HOUSE OF ASSEMBLY

Wednesday 23 October 2002

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

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. M.J. Atkinson)—

Courts Administration Authority—Report 2001-02
Director of Public Prosecutions—Report 2001-2002
Legal Services Commission of South Australia—Report 2001-02
South Australian Classification Council—Report 2001-02
State Electoral Office—Report 2001-02

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

State Supply Board—Report 2001-02.

TERRORISM

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

Leave granted.

The Hon. M.D. RANN: I am pleased to report to the house that the Prime Minister, John Howard, has agreed to the signing tomorrow of an intergovernment agreement on counter-terrorism. I have received a fax from the Prime Minister this morning, informing me that the signing would take place at a meeting of the Prime Minister, premiers and chief ministers in Canberra following the memorial service for the Bali victims which will be held in the Great Hall of Parliament House.

The meeting will include a high level briefing from commonwealth government agencies on the Bali bombings, as well as the latest information on the security situation of Australians travelling in Indonesia. The agreement will replace counter-terrorism arrangements that were first put in place following the Sydney Hilton bombing in 1978. To refresh members, the agreement will:

- provide for arrangements for better coordination and better cooperation between agencies at the commonwealth and state level in the case of a terrorist attack;
- develop a new national counter-terrorist plan; and
- also develop in a sharing of intelligence and the formation of a national counter-terrorism committee.

The agreement will clarify the commonwealth's responsibilities in national terrorist situations, including those involving commonwealth targets, threats against civil aviation and those involving chemical, biological, radiological and nuclear materials.

Right now, the security of Australians in Indonesia is of paramount concern, particularly given the more recent and frequent warnings of possible terrorist activity. Sadly, our concerns centre not only on Bali but also on the safety and security of Australians in Indonesia generally. One case in point concerns the security and future of the Australian International School in Jakarta run by former Adelaide teacher Penny Robertson, the wife of the former member for Bright, Derek Robertson.

I inform the house that I have this afternoon written to the Prime Minister about both the security and the future of the school in Jakarta. Members may recall the news last November of a grenade attack on the school less than two months after the September 11 attack in the United States. Media reports linked that attack to terrorists and radical groups in Indonesia. It was certainly an indication of the vulnerability of Australians in Indonesia nearly a year before the Bali bombings.

The school has about 440 students, and 45 per cent of those students are Australians, along with students from other western nations and Indonesians. Luckily, no-one was killed or injured in the attack, which occurred at night, but Mrs Robertson's son, Troy, has written to me, concerned about security at the school and the possibility of further anti-western attacks in the wake of the Bali bombings.

I spoke with Mrs Robertson shortly before question time today, and she told me that the school is proposing to build a campus at a different and safer location. Mrs Robertson told me that it is vital for the school to obtain finance to build at a new site. The school is seeking a loan from the Australian government to build on a new site, and I have urged the Prime Minister to consider the request as a matter of urgency. The school, of course, is a not-for-profit organisation and plays a vital role for the Australian expatriate community in Jakarta and their children.

This afternoon, I have asked the Prime Minister to arrange an immediate review of the school's security. The safety and security of Australians is of the utmost importance, particularly with the heightened tension following the Bali bombings. We must be vigilant and provide our citizens with the necessary protection to carry out their work.

I also want to inform the house about the grim and painstaking work that South Australian police and forensic scientists are now doing in Bali in trying to properly identify victims and to investigate the bombings. It is now more than 10 days since the bombings shook the world and brought terrorism to Australia's doorstep. The initial shock and enormity of losing treasured loved ones can, understandably, be followed by feelings of great anger and resentment.

I am aware of the growing sense of anxiety and frustration amongst Australian families awaiting the return home of their loved ones. They want to bury their father, their son, their daughter, their mother or their partner so that they can begin the grieving process properly. Our authorities, including those in South Australia, have been involved in the evacuation and retrieval effort in Bali right from the start.

First, our three critical care and burns teams from the Royal Adelaide Hospital flew to Darwin the day after to help with critical care, evacuation and treatment of the injured. They are continuing their vital work back here in Adelaide caring for the survivors of the blast. But there are a large number of dead or missing Australians. The families of these victims face an agonising wait to have their fate finalised officially. We now have seven South Australian forensic science and missing persons identification experts in Bali and one at the Australian Federal Police headquarters in Canberra assisting with the grim task of victim identification in Bali.

I want to inform the house that I have spoken with the families of young footballer, Josh Deegan, and Sturt Football Club official, Bob Marshall, and heard their concerns about the length of time being taken in the identification process. I, along with all South Australians and all members of this parliament, understand their grief and their enormous frustration at not knowing when they will be able to bury their loved ones. This morning I conveyed their concerns by telephone to South Australian Police Superintendent Andy

Telfer, who is now, thankfully, in charge of the victim identification process in Bali.

Superintendent Telfer, who is one of the leading officers in his field of victim identification, assured me that the painstaking process of identifying victims is now proceeding more quickly. However, crucial steps must be followed in order to meet international standards for a proper and final identification of victims. That was the case after the September 11 outrage in New York and Washington. As frustrating as they may appear to be, these steps are there for a reason and are necessary to give the victims' loved ones final peace of mind. Since my discussion with Superintendent Telfer this morning, I have spoken with the Marshall and Deegan families.

Today I want to commend the work of members of South Australia's forensic and identification team who are working under enormously difficult circumstances in Bali. I am sure all members of this house hope and pray that this process can be dealt with as speedily as possible to assist those who are still waiting for their lost family members to return home.

EDUCATION, TELECOMMUNICATIONS PROCUREMENT

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

Leave granted.

The Hon. P.L. WHITE: I wish to make a statement that will be of interest to the telecommunications industry in this state. An essential part of Labor's plan is to establish a new and more accountable framework for tendering and contracts. Today I am announcing that I have asked my department to implement an open tender process for the provision of telecommunication services to the Department of Education and Children's Services. This will include the provision of services currently referred to as 'sa.edu', which is the internet service provided to schools. It will also include the 'Reg Net' project to provide broadband access to schools in country regions, which will involve both commonwealth and state funding.

Let me start with sa.edu. In 1998-99, the Liberal government negotiated the government radio network contract (GRNC). Well after Telstra became the preferred bidder, the former government agreed that the Department for Education, Training and Employment's internet services (called sa.edu), in essence, would be awarded to Telstra without any further public procurement. This was done under the auspices of the GRNC. This was in return for Telstra's offer to establish internet network infrastructure in the form of sa.com, as part of its industry development commitment under the GRNC. So, the government negotiated an industry development component as part of the GRNC deal, only then to agree to provide a further contract direct to Telstra in return for its industry development undertakings.

In the estimates committee of 30 June 1999, the now Treasurer asked the then minister for information services (Hon. Robert Lawson MLC) to rule out the possibility of Telstra being handed this service without any competitive tendering process. The then minister made that assurance to the house and undertook to make a statement to parliament if any part of his assurance was inaccurate. To this day, there has been no correction to the public record. Yet only eight days after the responsible minister made that statement, on 8 July 1999, state cabinet approved the contract between Telstra and the state government. There had been no Supply Board approval, no Prudential Management Committee approval and no separate public procurement process.

I mentioned earlier that the sa.edu contract was executed on 5 August 1999, with an initial nine-month roll-out period, a contract period of two years, with two further one-year options. However, the former government exercised the first of these options in February 2002, with verbal advice provided to Telstra on 4 February 2002 (that is, during the state election campaign), followed up by a letter on 15 February 2002 (that is, during the caretaker period before the incoming government took office). At no time did the then government contact the then Labor opposition to discuss the rollover of such an important contract. It is my intention not to roll over the contract for a fourth and final year, but to go back to the marketplace and implement a robust and competitive tendering process.

Over three years, the total cost of major DECS telecommunications services, in combination, could be up to $25 million. The magnitude of the expenditure alone and its potential impact on the telecommunications industry in South Australia warrants accountable, open procurement processes. I mean no criticism of Telstra—indeed, I hope that it will be a strong bidder for the department's telecommunications services. My objective is to ensure that we get the best value outcome for students in this state, a strategic approach to education telecommunications development and the most strategic contribution to development of telecommunications infrastructure across South Australia. I do not necessarily anticipate that any one single provider will win the entire contract. It may be the case that the state's interests are best served through a range of complementary contracts with different providers.

I will be taking a keen interest in this matter, and I have asked my new chief executive to establish a procurement process that ensures that we are able to bring together the highest level of telecommunications and procurement expertise, as well as expertise in whole of government industry development. I have brought these matters to the attention of the Auditor-General.

TEACHER NUMBERS

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

Leave granted.

The Hon. P.L. WHITE: In a question to me on 17 October, the member for Bragg asserted:

> The criteria for determining the teacher number entitlement has changed for year 10, having the direct effect of reducing teacher entitlements.

I undertook to get back to the house and provide a response. I inquired about this with my department. I can now confirm that the information I gave in response to that question—that teacher entitlement is dictated by an industrial agreement—was correct, and the assertion of the member for Bragg was wrong. The 1999 staffing allocation document, which can be found on the department's web site, sets out exactly how secondary schools are staffed. There has been no change to that formula regarding entitlement for year 10.

LEGISLATIVE REVIEW COMMITTEE

Mr HANNA (Mitchell): I bring up the 12th report of the committee.

Report received.

QUESTION TIME

HOSPITALS, QUEEN ELIZABETH

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is directed to the Minister for Health. Will the minister confirm that on 26 April this year she met with Dr Roger Davies of the Queen Elizabeth Hospital in her electorate office to discuss in detail plans for an upgraded MRI machine at the Queen Elizabeth Hospital? The opposition has obtained a copy of a letter dated 13 August 2002 from Dr Roger Davies, Director of Imaging at the Queen Elizabeth Hospital, to the Manager Internal Audit, who is conducting the MRI internal audit investigation. The letter states:

> On 26 April 2002 I met with the Health Minister, Ms Stevens, in her Electoral Office in Elizabeth Vale. I gave the minister a copy of the business plan for purchase and installation of the upgraded units at each campus. I described in detail the relevant issues to her so that she was conversant with any matters requiring clarification with the DHS before approval was confirmed.

The letter goes on to say:

> The meeting ended on the basis that Ministerial approval would be granted.

The Hon. L. STEVENS (Minister for Health): I am pleased to answer the question. I did not meet with Dr Roger Davies on 26 April.

Members interjecting:

The SPEAKER: Order!

NEW SOUTH WALES BUSHFIRES

Ms RANKINE (Wright): My question is directed to the Minister for Emergency Services. Will the minister tell the house whether there has been any contact from New South Wales as a result of the bushfires which they are currently experiencing?

The Hon. I.F. Evans: Yes. Sit down.

The Hon. P.F. CONLON (Minister for Emergency Services): Apparently, the member for Davenport would prefer that I said yes and sit down and not talk about the volunteers who gave their time at Christmas to fight the New South Wales bushfires.

The Hon. I.F. Evans: That wasn't the question.

The Hon. P.F. CONLON: Apparently this is not a matter of interest to the member for Davenport, but I think it is a matter of interest to the member for Mawson. The member for Mawson is actually interested in it.

The Hon. I.F. Evans: That wasn't the question.

The Hon. P.F. CONLON: I thank you for your interjection; we have got you in *Hansard*: we know what you think of it.

The SPEAKER: Order! The minister will answer the question.

The Hon. P.F. CONLON: Yesterday, I received a phone call from the Hon. Bob Debus, the relevant minister in New South Wales, advising us that bushfire conditions in New South Wales have again deteriorated. A number of very serious fires are burning in New South Wales, and they wanted to put us on notice that they might need once again to call on our resources. Since receiving that phone call, I have met with the Chief Officers of both the Metropolitan Fire Service and the Country Fire Service. We already have in New South Wales two officers who are standing by as part of the monitoring process.

