it. One day some of my people—

The Hon. K.O. Foley interjecting:

Mr BRINDAL: The Treasurer will find out that eternity is never long enough to be in government, once you have been there for a while. Having said that, it is important that, when people are given the unique opportunity to serve as ministers in a state parliament, they do the best they can as quickly as they can and not succumb to what could sometimes be described as the humbuggery of the Public Service. The public servants tell all ministers what they can and cannot do, and the ministers often believe it and then, when they sit in opposition, live to regret it and wish they had gone in and done what they said they would do. I think this bill is a case in point. I do not question the content of the second reading speech and, if it matched the bill, I and other members on this side would be standing up and applauding the measures.

I feel dreadfully frustrated that a young minister with as much talent as this one appears to have been hoodwinked so shamelessly by his public servants. Obviously, his staff have advised him that the contents of this bill actually match what he said about the bill; either that, or he did not read his second reading speech. I would hope, sir, that in your capacity as member for Fisher you introduce some of the amendments which were in your bill, which were totally more sensible than those that the government brings into this place, which you set out in your speech and which I think this house should look at supporting. Some of the amendments were eminently sensible, for example, time limits, and so on. The point you made, sir, quite rightly, that in other political jurisdictions this level of excuse for the publication of what, after all, should be public matter, is inexcusable.

Ms Ciccarello: Why didn't you do it?

Mr BRINDAL: Because we did not have time to do everything we would have liked to have done. I challenge government members, while they are haranguing the former government and certain individuals of the former government, to come up with one freedom of information request which was ever asked of me as minister—or of some of my ministerial colleagues—and which was ever denied, held up or in any way doctored by me. I would be surprised if members of the government could produce one; I would be surprised whether for many of my colleagues one could be produced that was doctored, altered or in any way held up. Some might have taken longer than we would have wished, but oppositions are very good at—

The Hon. M.J. Wright interjecting:

Mr BRINDAL: They may, but oppositions are very good, as the minister—

Members interjecting:

The DEPUTY SPEAKER: Order! The member for Norwood and the minister, who is out of his seat, are out of order. The member for Unley has the call.

Mr BRINDAL: Oppositions, as the minister (the then shadow minister for recreation and sport) will know, are very adept at thinking up the most complicated questions that can take teams of public servants decades to find the answers for; then the shadow minister will stand up and grizzle because he has not got a timely answer. It is a time-honoured trick and one which I am sure we will play on the minister—give us the chance and we will play exactly the same trick.

Notwithstanding that, the major provision of this bill, which truly worries me, is the one which denies members of parliament free access to freedom of information. One of the tenets of this place—and a very important tenet of this place—whether one sits temporarily on the government benches or the opposition benches, is the right of this house to the best possible information in the biggest quantities available. We have a right, as a collective 47 people in here and as 22 people in the upper house, to decide every measure in the best interests of South Australians. If that means getting a scrap, volume or library of paper, this house should never be denied its rights to public information, especially information on government policy or government administrative matters. Under existing legislation, that right of this house was acknowledged by giving to members of this place the right of freedom of access to that information; that it should now be charged for, I would contend, is an infringement on the rights of members of parliament.

An honourable member interjecting:

Mr BRINDAL: I do not care whether it is $2, $20 or $200. This house should not have its rights and privileges infringed upon in any way. I put it to you that if this legislation does pass all stages in both houses and becomes law, then a number of us, including me, will come to this house with motions demanding the production by ministers of government dockets, and so on. While we can seek information under freedom of information, this house can send for any minister, paper, docket, document, or anything that it wants, and this house will compel that minister to produce all that information, if that is the will of this house.

I assure the minister that if he wants the opposition coming in here, having passed this legislation, demanding the production of a whole swag of things day after day—and it has to go on party lines and there is a circus with the media seeing exactly what we want and exactly what the government is refusing to give us—then that is the way it will go. I for one, and I am sure, you too, Mr Deputy Speaker, because you have argued for this for many years, will not see this place fettered in any way by $2 fees, $20 fees or $200 fees that seek to deny us information. It may well be that the experience of the opposition in government was that members asked salacious questions of no particular importance.

Members interjecting:

Mr BRINDAL: See you later, Mike; have a good night. We will battle away on your behalf and keep the bipartisanship going.

Ms Ciccarello interjecting:

Mr BRINDAL: Don't blow me kisses, Vinnie, blow them to your Premier. Now I have lost my train of thought: I got all carried away then! It is a fundamental right of this place to have that information. As I was saying, if the government is doing this because in opposition it asked an excessive number of questions or silly questions—if that is the motivation of the ministry, because some of their questions were silly, vexatious or frivolous—then I can assure the minister that he will not have to worry about it from this opposition. We are not given to anything other than probing questions, incisive questions and searching for information that we really need. We do not go on fishing expeditions because, as the minister knows, we have been eight years in government, and we know where the documents are, we know what documents we want and we can just ask for them. We do not have to do the silly things government members did and we do not have to cost the government excessive amounts of money, but we do have to demand from the government honesty and accountability.

The hour is late, the minister has a short-term concentration span and he is being distracted by the member for West Torrens, who has an even shorter concentration span, so I will draw my remarks to a conclusion by asking the minister whether he will reconsider some of the clauses of this bill and whether he will accept amendments to be moved by you and others, sir, in a manner that will allow this bill to match the laudable purposes set out in the second reading explanation. If government members think, as they often say, that we fell short of open and accountable government, if they as an opposition found failing with members on this side of the house as an open and accountable government, that is fair enough comment. But if that is truly their position, they should be coming in here, as they say they are, to make this bill better and to give us the very opportunities that they say we denied to them.

That is the way South Australia moves forward, not tit for tat, not pettiness for pettiness. If this is what in their opinion we did wrong in government, let them correct it. That is what you were arguing, sir, and that is what I am arguing. If they were honest, open and accountable, they would accept your amendments and other amendments that will be moved in the committee stage. I commend my colleague the member for Bright; I commend my colleague the shadow minister, who is leading this bill; and I hope that for once the government will listen, that it will get its head out of the sand and that it will hear the voice of the people of South Australia.

Mrs GERAGHTY secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION (OFFENCES OF DISHONESTY) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

CRIMINAL LAW CONSOLIDATION (TERRITORIAL APPLICATION OF THE CRIMINAL LAW) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

ADJOURNMENT

At 10.31 p.m. the house adjourned until Wednesday 23 October at 2 p.m.