Today I received a letter from the Hon. Mr Debus thanking us for our assistance in the past and for our offer of help in the future, indicating that, as yet, there is no need to call upon our services, although our two officers will remain in New South Wales. We have a team of people and vehicles from across agencies ready once again to make a similar contribution to those that we have made. I can indicate to this house that that stand-by team will not in any way compromise or prejudice our own preparedness for the bushfire season, but it again marks our willingness to assist other Australians in their hour of need.

From the telephone call yesterday, I can also indicate the willingness of the New South Wales firefighters to assist us in our bushfire season should the need arise, God forbid. Mr Debus was genuinely concerned about this issue because, in fact, the bushfires affected his own electorate in New South Wales. He particularly asked me to pass on his thanks to the member for Wright, who went to that part of the Blue Mountains and worked with the volunteers. Of course, the member has not stopped telling us about this for the past six months, but it was good to hear Mr Debus recognising that matter.

We remain committed to assisting New South Wales, should it be necessary. Earlier this year, our volunteers and our firefighters did an outstanding job, and they will do so again, if necessary, but I hope sincerely that it will not be. I hope that those in New South Wales have a little luck, that things turn their way and that they will not need the extra resources. However, I appreciate that the minister there has indicated strongly his clear willingness to reciprocate, should we have a time of need. I think this is a very important matter for the house, despite the views of the member for Davenport.

HOSPITALS, QUEEN ELIZABETH

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Can the Minister for Health explain the discrepancy between the evidence provided to the audit investigation into the purchase of the Queen Elizabeth MRI by her ministerial office and that provided in a signed letter by Dr Roger Davies, and can the minister rule out having met with Dr Davies in April or May of this year? An addendum to the internal audit report on the Queen Elizabeth MRI, dated 2 September 2002, states:

> The office of the Minister for Health informed audit that the Hon. Lea Stevens MP did not meet with Dr Davies on 26 April 2002.

As the house has been informed, Dr Roger Davies, Director of Imaging at the Queen Elizabeth Hospital, provided signed evidence to the MRI audit investigation indicating he had met with the minister in her electorate office on 26 April 2002 to discuss in detail plans for an upgraded MRI.

The Hon. L. STEVENS (Minister for Health): Obviously, I cannot explain the discrepancy between what Dr Roger Davies has told the Auditor-General and what I have just told this house. I look forward to receiving the report of the Auditor-General into the whole matter.

An honourable member interjecting:

The SPEAKER: Order!

RAILWAYS, DERAILMENT

Mr RAU (Enfield): Can the Minister for Transport advise the house of details of the derailment on the Belair line yesterday morning and indicate when full service resumption can be expected?

The Hon. M.J. WRIGHT (Minister for Transport): At 9.24 a.m. yesterday, a Pacific National freight train of 31 wagons travelling towards the city on the standard gauge track partially derailed between Blackwood and Glenalta stations. A number of wagons came off the interstate line track, resulting in three wagons blocking the broad gauge TransAdelaide line, the destruction of a gantry containing signalling equipment and signals, as well as signal boxes, and the loss of power to the TransAdelaide service. In addition, the Glenalta road crossing was blocked as the train was straddling that crossing. That was cleared by around 12.30 p.m. yesterday.

TransAdelaide signal fitters restored the main road level crossing quickly after the derailment. Both TransAdelaide and interstate freight and rail services were disrupted. TransAdelaide was able to put in place alternative services using shuttle buses almost immediately, initially from the Lynton station and, later in the day, from Blackwood once the signals to the Blackwood station were reinstated. Services were affected for passengers who needed to alight or depart from stations beyond Eden Hills. Notwithstanding the damage to signalling equipment, it was possible to operate trains to Blackwood, and peak hour services were being run from yesterday afternoon by train from the city to Blackwood and then bus from Blackwood to the remaining stations and vice versa. At this stage, it is expected that TransAdelaide will be able to fully restore rail services by Friday and interstate rail and freight services by tomorrow.

I would like to acknowledge the superb efforts of the management, staff and contractors of a number of organisations who have worked throughout the night and will continue to over the next day or so get services restored. They include, in particular, the South Australia Police and security service, the Australian Rail Track Corporation and their contractor, Transfield, and TransAdelaide. Also, the efforts of the CFS and Origin, in checking that no dangerous goods had been spilled—they were not, as I understand it—and Torrens Transit in providing buses at very short notice for the shuttle service should be acknowledged. The SES also responded with emergency lighting.

Thankfully, there were no injuries as a result of this incident. However, there will be a full and thorough investigation of the incident under the Rail Safety Act by Transport SA in conjunction with ARTC and Pacific National. The Australian Rail Track Corporation is responsible for the interstate line and hence has been responsible for clearing the track. The state will seek reimbursement from the responsible parties of additional costs it incurs as a result of disruption to our services and damage to our infrastructure.

HOSPITALS, QUEEN ELIZABETH

The SPEAKER: The Deputy Leader.

Honourable members: Hear, hear!

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Mr Speaker, my question again is to the Minister for Health—

The SPEAKER: Order! May I say to the members behind the Deputy Leader of the Opposition that it is not necessary to barrack. The Deputy Leader well knows that he is the Deputy Leader and, in their opinion, a very good one.

The Hon. DEAN BROWN: Thank you, Mr Speaker; I appreciate that. Does the Minister for Health stand by her earlier statement to the house that she first became aware of the existence of the upgraded MRI machine at the Queen Elizabeth Hospital on 25 July 2002? On 6 August 2002, the minister told this parliament:

> On 25 July 2002, I became aware that instead of the approved machine the Queen Elizabeth Hospital had in storage a new MRI machine with the strength of 1.5 tesla, that is, three times the strength of the approved machine worth $2.7 million.

However, the opposition has obtained a copy of a file note dated 8 August 2002, apparently handwritten by the minister, which contains the following statement:

> 19 July. In Darwin. Discover TQEH has on site a 1.5 tesla. Ask for briefing.

The opposition has documentary evidence also that the minister was in Darwin on 19 July.

The Hon. L. STEVENS (Minister for Health): Well, correct.

Members interjecting:

The SPEAKER: Order! The member for West Torrens most certainly was not in Darwin at that time and can contribute nothing to the answer.

The Hon. L. STEVENS: Mr Speaker, I am perplexed by the question, but I am happy to say that I do stand by my earlier statements to the house. I must say that from memory—

Members interjecting:

The Hon. L. STEVENS: Not February, no, 25 July.

Members interjecting:

The Hon. L. STEVENS: You are correct.

The SPEAKER: Order! The member for Wright does not need to join in.

The Hon. L. STEVENS: I would really like to just answer the question. I was in Darwin at the ministerial council on drugs on 19 July, and I recall very clearly in this house that I said that informal information had been given to me a few days before in relation to the MRI issue. At that point I called for a brief from my department, which was 25 July, as the honourable member mentioned. So, I stand by the comments that I gave to the house.

The Hon. Dean Brown interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition might like to contemplate whether he wishes to ask further questions before he persists with his interjections.

EDUCATION CUTS

Mr O'BRIEN (Napier): Some schools expressed concern last month that they would be forced to cut programs as a result of moving into lower categories of disadvantage, following updated data being used for the Index of Educational Disadvantage. Will the Minister for Education and Children's Services advise the house what the impact on school budgets will be?

The SPEAKER: Before calling the minister, I advise the honourable member that explanations are not given as a preface to questions under standing orders in this house: they are given after the question is asked. Maybe the person who constructed whatever it was that the honourable member read might learn something about how the standing orders require questions to be put.

The Hon. P.L. WHITE (Minister for Education and Children's Services): The global budgets for South Australian government schools are now in the process of being finalised for 2003. I can understand why the question has been asked, given the press release that was put out by the member for Bragg on 14 September 2002. It is a press release entitled 'Schools lose, but where is the minister?' People may not understand the 'where is the minister' part, but I disclose to the house that I did take 12 days leave at the time that this press release was put out. It was a bit of a grubby political tactic, in my view. A line in that press release asserts:

> Trish White's Education Department has withdrawn funding from some of Adelaide's neediest schools, including Salisbury North-West school and Nairne Primary School.

Nowhere in the press release is there any justification for that claim: it is just asserted and put out to the press. The information is wrong. Those schools do not receive less funding in their 2003 global budgets. To explain the budget process, I need to assure the house that schools' budgets have not been cut in the way that the honourable member asserted that they had been or would be. The honourable member made an assumption, given the usual adjustment to the Index of Educational Disadvantage, that schools would be disadvantaged in their global budgets, and she did so believing that the Labor government would allocate funds in exactly the way that the previous Liberal government did in that respect, and that was wrong.

Ms Chapman interjecting:

The Hon. P.L. WHITE: If the honourable member listens she will understand that those schools have actually had their funding increased for 2003. The process for the 2003 budget is that each school will receive exactly the same amount of global budget funding that it received for 2002, except that it will be adjusted for inflationary factors such as the recent 4.5 per cent teacher pay increase, and other factors.

A school that receives exactly the same number of enrolments next year as it has this year will receive exactly the same budget, only updated for inflationary factors. On top of that, as an extra, those aspects of the budget which were funded in the state budget and which are distributed via the global budget will be added, such as the 160 junior primary teachers and the distribution of the primary school counsellors that I announced yesterday. Schools will receive what they received last year for this financial year, only updated for inflationary factors, plus the state budget initiatives that are distributed via that mechanism.

Next year (2003) is somewhat of a transitionary year. Next month the Cox report into Partnerships 21 will be made public. Changes arising out of that report obviously will not be to the global budgets for 2003. Contrary to the opposition's assertion that budgets have been cut—and the honourable member is still trying to say that six schools have been cut—the honourable member is wrong. In fact, one of the schools mentioned in the press release, Salisbury North West, gets significantly extra funds because it gets extra junior primary teachers to reduce class sizes.

HOSPITALS, QUEEN ELIZABETH

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Will the Minister for Health admit that she was further informed that the upgraded MRI machine was being stored at the Queen Elizabeth Hospital on 22 July 2002, not 25 July 2002 as she previously claimed to this house? The opposition has obtained a copy of an email dated 22 July 2002 from the Premier's senior adviser, Randall Ashbourne, to Dr Roger Davies at the Queen Elizabeth Hospital which contained the following statement:

> Apparently, DHS is due to see Lea tomorrow on this MRI business. I had a quick word with her as she left cabinet.

The Hon. L. STEVENS (Minister for Health): We have been through this issue so many times before. I am pleased to provide confirmation again.

The Hon. Dean Brown interjecting:

The Hon. L. STEVENS: If the deputy leader would remain silent, it would give me a chance to answer the question. As I said in this house on many occasions earlier this year, I first found out about the possibility of the unapproved purchase of the MRI from rumours and informal conversations of which I became aware when I was in Darwin. At that time I sought—

The Hon. Dean Brown interjecting:

The SPEAKER: Order!

The Hon. L. STEVENS: —from my department a formal brief on the issue, which I think was dated 24 July and which I received on 25 July. That is consistent with my previous statements.

WATER RESOURCES

Ms BEDFORD (Florey): Will the Minister for Environment and Conservation advise the house of any new initiatives to improve South Australia's use and conservation of water into the future?

The Hon. J.D. HILL (Minister for Environment and Conservation): I am delighted in National Water Week to answer a question in relation to water resources. I had the pleasure at Hahndorf this morning of opening a symposium, entitled 'Walking on water—

Members interjecting:

The SPEAKER: Order! The honourable member for Unley's knowledge of standing orders is appreciated. It is his observance of them that I seek.

The Hon. J.D. HILL: Thank you, Mr Speaker. It is my fault for mispronouncing the word. The symposium is called 'Working on Water: New trends in Water Resource Management. Households to Catchments'. It is part of National Water Week and brings together up to 160 delegates from government, industry and the community with an interest in urban water management.

Australia, as we all know, is one of the world's biggest users of water, second only to the United States of America in per capita terms. The average Adelaide household splashes about 50 per cent of its water on gardens although, in a hot summer, gardens will use more than 80 per cent of available water. Despite South Australia's reputation as a low rainfall state, in most years urban water run-off averages around 100 gigalitres—about the same amount that the Adelaide metropolitan area—

An honourable member: You said this yesterday.

The Hon. J.D. HILL: I just want to make sure that people understand—takes annually from the Murray River. The symposium brings together experts and key stakeholders—I am glad the member was listening yesterday: that is good—to find better ways of managing our water.

The SPEAKER: I assure the minister that I am listening.

The Hon. J.D. HILL: Thank you, sir. Key aspects of the discussion will include integrated decision-making, water use efficiency and building partnerships. These concepts fit well with government initiatives such as the Waterproofing

Adelaide strategy, which I am developing with the Minister for Government Enterprises. The strategy will set the direction for the next 20 years to ensure that South Australia's water use becomes genuinely sustainable. It is about committing South Australia to best water practice.

In addition, a partnership has already been formed between the Botanic Gardens and SA Water that will showcase effective and efficient use of water. That partnership will involve measuring actual water use within the gardens, modelling new techniques and technologies to minimise water use, as well as promoting water conservation across the community. The partnership will demonstrate that gardens can be developed in tune with the environment through careful species selection and intelligent use of water technology. I look forward to the outcomes of both the symposium and the partnership between the Botanic Gardens and SA Water, and I commend these initiatives to the house.

ELECTRICITY, POLICY

The Hon. W.A. MATTHEW (Bright): My question is directed to the Minister for Energy. Has the government called together its promised round table on electricity; if so, when and, if not, why not? On 4 February 2002 the now Premier issued a media release entitled 'Labor to call together round table on electricity', which stated:

> Within days of winning government he, as Premier, will call together business leaders and the heads of privatised electricity utilities to work together to tackle the electricity crisis facing the state.

The Hon. P.F. CONLON (Minister for Energy): I am quite happy to say that the level of activity and meeting with members of the privatised industry and business leaders is like chalk and cheese when compared to the performance of the previous government.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: I will contrast the approach of this government with that of the previous government. We have appointed Robert Champion de Crespigny, whom I have met with regard to electricity matters, to head the Office of Economic Development, and Dick Blandy will deal with consumers. We actually listen to what—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: Whom did the previous government appoint when they were dealing with electricity? We will stand by our appointments and our meetings. Whom did they appoint? What is his name—'No Hoo-Ha!' That is how they were going to fix electricity—no hoo-ha. I am happy, at any time, to talk about and compare the approach of this government to that of the previous government. We have recruited the most significant and important economic leaders in this country. I have worked harder with the private sector than have others in previous years. We have worked with a concern for the people of South Australia. We inherited a situation from a government that had complete disregard for the people of South Australia. We brought aboard the important people; we have included cross-sections of the community. I am sorry that we do not have Mr No Hoo-Ha running it for us, but if that was your approach we will leave you to that, and we will do it our way.

Mr Hamilton-Smith interjecting:

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

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order! The minister need not attempt to answer questions from his seat. Having resumed it, he will remain silent. The member for Mitchell has the call.

Mr BRINDAL: Mr Speaker, I rise on a point of order.

The SPEAKER: The member for Unley has a point of order.

Mr BRINDAL: Mr Speaker, I seek your judgment on whether introducing and denigrating a private citizen of South Australia is quite in order in answer to a question.

The SPEAKER: There is no point of order.

LOCAL GOVERNMENT INQUIRY

Mr HANNA (Mitchell): Thank you, sir, at last. Will the Minister for Local Government report on the progress of the House of Representatives inquiry into local government and cost shifting, and on any submissions that the South Australian government put to the inquiry?

The Hon. J.W. WEATHERILL (Minister for Local Government): As members may know, in late May 2000 the Hon. Wilson Tuckey, commonwealth Minister for Regional Services, Territories and Local Government, referred an inquiry into cost shifting onto local government bodies to the House of Representatives Standing Committee on Economic, Finance and Public Administration, which was chaired by Mr David Hawker MHR. While the inquiry had a particular reference to cost shifting, its terms of reference were considerably broader than that. Briefly, the inquiry is examining local government's current roles and responsibilities and current and future funding arrangements, and the scope for achieving rationalisation between the three sectors of government.

We have all heard the unfortunate remarks, I must say, of Mr Tuckey, who began this debate by suggesting that perhaps hospitals and schools may be better placed being run by local councils—indeed, police as well I think. The Minister for Police would have been pretty interested in that suggestion about local councils running the police force, but that was an inauspicious start. The only good thing that could be said about it is that it drew attention to the inquiry and we believe that it gave us an opportunity to raise a longstanding difficulty—and the member for Unley would be well aware of that longstanding difficulty—that we have in achieving a fair slice of the federal assistance grants allocated to states by the federal government.

I took the opportunity to appear in front of this committee and put a point of view on behalf of South Australia; that is, we continue to receive a raw deal from the federal assistance grants. Indeed, the submission that we put tried to steer away from some of the more ludicrous suggestions about shifting some of these functions onto local government and concentrate on a fairer share of resources from the federal assistance grants. Just to highlight some of the statistics, which are important and shameful: we have 11.7 per cent of the nation's local roads, 7.8 per cent approximately of the Australian population, but we receive 5.5 per cent of the national identified road grants.

We did receive some welcome support at a federal level—not from the other side of politics, not from the Liberal government—from the shadow minister in this area, Martin Ferguson, who gave a commitment to back up the South Australian position in this regard. He has lent his support to the South Australian cause. It would be useful if members opposite could prevail upon their federal colleagues to—

Mr Brindal: We do.

The Hon. J.W. WEATHERILL: They have been very ineffective up to date, because this has been a longstanding inequity which has not been able to be remedied by members opposite, even when they were in government, by persuading their federal colleagues to do the right thing. A further statistic (just to understand the extent of the difficulty here) is that approximately 15 per cent of the national highway lane kilometres are in South Australia, yet we receive only 7 per cent of the maintenance funds. In monetary terms, by way of comparison, South Australia receives $3 200 per national highway lane kilometre compared to $12 500 for New South Wales. So, there is an urgent need for this to be addressed.

I took up the opportunity that was offered to me by one of the members of the standing committee to ask the Minister for Regional Services, Mr Tuckey, to call a national ministerial council of local government ministers. We have not heard a word of a national ministerial council in the local government area for some considerable time—and I am sure that the member for Unley was even flat out getting one organised when he was minister. This is a serious issue confronting the state, and it should be a matter of bipartisan concern.

CRIME PREVENTION UNIT

The Hon. R.G. KERIN (Leader of the Opposition): Will the Attorney-General advise the house why the government rejected the option of decreasing the administration of the Crime Prevention Unit within the Attorney-General's Department in favour of discontinuing the local prime prevention grant program in the community? The Crime Prevention Unit was established in 1989 to develop, coordinate and administer local crime prevention programs, and comprises 15.3 full-time equivalent staff. Despite the Attorney-General's previously telling the house that it was a choice between cutting the programs or cutting police numbers, documents obtained under freedom of information reveal:

> Both options of reducing the local crime prevention grant program, and reducing administration of the Crime Prevention Unit, have been considered in order to find the necessary savings.

The final decision was to end local crime prevention programs, yet maintain the central administration for those programs.

Members interjecting:

The SPEAKER: Order! The Attorney-General has the call.

The Hon. P.F. Conlon: Ask your bloke about McLaren Vale ambulance station.

The SPEAKER: No, the Attorney-General, not the Minister for Government Enterprises.

The Hon. M.J. ATKINSON (Attorney-General): In the discussions on this matter that were held in my office, the saving put before me involved cuts to the local government crime prevention programs, not cuts to the staff of the Crime Prevention Unit. I can assure members opposite that staff of the Crime Prevention Unit do productive work, despite the suggestion in interjections today that they do no work whatsoever. The decision was made to reduce the local government crime prevention program from $1.4 million to $600 000 a year, and that is a decision that I stand by. It is a budget decision. It was necessary in the justice portfolio.

NURSES

Ms BREUER (Giles): My question is directed to the Minister for Health. Following the release of the recruitment and retention plan for nursing on 3 October 2002, can the minister inform the house how this plan will address the nursing shortage and associated issues such as support for new graduates and career paths for nursing staff?

The Hon. L. STEVENS (Minister for Health): I thank the honourable member for the question and for her interest, particularly in relation to country nursing issues. As members will be aware, the public hospital system is currently short by 400 nurses and, as a result, 120 hospital beds in the metropolitan area have had to be taken off line. It is essential that we recruit additional staff to allow these beds to be reopened, plus the additional 100 beds committed by this government as part of its election policy. We have already acted on a number of the recommendations that were part of the nursing attraction and retention strategy—

Mr Brindal interjecting:

The SPEAKER: Order! I warn the member for Unley.

The Hon. L. STEVENS: —with $2.7 million to be spent this year on the recruitment strategy. Key initiatives include the following: support for future nurse leaders and managers; the introduction of support for the new nurse practitioner role for highly skilled nurses; rostering to create more flexible working environments; post-graduate scholarships for city and country nurses; support for indigenous nursing; grants to the three universities for the creation of an additional 150 undergraduate nursing placements in 2003; offers of employment to all nursing graduates; the expansion of free refresher and re-entry courses; subsidies for nurses and midwives relocating to areas of shortage and scholarships to support nurses working in rural and remote areas; clinical rotations to country areas; protocols for the temporary recruitment of overseas nurses to help alleviate the current shortage; employment of undergraduate third year students; review of nurses' and midwives' child-care needs; multimedia marketing campaigns to change perceptions of nursing and midwifery and promote the benefits of the profession to school leavers; and a new senior position in the DHS of Chief Nursing Officer.

In recounting all those aspects of the strategy, I want to acknowledge the nurses and midwives from the public, private and education sectors and the Australian Nursing Federation and other professional bodies for their input into this plan. The government is committed to rebuilding the state's health system, and to do so we must have a sustainable nursing profession.

RAILWAYS, DERAILMENT

The Hon. I.F. EVANS (Davenport): My question is directed to the Minister for Transport. Following the minister's previous answer in which he announced an investigation into what caused the derailment of the train carrying hazardous goods through Blackwood yesterday, will the minister advise what action the government is now proposing about the practice of allowing flammable material to be transported through an area of high fire risk and high population density and allowing hazardous goods to be transported through our water catchment area?

Yesterday, a freight train derailed in Blackwood only metres from homes and close to schools, a hospital and the commercial centre of the town. Media reports and industry

sources claim that hazardous materials were being transported on the train. Constituents have contacted me concerned about the transporting of hazardous materials through our water catchment area and transporting flammable materials through a highly populated bushfire prone area.

The Hon. M.J. WRIGHT (Minister for Transport): I empathise with the constituents who have contacted the member for Davenport. Obviously, this issue needs to be addressed. The government will work with the Australian Rail Track Corporation to look at the issues following the derailment that took place yesterday. This is a very serious situation, as I highlighted earlier to the house. The member for Davenport raises a number of issues with regard to hazardous materials and flammable products. These issues will clearly need to be addressed as a result of yesterday's incident.

I am happy to share that information on an ongoing basis with the member for Davenport and other members in that Hills area because, as the member for Davenport raises in his question, quite clearly constituents in his area and also in other areas in those Hills are concerned about the situation that took place yesterday.

The Hon. I.F. EVANS: My question is directed to the Minister for Environment and Conservation. Will the minister advise the house whether all the operators involved in yesterday's derailment of the train carrying hazardous materials through Blackwood were licensed by the EPA and, if not, why not? In October 2001, amendments were made to the EPA schedules to allow the licensing of railway systems including the rolling stock, the locomotives and the railway line itself. Industry sources claim that the track is licensed, but many trained operators (locomotive and rolling stock operators) are not yet licensed, even though the EPA has now had 12 months to complete that task.

The Hon. J.D. HILL (Minister for Environment and Conservation): Had I been quicker, I might have anticipated this question, given that it was flagged in debate last night, when we were debating the environment protection bill. The answer is that I do not know an answer to that question, but I will happily obtain all the details for the honourable member.

YOUTH POLICY

Mr KOUTSANTONIS (West Torrens): Will the Minister for Youth advise the house of the progress of the youth action plan to which the government committed in its platform under commitment 75?

The Hon. S.W. KEY (Minister for Youth): Before I came into this house, I had the honour of being the chairperson of the Ministerial Advisory Committee on Youth Affairs. Interestingly, the Hon. Mike Rann, who is now our Premier, was the minister at the time.

Members interjecting:

The SPEAKER: Order! May I suggest to the member for Wright that if she wants to have a tete-a-tete with anyone on the opposition benches she is quite at liberty to cross the chamber and sit next to them, where she can be heard more clearly, but not to interject. The minister.

The Hon. S.W. KEY: The Premier has been responsible for a number of initiatives and programs for young people, and this has been well known particularly in the arts area but also in the area of environment and conservation. Acknowledging previous youth ministers, including the member for Fisher and former ministers Kotz, Hall and Brindal, as well as the Premier himself, I put on the record the progress that has been made with regard to youth policy and programs. Those initiatives have certainly been followed through, whichever government has been in power.

With so many ex-ministers for youth in the house, in other circumstances we might have had a reunion, formed a rock group or released some sort of CD! The serious issue raised in this question is the need to ensure that young people in our community are heard, and that a forum exists to ensure that issues concerning young people continue to be uppermost in our mind, particularly when we are setting policies and formulating programs.

Since 1992, when I was chairperson of a ministerial advisory committee, a number of issues have remained the same: certainly, employment and training has been a major issue, but others have also been raised, not the least of which involves tattooing and body piercing. So, some issues are different and some are the same and, as I have indicated, there can be a continuum in youth policy. The Activ8 program has been an outstanding success, as has the youth legislative program, and probably all members in this chamber would see these programs as being positive outcomes for young people.

The Office for Youth is continuing in that tradition, and it is looking at important programs that need to exist across government and certainly in the non-government sector to ensure that young people have their place in policy making and that we have appropriate and responsive programs.

Because this week celebrates and acknowledges the work of carers, one statistic which has been brought to my attention and which causes me great concern is that at least 50 000 principal carers have been identified in South Australia. Because of their circumstances, these people have been given or have taken the responsibility to look after others, whether they be family members or people in the community. Out of those 50 000 at least 3 000 are carers under the age of 15 years. This is something that we really need to address, not only in policy but also in the sort of services and support that are available in our community.

I want to place on record that although, as I said, there is this continuum in looking at youth and youth policy in our community (and it seems to be not so much a partisan issue but rather one that we need to promote with some priority), it is also important that we acknowledge the contribution that young people make, not least the carers who have been identified in our community. I commend them and say that certainly this government takes that contribution of carers seriously but certainly acknowledges those carers under the age of 15 years.

HOSPITALS, CEDUNA

Mrs PENFOLD (Flinders): Will the Minister for Health advise the house what action has been taken to enable babies to be born at the Ceduna Hospital? A requirement that is in place requiring eight midwives to be available has stopped births at the remote Ceduna Hospital for many months. One of my constituents must leave her partner and two children for at least four weeks prior to her baby's due date. One of her sons will be starting his school life—an important day in anyone's life—and she will not be there to see him through the experience. Her partner must care for the children, meaning less time at work and consequently less pay at an expensive time in their early married lives, when they are being forced to live apart. Mothers are leaving their families

and their established health care providers to go, at great expense and difficulty, to other locations where midwives can be present. They have to establish ties with new health providers and are without family backup. The issue has been raised with the minister—

The SPEAKER: Order! The explanation is not an opportunity to engage in debate and state opinion on the matter, however sympathetic we all may be to motherhood.

The Hon. L. STEVENS (Minister for Health): I assure the honourable member and the house that the government is absolutely committed to high quality maternity services for all people in South Australia. I will be very pleased to take up the issue for the honourable member, if she could provide me with all that information, and get an answer back for her.

The Hon. W.A. Matthew: She already has.

The SPEAKER: Order! The member for Bright has already asked his question and might find it difficult to get another opportunity any time soon if he continues in that manner.

E-BUSINESS

Mrs GERAGHTY (Torrens): Will the Minister for Science and Information Economy inform the house what measures this government is undertaking to assist small business to take advantage of the opportunities presented by the internet?

The Hon. J.D. LOMAX-SMITH (Minister for Science and Information Economy): On 22 September the government launched a pilot project in the South-East to raise awareness of the potential for e-business amongst South Australian small to medium enterprises, and to stimulate their involvement in the information economy. According to recent statistics, some 75 per cent of small to medium businesses are actually on the internet, but we have been slower to take up this opportunity than the eastern states.

The advertising campaign we are running targets audiences in the WIN TV Mount Gambier area and the local radio station, 5SE, with advertisements in the local newspapers in Mount Gambier, Bordertown, Millicent, Naracoorte, Penola and Kingston. The advertisements highlight e-business success stories and encourage small business people to target the information line from BetterBiz to receive a free copy of an information video and a CD-ROM.

We are conducting this pilot study because we were concerned that the original project did not have a linear survey component, but was measured only by the uptake of the material available. We have therefore decided to continue the program but to have a linear survey so that we can actually determine how many small businesses not only take up the internet but also use their connections, become web-enabled and get involved in e-business. If this pilot is successful, we will roll it out across the whole state.

SMALL BUSINESS

Mr HAMILTON-SMITH (Waite): My question is directed to the Minister for Small Business, following from her answer to the previous question. Is the minister still responsible for small business and does she have the resources, authority and structure in place to carry out this portfolio responsibility? On 30 July 2002 during budget estimates, the minister stated that the Centre for Innovation, Business and Manufacturing was 'the main provider of small business services in South Australia' but, on the same day, she admitted that she had lost responsibility and authority over the Centre for Innovation, Business and Manufacturing to the Treasurer. In September the *Government Gazette* officially advised of the removal of the 'small business function' from the name of the department for which the minister is responsible.

The Hon. J.D. LOMAX-SMITH (Minister for Small Business): I am very pleased to answer in a short and a long manner. The short answer is yes, I am still the Minister for Small Business. The long answer is that, administratively, the small business function of my responsibilities is run out of the Office of Economic Development.

Members interjecting:

The SPEAKER: Order! I warn the Minister for Government Enterprises. The member for Playford.

YOUTH, MONEY MANAGEMENT

Mr SNELLING (Playford): My question is directed to the Minister for Consumer Affairs. What efforts have been made by the Office of Consumer and Business Affairs to provide to young people information about money management?

The Hon. M.J. ATKINSON (Minister for Consumer Affairs): Many efforts have been made. The Office of Consumer and Business Affairs' secondary web site is www.b4usplashcash.ocba.sa.gov.au.

Members interjecting:

The Hon. M.J. ATKINSON: There has been a request to repeat it.

The SPEAKER: Order! I assure the minister that I have it down and, if other members do not, they can look it up.

The Hon. M.J. ATKINSON: Thank you for your advice, Mr Speaker, with which I will comply. This secondary web site is aimed specifically at people aged 16 to 20 years and has been upgraded to include a new 'managing money' section, which will be of interest to the member for Unley. An online budget calculator, loan calculator and investment calculator have been included on the site to assist young people with budgeting and saving.

Members interjecting:

The Hon. M.J. ATKINSON: Yes, it is interactive. The member for Unley could use it to order his debts. The site also provides simple user-friendly information on topics such as buying a car, renting a flat or house, getting credit, and what to do if things go wrong.

Members interjecting:

The SPEAKER: Order! I can understand the opposition's interest in the last remark. However, the minister has the call. Has the minister concluded his answer?

The Hon. M.J. ATKINSON: No. All the information contained on the site can be downloaded, and there is an extensive array of links to other youth-related web sites both in South Australia and interstate. The Office of Consumer and Business Affairs is now working on an online consumer education program for pupils in their middle years of schooling. The program will provide instruction on buying and renting, especially buying on credit, and borrowing, especially to acquire a mobile phone.

BALI, TRAVEL REFUNDS

Dr McFETRIDGE (Morphett): Will the Minister for Consumer Affairs urgently investigate the refund policy of travel agents, airlines and holiday resorts for people who have

been forced to cancel travel plans to Bali due to the recent terrorist bombings and the federal government's warning to Australians intending to travel to that region? I have been contacted by a constituent regarding a group of six primary teaching graduates who had planned a trip to Bali in November, intending to stay at the Club Med resort. They each paid Flight Centre $2 021. Payments commenced in May this year and were paid in full by six to eight weeks prior to their planned departure date. On the essential cancellation of these arrangements, they have been told that they will lose their $55 joining fee for Club Med, and also incur a cancellation fee of $100 relevant to the Club Med part of their travel arrangements. They were told they would receive a receipt and tickets from Club Med (for the relevant payment made to Flight Centre) approximately four to six weeks prior to departure.

Flight Centre has informed me that the money will be refunded, but it may take up to four months before they receive it. Since Flight Centre, Club Med and the airlines have already held funds for up to five months, this seems totally unreasonable. In addition, if the facilities of Club Med cannot be extended to the group at this time due to government warnings, cancellation fees should not apply.

The Hon. M.J. ATKINSON (Minister for Consumer Affairs): I will take the question on notice and get a considered reply for the member.

GRIEVANCE DEBATE

HOSPITALS, QUEEN ELIZABETH

The Hon. DEAN BROWN (Deputy Leader of the Opposition): I wish to take up the issue of the MRI purchase at the Queen Elizabeth Hospital. As one of my colleagues said to me, 'You don't need an MRI to see through the minister's credibility on this issue.' Today we have seen yet further inconsistencies in the entire story on the MRI. This issue has been running in this parliament since 6 August, and we have had a series of different versions from the minister, both in the house and outside the house, in terms of the events. I do not mind admitting to the house that I have now applied for freedom of information across the documents, and I have something like just under 400 documents that show a quite different story from that which the public and this parliament has so far been told.

We have found there have been secret meetings—previously not revealed—between the doctor at the Queen Elizabeth Hospital and the minister. There is a huge inconsistency, which I revealed today, where the doctor is putting down one series of events and the minister is putting down another. Today, I have released one of those documents under freedom of information, namely, the personal notes of the minister herself—written, I might add, as her thoughts at 4 a.m. on the morning of 8 August 2002. That note acknowledges that while she was in Darwin on 19 July she was told about the 1.5 tesla MRI at the Queen Elizabeth Hospital.

The minister told this house on 6 August that she first knew about this issue on 25 July. There is an email from Randall Ashbourne (of the Premier's staff) to Dr Davies, again acknowledging that there had been discussions with the minister on 22 July this year. I might add that in this document, which I have released and which is the handwritten note of the minister, the minister has written 'RD'—which no doubt refers to Dr Roger Davies—'has been a very naughty boy'.

One factor that I found from looking at these documents is that, whereas we were told that the full investigation was being undertaken by the Auditor-General, the initial investigation and the collection of facts has been done by members of the internal audit division of the Department of Human Services, who report directly to the minister. I find that unsatisfactory.

If we have inconsistencies in stories between what the minister has said on one or two occasions, and between what the minister has said and what the doctor at the Queen Elizabeth Hospital has said and indeed what other people have said, it is inappropriate for even that preliminary investigation to be carried out by members of the internal audit division of the Department of Human Services which has to report to the minister. They have clear reporting obligations to the minister.

I refer members to some statements made by Dr Davies in the document that I have today released. It refers to secret meetings, for instance, between the minister and Dr Davies at the Queen Elizabeth Hospital, just days before the state election, when apparently a commitment was given about upgrading the MRI. As a result of previous information given by the minister, or through other documents I have been able to obtain, we have been able to clearly obtain information that shows other inconsistencies as well.

At one stage we were told by the minister that the MRI would not be sent back. Now, I see there is a letter from Philips in July, offering to exchange the 1.5 tesla machine with the 0.5 tesla machine—a quite different story. Initially we were told that there was a binding contract. It may be that Crown Law comes up with evidence to suggest that there was some sort of binding contract, but Philips was certainly willing to exchange the machine. We need consistent answers when it comes to the MRI at the Queen Elizabeth Hospital.

SCHOOLS, GOLDEN GROVE PRIMARY

Ms RANKINE (Wright): Today it was my great pleasure and privilege to represent the Minister for Education at the opening of the Golden Grove Primary School resource centre. I praise the students of the school, the SRC members and student leaders, Pricilla Phillips and Saint-John Simpson, who officiated over the whole of school assembly. I also thank Shannon Lowuer, a year 6 student who so very ably hosted my visit to the school, made me feel very welcome and made sure that I was in exactly the right place at the right time throughout the proceedings.

It was a special celebration in that it was Golden Grove's 10th birthday. A birthday is a significant event in the life of any school, particularly when it is 10 years old. It was particularly appropriate because it is Children's Week and Friday is International Teachers Day. I place on record my appreciation of the devotion of the teachers of not only that school but also the many other schools in my electorate. They make a real and significant difference to the lives of our children and certainly deserve recognition.

I have had a long-time involvement with the Golden Grove Primary School. Indeed, I was working with the Premier when he was the member for that area, when the school was opened some considerable time ago. The lovely

centre in which we held the ceremony today was, in fact, nothing more than a shelter shed some 10 years ago. This school has grown rapidly over 10 years. It was a holding school at Keithcott Farm back in 1992, and it has reached the stage where it is hitting its peak in enrolments. The school has every justification to be proud of the fine facilities and the learning programs that exist there.

The growth in development over 10 years has necessitated considerable redevelopment to accommodate the population of that school. Many hours of planning went into preparing for the establishment of this new resource centre. The day was really a celebration of those achievements and the history of the school.

It was lovely to hear from past staff members Toni Ballard and Ken Ostridge about their recollections of the school in its very early days. They talked of ploughing through mud paddocks, the teaching conditions in houses on site, and other stories. It was also interesting to hear the recollections of past students Chris Bonnici and Cherry Casiero. Cherry is currently a year 10 student at Golden Grove High School and Chris is now a qualified paramedic, and it was lovely to speak to those young people both during the ceremony and thereafter.

The traditions that are developing in that area will, I believe, continue to build in our community. As I said this morning, we live in a very pleasant environment at Golden Grove, but it is much more than bricks and mortar, and our schools are at the very heart of our community. So, the teachers and parents in that community have a great deal to be proud of, and the celebration was worthy of the successes of that school. They provide a very rich and varied approach to curricula, ranging from sport and physical education programs to studies of Asia and Aboriginal education, with a particular emphasis on communication technology.

The construction of the new resource centre and the refurbishment of other areas will provide opportunities for staff and students to continue to develop quality learning programs. Of particular importance is the addition of adequate space for students in a modern, functional resource centre and the new video media editing suite to support the increased use of technology by students.

The Labor government is committed to providing every student in this state with opportunities to progress to the best of their ability. The innovative programs that the school has developed will assist with this, as will the additional technological resources which have become available to students through the development of the resource centre. Parents, staff and the community at Golden Grove are to be commended on their achievements, as are those people who were involved specifically with that development.

RAILWAYS, ROUTE

The Hon. I.F. EVANS (Davenport): I want make a few comments following my two questions today in question time about the unfortunate derailment of a freight train yesterday between the Glenalta and Blackwood stations in my electorate. I asked the questions because I think this derailment now should focus the minds of government members and bureaucrats on the potential danger which exists within the Mount Lofty Ranges generally due to the freight line.

Although the freight line has been in existence since time immemorial, if you were building the railway line in today's society you would now have to ask whether you would build it over the steepest part of the state's country, that is, over the Mount Lofty Ranges, to get freight from Melbourne to Adelaide. The short answer is that you probably would not: you would run the line from somewhere near Callington or Murray Bridge around through Sedan or in that general area and bring it into the north of Adelaide. You would do that for a thousand reasons. First, there is less population; secondly, the geography is better; thirdly, you can double stack the freight, whereas on the current line you cannot do so because of the tunnels in the Mount Lofty Ranges; fourthly, there is a lower bushfire risk because of the lower population; and, fifthly, it is out of the water catchment area generally.

So, I think there are some issues for the government to address in the long term. It has to be of concern I think, with the Adelaide-Darwin railway line coming on stream in 2004, that freight trains will be more common. There will be more of them; they will be longer and, therefore, heavier; and the derailments, if and when they occur, will be bigger, not smaller.

I am not sure exactly what goods are transported on every train, obviously, but I am advised by industry sources that there were hazardous materials on yesterday's train and, while it did not spill and cause a problem yesterday, the potential certainly exists. When you consider that that train goes through the Mount Lofty Ranges, which is our water catchment area, if a large volume of hazardous material happens to be on a train that derails, there are some issues for government to consider.

A further issue, of course, arises if material on a train is highly flammable. The Mount Lofty Ranges has been one of our most populated areas since the expansion of the freeway under the Playford government and the construction of the tunnels under the Olsen-Brown-Kerin governments: the increase in the population in the Hills in the last 40 years has been quite significant. When the railway line was originally constructed, the population was quite low, but now the population is quite high. As a result, the bushfire risk from a train derailment is far more significant than it would have been when the railway line was envisaged.

I am a realist. I appreciate that the railway line is there and moving it would be a huge capital cost. However, I think there now needs to be some serious thinking and long-term planning by the government to find alternative rail routes, to plan for that over a period of years and to talk about it with industry. It will be a big concern to the government of the day, in the event of a derailment that goes really wrong—whether the issue is the water catchment being adversely affected by hazardous chemicals or as a result of fire.

We all know the extent to which the EPA has gone in the water catchment area and the Adelaide Hills area generally to audit all the wineries to ensure that they do not pollute the water catchment. Of course, the wineries generally deal with organic waste and, of course, a lot of the material that is transported on the railway system is not organic waste but is a hazardous chemical and dangerous goods style of waste.

I mention the issue on behalf of my constituents, because a number of them have raised it as a genuine concern. Although we do not expect $10 million or $15 million to be thrown at it tomorrow, there needs, for economic as well as safety reasons, to be some long-term planning for a new rail route to take the freight to the north of Adelaide. I will be interested in what the Minister for Environment and Conservation comes back with in relation to EPA licensing because, in October last year, the EPA was given the power to license all components of the railway system—that is, the track, the locomotives and all the rolling stock.

I understand that the track is licensed: ARTC, as I understand it, has a licence with certain conditions imposed thereon, but I would hazard a guess that the EPA has not licensed very many, if any, of the rolling stock operators or the locomotive operators. Hopefully, this incident will drag them to some activity.

Time expired.

PUBLIC SECTOR PERFORMANCE

Ms THOMPSON (Reynell): I wish to spend a little time today talking about the importance of the public sector and, particularly, effective leadership of it. One of my roles before coming into this place was as both a state and national official of a public sector union, and I had much opportunity during that time to witness good and poor administration in the public sector. It seems an age ago, but one my first tasks as a public sector union official was to respond to the Coombs Royal Commission into the Public Service. I do not remember the date, but something about its time scale is indicated by the fact that one of the major issues of concern identified by that royal commission was the segmentation of the public sector work force at a federal level into silos, depending on religion. Catholics were generally to be found in the taxation and repatriation departments and, to some extent, in what was then called social services. Anglicans were to be found in the Prime Minister's and foreign affairs and trade departments. Fortunately, the public sector has moved on greatly since that time, and it is years since I have heard that religion has been an issue in terms of the potential for promotion and success within the public sector. However, the public sector still has to deal with some barriers, and over the last eight years in South Australia it has had to deal with some great barriers indeed.

At the time that the Brown government came into office, I was a public servant in the South Australian Public Service, and it did not take long to see that people became dispirited and disillusioned because they did not know what they were supposed to be doing. In fact, I remember meeting several colleagues in a restaurant in Flinders Street where we were all asking ourselves and each other whether our minister had made a decision yet—this was several weeks after the transition to government. However, I would also say that the leadership under the Brown administration and the focus on the value of the public sector and supporting excellence in the public sector was far better than it was under the Olsen administration.

Premier Brown did have a number of structures established to support a culture of continuing improvement and excellence in the public sector. Under the Olsen administration, most of those were abolished. It is not surprising then that we read in the Auditor-General's Report this year the summary of the Fahey task force. As members will recall, yesterday the Premier announced some responses to the Fahey task force. In his report, the Auditor-General points out that the report of the task force presents 121 recommendations on a number of key areas and processes, which are currently being considered by the government. The Auditor-General goes on to say:

> The task force expressed the view that the public sector, in general, comprised talented and hardworking people committed to serving the community and the government. It concluded, however, that the current governance arrangements of the public sector were inadequate to provide it with sufficient clarity and guidance to achieve what the government expects in a manner acceptable to government and the community. The task force indicated that this inhibits innovation, risk management, accountability and a focus on outcomes and performances. The report communicates a significant number of matters that are an echo of many issues that have been the subject of specific concerns and comments in my previous reports to parliament.

It also echoed comments that have been made to me by many of my previous colleagues who were so frustrated at not being able to deliver a good job for the people of this state. It is particularly important to note another comment of the Auditor-General before my time expires; it is as follows:

> I consider it important to specify a third factor, i.e., that of some members of the former executive government summarily dismissing advice proffered by the Public Service when it did not accord with preconceived ideas. Good government is directly dependent upon the performance of the public sector. In my opinion, the conduct on some occasions of a certain few members of the executive government vis-a-vis the public sector during the past several years impaired its capacity to discharge its responsibilities in some matters.

A disgraceful performance which will not be repeated.

Time expired.

QUESTIONS ON NOTICE

The Hon. G.M. GUNN (Stuart): Thank you, Mr Acting Speaker, it is nice to see you in the chair and nice to see you gracing that august—

Ms Breuer: Haven't they got any other speakers these days, Gunnie? You're up on your feet all the time. Do you fill in?

The ACTING SPEAKER (Mr Snelling): Order!

The Hon. G.M. GUNN: I am somewhat disappointed and humbled that the member for Giles would think that I am batting out time for the opposition. It would never enter my head to do so, because I am normally a person of few words and have to be coached to get to my feet—

Ms Breuer: They're always entertaining!

The Hon. G.M. GUNN: Quite. I am pleased the member for Giles enjoys it. The first matter I want to talk about this afternoon refers to question 144, which has been on the *Notice Paper* for weeks and weeks and has not been answered. It is a very simple question—

The Hon. M.J. Atkinson: Not to me.

The Hon. G.M. GUNN: No, not from the august and esteemed Attorney-General, but to the Minister for Environment. The question is quite simple and deals with activities of inspectors; that is, whether they have been going on people's properties without advising them—

The Hon. M.J. Atkinson: Tell us what you think of inspectors.

The Hon. G.M. GUNN: I think some of them are very good, some of them are mediocre, and some of them are very bad—

The Hon. M.J. Atkinson: Tell us about the bad ones.

The ACTING SPEAKER: Order!

The Hon. G.M. GUNN: In due season, Attorney. I am concerned that this question has not been answered, and I would like to know why. It is very simple: the Sir Humphreys in the department know what has been going on; they check with the inspectors. I know some of the answers, but I want to know from the minister—

The Hon. M.J. Atkinson: Then why do you ask a question if you know the answer?

The ACTING SPEAKER: Order!

The Hon. G.M. GUNN: I said that I know some of the answers. However, it is important in a democracy that these people be publicly accountable for their actions. Therefore,

we want to know and we will know. I intend to pursue the minister vigorously until we get a precise factual answer. The second matter I want to talk about today somewhat follows on from the contribution made by the member for Davenport when he talked about changing the route of the railway line. Some considerable time ago, I led a deputation to the then minister for transport (Hon. Diana Laidlaw MLC) to discuss with her and with representatives from the Burra council, the District Council of Goyder and the Mid Murray council, the urgent need to upgrade and construct the Bower boundary road to allow heavy vehicles to bypass the metropolitan area and shorten the route to the eastern states.

This is a commonsense suggestion. I call on the Minister for Transport to put in place the undertakings that were given on that occasion by the officers; that is, they would not be pursuing people using that particular route, particularly with stock—that was the undertaking given—and that there was a need to upgrade that road and to allow heavy vehicles to go through there on their way to Murray Bridge, thus avoiding the need to go through the Adelaide Hills. It is one of those suggestions that need acting upon very quickly. It would be of great benefit not only to my constituents but to the people of South Australia, because it would be shorter, cheaper and reduce the amount of traffic on the road system in South Australia.

This matter has been under active consideration for a long time, but it does need putting into effect as quickly as possible. I have waited some months to raise this matter because I wanted to give the minister adequate time to fully settle into his portfolio, but the time has come when he ought to be looking at this matter. Of course, I have not forgiven him for the rather unwise decision he made to reduce road funding in the north of South Australia, but we will deal with that on another occasion, as we will deal with the discrimination against my students at Peterborough pre-school, Booleroo Centre school and Orroroo school which have been the victims of unnecessary government cutbacks by the transferring of funds to previously approved projects. This is not only unfortunate but outrageous, particularly in areas where they have no alternative forms of education.

Time expired.

SCHOOLS, WHYALLA

Ms BREUER (Giles): This week I was amazed to hear the shadow minister for education and children's services ask the minister when Whyalla High School is to close and what would happen to the site. She stated, quite correctly, that the Whyalla Education Review recommended that two year 8-12 schools be formed in Whyalla on the Stuart High School campus and the Edward John Eyre High School campus. She also said at the end of her comments that recommendation of the aforesaid is supported by the local community. I thought that was a very interesting comment, particularly coming from someone who lives in the leafy suburbs of Adelaide, and I am very interested to find out where she got that information from. I was very pleased to hear the minister's reply that she has not published her decision, that the report and the review were completed under the previous Liberal government, it was not initiated by her, and she has not yet made a decision.

This week I also received a copy of a very stressful letter sent by the Whyalla High School council to the minister regarding what they see as no decision having yet been made. I can certainly understand their concerns because they have been in a state of not knowing all year because of the election, a new minister and so on. I have certainly had frequent discussions with the minister since then about the future of the schools in Whyalla.

Next year, of course, Whyalla High School will celebrate its 60th year. It is a great achievement for the high school, and we are very proud of that. In this letter, the council talks about the enormous pressures that the school community has had to put up with and says, to its credit, that it has rallied to counteract the uncertainty of the review process, and that that positive action has resulted in an increase in enrolments at every year level for the next year.

One of the comments that was made in the letter was that the pressure was caused by the farcical review process. I have to agree entirely with that comment: it was a farcical review process. A lot of work went into that review process over quite a considerable time, but everyone knew that the decision was pre-ordained. Everyone knew that there was a move to close one of the high schools in Whyalla and, of course, the review just went in that direction; there was, really, very little choice. Certainly, for a long time, many people have tried to close Whyalla High School in particular.

I certainly agree that the number of students in Whyalla high schools has declined, but I still believe that they are viable when one compares the numbers with those of other schools. I think that, if we were to close a school in Whyalla, it would be a signal to our community, which is already reeling under other sorts of pressures. I am glad that the minister is taking her time to consider this matter, and I will certainly be having further discussions with her. I can assure my community that I will certainly be fighting to keep our schools open. There must be another answer; there must be some other way in which we can handle this situation.

The member for Bragg showed a considerable lack of comprehension of our community, I believe, because there is no real support in the community to close that school—or indeed any school in Whyalla. This was a motion that was moved by the Mayor of Whyalla at a review committee meeting, so they went ahead with it from there. I have to point out, of course, that this Mayor stood against me during the last election and received 6 per cent of the vote. I do not think that was an astounding acclamation of the Mayor's views. Also, this was the Mayor in whom 10 of 11 of the councillors recently proposed to move a motion of no confidence. I do not believe the Mayor has the support of the community.

Since the election this year, it has been interesting to see the number of Liberals who have been heading into my electorate—people whom I had never seen for four years while they were in government. But all of a sudden they are becoming instant experts on country issues and visiting country areas. For example, I cite the question today of the situation at the Ceduna Hospital. It is unfortunate that women have to leave Ceduna, their home town, and go to Adelaide to have their babies. But that situation has existed for years in country regions—in Coober Pedy, Roxby Downs and Andamooka. Women from all those regions must go to Port Augusta, Whyalla or Adelaide to have their babies. These Liberals did not care about this situation previously, but, suddenly, it is a big issue with them. I would really like to know where they obtain this information and why, all of a sudden, they are born again. It is an amazing situation. I would be very interested to ascertain why they are heading out there constantly. I think it is because they do not have much else to do.

I also think that perhaps some of this information in my electorate might be coming from a member of the upper house, the Hon. Terry Stephens, who recently has been elected. Terry grew up in Whyalla. He is a good bloke, and is recognised as such. But I do question some of the answers that he comes up with. This was the candidate who had already sold his house and enrolled his children in Adelaide schools when he stood for Giles in the 1997 state election.

Time expired.

ECONOMIC AND FINANCE COMMITTEE: ANNUAL REPORT

Ms THOMPSON (Reynell): I move:

That the 40th report of the committee, being the Annual Report 2001-02, be noted.

I am very pleased to move this motion, and I wish to take the opportunity to provide a brief summary of the activities undertaken by the committee over the past financial year. My comments are, of course, limited by the fact that this period represents the work of two different committees, and I will detail the membership of those committees. The previous committee sat under the able leadership and chairmanship of the member for Stuart, Mr Gunn. Other members were the member for Fisher, the member for Mount Gambier (which was previously Gordon), and the members for Waite, Hart, Elder and Taylor. The current membership consists of the members for Playford, Napier, Enfield, Stuart, Davenport, Chaffey and me as the chair. I commend the previous committee for its work and respectfully submit this report on behalf of both committees.

There were four reports over that period. The first report was the 35th report, relating to the South Australian government overseas offices report. There was then the annual report, and the third report of the previous committee was an extraordinarily important one into the South Australian energy market—and I will spend some time later referring back to the importance of that 37th report.

A number of recommendations were included in both the 35th and the 37th reports. Unfortunately, as yet there have been no responses to those recommendations from the ministers involved. The previous ministers to whom recommendations were made included the former minister for energy, the member for Bright; the minister for administrative services, then the member for Adelaide; the minister for industry and trade, the Hon. Rob Lucas; and the premier and minister for state development, now the Leader of the Opposition.

While there was a reasonable amount of time for responses to the committee's recommendations to be received, none was in fact received. So, the current committee on 20 June took the initiative of writing to the new ministers and asking them to respond to the recommendations in the reports. As at the reporting period they had not responded, and I think they have until about today to get their responses in—although we have had interim responses—and an indication that, indeed, the new ministers intend to respond to recommendations made by committees, whereas, unfortunately, it would appear that there had been a history of wasted paper. That was certainly the situation in my experience on the Public Works Committee, in addition to looking at the evidence in relation to the Economic and Finance Committee.

The first report of the current committee was the 38th report, which was an interim report into the emergency services levy. This represented a new direction on behalf of this committee, in that it determined to take a fairly thorough approach to looking at issues relating to the emergency services levy. This committee observed that previous committees had frequently noted the high cost of collection of the emergency services levy. We checked back over previous reports and saw that there had been constant predictions that this cost would fall. However, unfortunately, sir, as you well know, the outcome was that in fact there was no fall in the cost of collections. If anything, there was a slight increase, such that, in terms of the land-based levy, about 11¢ of every dollar is spent on collection costs, whereas we know that it is far more important that this money be spent on emergency services. They need all the money they can get.

The interim report compiled by the committee was to comply with the legislative timeframe to report, and to indicate the committee's satisfaction with the overall levy proposal. However, we determined to investigate in a more detailed manner some of the issues about the collection costs of the levy, and those inquiries are progressing well—although it is quite a slow process because it is quite difficult to unpack some of the work that has been done.

The committee continues to work in cooperation with the Auditor-General, and during the current reporting period the Auditor-General met with the committee on two occasions. On 9 October 2001, the committee received a request from the Auditor-General to appear before it to provide evidence regarding matters raised in the parliament by the Hon. Joan Hall MP in relation to the Auditor-General's report into the Hindmarsh Soccer Stadium Redevelopment Project. The committee considered but declined the request of the Auditor-General as it was of the opinion that the committee was an inappropriate forum in which to discuss the matters raised.

The Auditor-General made a further request to appear before the committee to discuss what he described as matters of public importance to the parliament and the government. The Auditor was referring to a motion by the Legislative Council requesting the Auditor-General to respond to questions about the operation of his office. The Auditor-General in his evidence to the committee indicated that the motion of the Legislative Council failed to distinguish between matters of legislative audit independence and auditor accountability. What followed was a referral to the committee by a notice published in the South Australian *Government Gazette*. At the close of the reporting period, the committee had written to the Auditor-General seeking his response to the questions raised in the resolution of the Legislative Council. For the information of the house I advise that the Auditor-General promptly replied to that letter, and a subsequent report to the house was presented a couple of months ago.

The change in committee membership following the election brought an inevitable change in focus on issues and this resulted in a number of new inquiries being initiated by this committee. In addition to refocusing the committee's attention on its statutory responsibilities with respect to catchment water management boards, the sport and recreation fund and the emergency services levy, the committee on its own motion has commenced a number of new inquiries including a preliminary inquiry into the collapse of the Green Phone venture in the South-East, an inquiry into the South

Australian government funding of the Pitjantjatjara Council and the Anangu Pitjantjatjara, and an inquiry into government office accommodation.

Since the period of the annual report, it has been identified that the committee was not able to proceed with the inquiry into the funding of the Pitjantjatjara Council because of a provision in the Parliamentary Committees Act which prevents the Economic and Finance Committee looking into matters related to a statutory authority. The presence of this provision came as a matter of considerable surprise to many people including members of the previous committee who had not noted this provision, and consultations are currently taking place around the chamber with a view to amending this provision.

The committee has also initiated a fairly comprehensive inquiry into the Holdfast Shores development and associated works, further advancing the ongoing monitoring role of this development adopted by the previous committee. Fairly extensive terms of reference have been adopted for this new inquiry, and we seek to put to rest some of the disquiet that has been expressed in many quarters about this project.

Mr Hanna interjecting:

Ms THOMPSON: The member for Mitchell wants to know how much government money went into the project. We hope to identify that amount. We also hope to identify any issues about public amenity that might exist in relation to this development and any issues relating to public lands and environmental impacts.

An honourable member: So, it's quite big.

Ms THOMPSON: It is quite a big inquiry and it may take some time. I know that there are many people who wish to express a view on this matter to the inquiry. The public sector has been extremely helpful in providing information in response to the committee's written requests for information. The member for Hartley would know that the Public Works Committee had considerable difficulty at times getting information relating to the Barcoo Outlet. I am pleased to say that that is no longer the case; the information is coming very readily.

The new committee decided no longer to pursue some inquiries initiated by the previous committee including an ongoing monitoring role of the National Wine Centre—and I think people would understand why; the Defence Estate in South Australia; balanced budget legislation; and the financial losses of the Adelaide Festival Centre and the Year 2000 Adelaide Festival of Arts. Four members of the Economic and Finance Committee continue to serve on the Industries Development Committee and during the year ended 30 June 2002 the Industries Development Committee met on 10 occasions. Its work has been quite slow since the appointment of the new committee owing to the fact that we are all awaiting the tabling of the review from the new Economic Development Board. We look forward to being able to support the implementation of the new clear directions for economic development in this state that we expect from the board.

I wish to thank the staff appointed to the committee, particularly Mr Rick Crump, who was of great assistance to the new committee in guiding us in the transfer of responsibilities, providing us with some of the corporate history involved in the committee's activities, and assisting us to determine how to deal with the many outstanding references and new responsibilities with which the new committee was faced. We regret that our research assistant, Mr Tim Ryan, has decided to seek glory in other quarters. We wish him well, but we wish also that he had stayed with us because he was very helpful. We look forward to the appointment of a new research assistant.

I indicated that I want to provide a bit more information about some of the work of the committee, particularly the previous committee's extremely important inquiry into the South Australian energy market. Unfortunately, energy, electricity costs and supply continue to be issues for our community. The recommendations of the 37th report (to which there was no reply by the previous government) indicate the extent of the problem. I was very pleased to note the extent to which the incoming Minister for Government Enterprises has set about addressing the recommendations made in the 37th report. I remind members and anyone else who wants to read about this that the previous committee was dominated by the now opposition.

The recommendations relating to market capacity are particularly important. From my following of the issue in this house, the new minister has addressed every one of those issues. In summary, they are: to increase generation capacity in the South Australian region; to encourage new entrants; the government will explore options and promote opportunities for the appropriate use of alternative ecologically sustainable energy sources; further interconnections are to be encouraged; and new gas supplies are to be encouraged and facilitated.

I think it is clear from statements and debate in this house that, although we do not yet have a formal response from the minister on those recommendations, when we get it in the near future it will indicate a positive response to the recommendations of the previous Economic and Finance Committee which shows the value of that committee in investigating matters of real import to our community, the value of being able to bring people from different sides of politics together on some of those important issues, and the value of having a minister who does actually respond to the recommendations of senior committees of this parliament. I know from my recent attendance at the Australian Council of Public Accounts Committees that all public accounts committees (of which the Economic and Finance Committee is one) put much emphasis on supporting excellence in public administration in this nation.

Mr SNELLING (Playford): I wish to briefly add my comments to those of the member for Reynell. The members of the committee, who were appointed in May, have been working extremely well together. I commend the members of the committee for the bipartisan approach they have adopted and for their commitment to scrutiny of the public accounts process. I commend those members of the committee for their bipartisan approach in the Economics and Finance Committee.

However, some issues need to be looked at, one being the tendency to put bills together in order to continually hive off statutory obligations onto the shoulders of the Economics and Finance Committee and, in particular, I think of the obligations that the committee has to scrutinise the catchment water management boards. The committee spent quite a lot of time having each of these boards come before it to give evidence, and this had to be done very quickly after the committee was appointed, because it had a statutory obligation to do so. I think the committee spent far too much time having to deal with these catchment water management boards when it could have been investigating other instances of the waste of taxpayers' money. I caution members about constantly hiving

off responsibilities onto the Economic and Finance Committee to oversee various parts of legislation; perhaps it would be more appropriate to think of other ways to do this.

The member for Reynell alluded to the restriction on the powers of the Economics and Finance Committee in regard to statutory authorities. I reiterate her point that it seems somewhat absurd to restrict an Economics and Finance Committee when it investigates the expenditures undertaken by statutory authorities.

In closing, I thank the Secretary to the committee, Mr Rick Crump, and also the outgoing research officer, Mr Tim Ryan, who have both performed a very valuable service both to the committee and in the wider public interest. I thank them for their tremendous efforts, and I extend to Mr Ryan our best wishes for his future career. I commend the report to the house.

Motion carried.

WATER RESOURCES (MISCELLANEOUS) AMENDMENT BILL

Mr WILLIAMS (MacKillop) obtained leave and introduced a bill for an act to amend the Water Resources Act 1997. Read a first time.

Mr WILLIAMS: I move:

That this bill be now read a second time.

The Water Resources Act has been in existence for some five years, and a number of inadequacies, anomalies and flaws have been identified in that time. I believe that in many ways the act fails to deliver on the hopes expressed at the time of its gestation. Principally, the act and its administration have proven to be very costly to many communities, with catchment water management boards across the state collecting and spending levies of in excess of $20 million per year. A considerable proportion of this money is swallowed up in either supporting a newly burgeoning bureaucracy or endless consultancies which produce reports which, by and large, do little to address the practical issues confronting the management of our water resources, other than collect dust.

However, the bill that I bring before the house today does not seek to tackle these major issues. Indeed, it endeavours merely to correct just two matters which have recently come to my attention. One matter is quite minor and could best be described as the rewording of a clause to provide clarification. The other is significant and will correct a major anomaly which has meant that at least one board, that one of which I have considerable knowledge, the South-East Catchment Water Management Board, and I suspect all other boards, has acted in contravention of the act.

In response to the recommendations of the first select committee of the 49th Parliament into water allocations in the South-East, a new class of water licence was created in that region. This is known as the 'water holding allocation', and it gives the owner of such an allocation a right to a share (which is quantified) of the permissible annual volume of a particular water management area without bestowing a right to extract that quantity of water without conversion of the same to a water-taking licence, and also satisfying other appropriate hydrogeological criteria.

In acknowledging the unique nature of this type of licence, the parliament voted to allow the waiver of the payment of a water levy on such a licence if the owner could demonstrate his or her willingness to trade the licence to any other person wishing to convert the same to a water-taking licence. This principle is expressed in section 122A(2)(c) of the Water Resources Act and it provides:

> The levy for a financial year is not payable if the licensee, on application to the minister, satisfies the minister that he or she made a genuine but unsuccessful attempt throughout, or through the greater part of, the financial year to find a person who is willing to buy the water (holding) allocation subject to the condition of that allocation.

The South-East Catchment Water Management Board is in the process of having a study undertaken into how a trading water market in the region might be enhanced. There are a number of impediments to water trading which, if removed, could increase the willingness of potential participants in such a market. The most serious of these involves the mountains of red tape that the department puts in front of people, both regarding restrictions on the availability of information regarding existing water licences and the information on the history of the use of such licences. I have been calling for this information to be made available on an open access web site for many years, only to be told repeatedly that the department is working on it.

Potential water traders (buyers and sellers) remain highly confused about their rights, and departmentally imposed obligations seriously hamper the water market. Only this morning a constituent telephoned me with a series of complaints on this very issue, one being that he has been told that he can only lease a water licence for a maximum of up to five years. Why, if he and the lessor desire to enter into a 10-year contract, or a contract for any other length of time, can this not happen? He is making a sizeable financial commitment, and he may find at the expiry of a mere five years that the department may disallow him obtaining another lease. I get the impression that the department is trying to discourage lease-type trades in favour of permanent sale arrangements. I cannot understand the rationale behind this, but a body of evidence convinces me that this is the case.

The first amendment in the bill that I have introduced today is designed to clarify section 122A to make it obvious to owners of water holding licences that they have an option of trading that licence on a temporary basis, as well as on a permanent basis. I am assured by parliamentary counsel that this amendment will not alter the intent of the act but will merely clarify, particularly to the layperson, the full range of options available to such owners and, hopefully, it will thus, in some small way, give additional encouragement to these people to enter the water trading market.

The second matter addressed by this bill is much more serious and will indeed alter the effectiveness of the act in a substantial way. The Water Resources Act 1997 has contained in schedule 2, at clause 10, very onerous conflict of interest provisions. These provisions are so onerous that I believe boards would be able to legally carry out their complete range of functions only if those persons comprising the board had no interests, and these include such interest as land ownership within the area of the board's jurisdiction. This would obviously conflict with the intended spirit of the legislation, which was designed to devolve much decision-making back to local communities, utilising their local knowledge. It is my understanding that this opinion is indeed shared by Crown Law and that Crown Law has previously recommended the action which this bill proposes.

Clause 10 of schedule 2 of the act prohibits members of a catchment water management board from participating in proceedings of the board if they have 'a direct or indirect personal or pecuniary interest'. For a person to have a personal interest in any matter, the interest must be peculiar

to that person, and not be shared universally or even with a significant number of others. However, a pecuniary interest is held irrespective of the fact that that may be shared by many others or even universally. Clause 10(8) of schedule 2 stipulates that 'a member will be taken to have an interest in a matter for the purpose of this clause if an associate of the member has an interest in the matter,' with subclause 11 defining an associate of another person as including a person who is 'a relative of the person or of the person's spouse'.

These provisions, certainly with regard to the South-East Catchment Water Management Board, would ensure that for at least some of the functions with which the board has an obligation a quorum would be impossible to achieve if the members also complied with the other provisions prohibiting them from remaining in the room during the discussion on matters in which they held a pecuniary interest.

One such example is when the board is taking a decision on the financial contribution of councils. Such contributions are reimbursed to the said councils through a levy on rateable land. Any board member who owns or has a relative or a spouse with a relative who owns rateable land within the area concerned is ineligible to consider any such contribution at a meeting of the board. I suggest that there probably would not be a board anywhere in the state which could achieve a quorum to consider a matter such as this under the current provisions. I suggest also that there are many more examples where boards have taken decisions where the conflict of interest provisions have been contravened including, in many cases, the establishment of water allocation plans and the setting of water taking levies.

Whilst I in no way wish to insinuate that action should be taken against board members, it is worth noting that breaches of the conflict of interest provisions carry a maximum penalty of $20 000. I find it incongruous that board members who have been aware of this problem for some time have seen fit to continue to break the law without insisting that this anomaly be corrected.

My amendment, which reflects the thinking expressed on this matter in the Local Government Act, will not only remove this impossible burden from board members in the future, but is also retrospective, in that it absolves past transgressions. This is a very serious matter, and I would be delighted if the minister, upon his reflection on the bill that I have introduced today, recognised the importance and urgency of this measure, and ensured its speedy progress through the parliament. I commend the bill to the house.

Mrs GERAGHTY secured the adjournment of the debate.

SUMMARY OFFENCES (TATTOOING AND PIERCING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 October. Page 1571.)

Mr MEIER (Goyder): I made a few comments on this bill last week, and I would like to correct one thing I said then. I referred to ear-piercing. In studying the bill subsequent to that, I noticed that piercing of ears is specifically excluded in this bill. It would not worry me if it was included but, in speaking to the mover of the bill (the member for Enfield), I understand that it is such a common occurrence that he felt he did not want to put unnecessary obstructions in the way of people who wished to have their ears pierced.

Apparently, on medical grounds it is the least likely area to cause any problems. I am happy to accept that, but members would recall that last week I made some comments in relation specifically to ear piercing and I wanted to acknowledge that that does not actually apply in this bill. In relation to tattooing, I want to re-emphasise my support of this bill. It is excellent that a cooling-off period is available. The member for Waite had given some examples (as he was a colonel in the army) of many of his men celebrating when they graduated and, on quite a few occasions, celebrating perhaps to excess and, as a result, going to a tattoo parlour, not being in a fit state to make a decision, and coming away with a tattoo which, in many cases, they were somewhat embarrassed about in subsequent life, let alone in the next day or two.

It is a very sensible move. When buying a motor car you have a cooling-off period. That does not affect your body, although it can affect your pocket. When buying houses you have a cooling-off period. In buying most items you automatically have the chance to return the goods, provided that they are not damaged or used. With tattooing it is a bit silly to say that you can return it, because it is too late then. I think the three-day cooling-off period is very sensible, because for a person who has thought it through and definitely wants a tattoo there is nothing whatsoever in this legislation that stops them, but at least it will stop people making an impulsive decision, particularly when they are perhaps being goaded by their friends into doing it, and especially if they are affected by alcohol or drugs at the time.

I am very pleased that this measure is before the house. As I indicated last time, the member for Fisher had also sought to bring in legislation along these lines and I was happy to support it at that stage, and I am happy to support this legislation. The member for Enfield has made clear in the bill that some of these provisions are helping from a medical point of view: why should we not seek to save money in our health system when so much of the treatment that has to be offered to citizens is as a result of their recklessness? And we as taxpayers pay for that. The member for Enfield is providing a safeguard here, and things should go along much more smoothly. I am referring here not to the tattooing but to the piercing aspect. With those words I am pleased to support this bill.

Mr SNELLING (Playford): I will not take up much of the house's time on this bill: I think it important that it receive a speedy passage. I have been rather surprised by the correspondence I have received regarding this bill and the claims that it represents some grave infringement on civil liberties. I do not believe that this bill is a breach of civil liberties. I agree with the minister that to claim that there is some sort of right to be pierced is a little absurd. A tattoo is a lifelong undertaking: once you are tattooed it is rather difficult to have it removed. As with any decision that is a serious undertaking, whether it be buying a house or buying a car, the legislation provides for a cooling-off period for decisions of such gravity. So, it is only proper that having a tattoo put on oneself should be approached with similar gravity and that there should be an opportunity for that person to think about it.

We all know how easy it is to make rather rash decisions on the spur of the moment, particularly if one is perhaps a little under the influence of alcohol or some other substance that gives a sense of false bravado. It is only sensible that there should be an opportunity for someone to consider the

decision. If having considered it they still wish to proceed with the tattoo, they are well within their rights and this bill in no way infringes upon those rights. It only seeks to protect people a little from themselves and give them an opportunity to think about a decision of such gravity. Similarly, with piercing of various body parts, medical advice is that some of this body piercing is inherently risky and that dangers of infection and more serious illnesses are possible from having parts of one's body pierced.

It is only sensible that minors wishing to have such procedures undertaken on themselves should require parental consent, and that is all this bill provides for. It does not provide a blanket ban on body piercing for minors: it merely states that in such cases there must be parental consent. That is eminently sensible. I commend the member for Enfield and commend his bill to the house.

Dr McFETRIDGE (Morphett): I support this bill. I should point out from the outset that I had my daughter's ears pierced when she was only two years old. My wife's Dutch background and tradition were to have the young female members' ears pierced at their second birthday, and I see no problem with that. Whether we need to amend this act to allow that, I am not sure. Certainly, the acts of body piercing and tattooing are something that are close to me inasmuch as I have two tattoo parlours and a body piercing parlour in my electorate. Who runs them, I do not know. One of the tattoo parlours was adjacent to a hydroponics shop, and members can draw their own conclusions there.

I do not wish to cast aspersions on professional tattooists because the high degree of artistic ability that they show is something to be admired by those who are so inclined. The history of tattooing goes back a long way. In some nations around the world it is an integral part of the way people conduct themselves, to show the hierarchy in society. However, in our society there are a number of cases where people have tattoos and regret them. Certainly, there are a number of times when unscrupulous operators encourage people to have tattoos that are far larger and more colourful and prominent than they originally desired.

One of the most colourful exhibits I have ever seen was on a chap who used to work for me. He had tattoos on just about every part of his body, including some on his face, inside his top lip. I do not know how they held the parts steady enough, but he had tattoos where I would imagine it would be exceptionally painful. It is like blowing up a balloon: the tattoo would have changed in size with that part of his anatomy—and enough said! That was his choice, and I think he made that choice when he was sober. That is the thing we must be doing with this bill, namely, supporting the bill so that people make rational judgments about what will be a permanent decision. Some surgeons apparently do remove tattoos with lasers, but I am not sure about the final effects. I am sure that some scar or defect must be left, although I would like to think it could be a completely successful process.

I do not think the need for a slight delay in having a tattoo would upset anyone who was going to have a tattoo put on. Tattooing is a very painful procedure. I used to tattoo dogs' noses in the days when we did that as a means of reducing solar radiation on their pink noses. I remember going into a tattoo parlour to get some ink. We had a brown dog and we wanted to give him a brown nose: we wanted to use brown ink rather than black ink. A chap was lying there being tattooed and he overheard my asking the tattooist for some tattoo ink. He said, 'How do you keep a dog still enough to tattoo its nose?'. I said, 'Well, we give it a general anaesthetic,' and he said, 'Can I have some?' It is a painful procedure and I do not know why people go through it—it must be some sort of masochistic desire.

In some parts of society, tattooing is seen as something of which to be proud and which should be displayed. I admire the skill of true professionals as an artistic outlet. I see numbers of young people around Jetty Road, Glenelg, during the hot weather; the degree of cover-up reduces and a number of tattoos are exposed. I wonder what those people will think later in life, when they see these tattoos on their bodies and think, 'Perhaps it was not a good idea.' It is a bit like the streaker's excuse: it seemed like a good idea at the time.

I have had representations from owners of tattoo parlours, and I honestly think that I am able to support this bill in true sincerity because people acting in a professional manner, as part of the Professional Tattooists Association, will not object to their clients' making considered decisions. In fact, one probably needs three days to go through some of the catalogues in some tattoo shops. The designs available nowadays are absolutely amazing. I think the three-day cooling-off period is reasonable.

The Liberal Party is never one for wanting to regulate people's lives any more than necessary. Everyone can be free to make their own decisions. Unfortunately, they must be responsible for those decisions and wear the consequences of them. If we can help people make considered decisions, so be it. That is why I am happy to support this bill.

In relation to body piercing, I was quite amazed when I knocked on a door during the election campaign. A fellow came to the door and he looked like the cartoon character Pierce that appears in the *Advertiser* cartoon *Zits*. He had more metal on his face than I could see his face. I think he turned north every time he walked outside because of the magnetic effect on his body. It was his choice to do that. He thought it looked good, and I suppose his friends thought similarly. I would like to think that people who do that make a considered decision about it and receive advice from adequately trained people who conduct themselves ethically in this business.

I was a little disturbed to see a photograph in the *Advertiser* for a new Actrapid insulin injection pen, which was being used by a girl who was, I assume, eight to 10 years old. The injections are easy to use to help combat juvenile diabetes, but whether it was the girl who initiated having her navel pierced, or whether it was her parents, I do not know. However, I would like to think that decision is made by a responsible adult.

I support this bill to ensure that minors do not get their body tattooed or pierced. This matter has been raised before by the member for Fisher, and I support his motives as well. It is important that we protect our young people from themselves, without mollycoddling them and wrapping them in cotton wool. It is important that people act professionally and ethically in the tattooing and piercing industry.

Obviously, people are exposed to communicable diseases nowadays, everything from AIDS (which is the No.1 bogey) right through to generalised e-coli, salmonella and Campylobacter infections—easily caught infections. If there is not a high degree of professional conduct and hygiene associated with these very invasive procedures, it could be absolutely traumatic with lifelong consequences. I support this bill wholeheartedly, and I am willing to wear the consequences

of a little criticism from the owners of tattoo parlours and piercing shops.

Mr SCALZI (Hartley): I support this bill, and I commend the member for Enfield for introducing it. I note that the member for Enfield is not one who tends to introduce draconian policies. In fact, from my understanding, the member for Enfield is quite liberal in many ways.

The Hon. M.J. Atkinson: Certainly not!

Mr SCALZI: This is a considered response to what could be a problem with people having a tattoo in a moment of haste. I note that some people within the tattooing industry have concerns. This bill is not having a go at legitimate operators. What it is saying is that people should consider their decision before taking on something permanently which they might regret.

In relation to other forms of legislation, for example, when we purchase a motor vehicle or house, and other areas of consumer protection, there is generally a cooling-off period. This is no more, no less. It is saying, 'You are going to make a decision; please consider making the decision in its proper context and accept the decision after a three-day cooling-off period.' I think it is quite reasonable.

Fears that this might increase the number of backyard operators, and so on, are unfounded. People make the decision to have a tattoo, and those people who make the decision without considering the consequences are likely to go to the backyard operators in the first place. This bill is for the majority of the population. It is to give people time to make a considered, sound decision. As other members have said, people could have a tattoo that they regret in the future, and it will not be something that they can get rid of easily. It requires a lot of medical skill and considerable cost to remove tattoos.

This bill is not about being prejudiced against individuals. It is a sensible bill, which should be supported. I believe that the fears of those who believe it will increase the number of backyard tattooists are unfounded. It is sensible and appropriate to have this type of legislation, which enables people to exercise their choice. We are not depriving any individual from having something. No-one is saying, 'You must not have this or that.' It is saying, 'If that's your decision, take it easy; consider the matter and then, if you still want to proceed, that's fine.'

Of course, there is protection for minors, and I think that is sensible as well. I have read the comments of those who oppose this legislation and, while I understand and respect their views, in my opinion their concerns are unfounded. Good legislation is not based on individual cases, nor on exceptions: good legislation is based on what is good for the whole community and is about sending a message to the community, and this bill does that. It sends that message and protects people from making hasty decisions, as happens in other areas of consumer protection. For those reasons, I support the bill.

Mr RAU (Enfield): I express my very sincere thanks to my parliamentary colleagues on both sides of the chamber for supporting this measure and, in particular, the members for Fisher, Playford, Unley, Waite, Goyder, Morphett and Hartley who have spoken on the bill: I greatly appreciate their having taken the time to consider the matter and to give it their support. I think it is important that the community understands that this is a measure which has, it would appear, virtually the unanimous support of this chamber, and that augers well for its passage through the upper house. Again, I say most sincerely that I am very grateful indeed that this bill has received support from colleagues in the chamber on both sides.

The bill, as the member for Hartley mentioned in closing, does not seek to take away anybody's rights: it seeks merely to require people to have a moment's pause in relation to tattoos and body piercing. It seeks to put the intervention of a parent or guardian in the way of what might otherwise be a spontaneous and, perhaps, dangerous decision from a medical point of view (which could also lead to scarring) on the part of a minor.

Since this bill was introduced, I have received a number of representations from individuals in the community who have views on it. In very brief terms I would like to run through those views and perhaps address some of the concerns. First, I think it is fair to say that there has been very little concern about the body piercing element of this bill. The only matter that has been drawn to my attention by some people is that they think the age might be better at 16 years rather than 18 years, but the bill as it stands states 18 years in relation to all these procedures and I do not think there is any good reason that the provision for 18 years should be changed.

In respect of the second element that has been drawn to my attention, I think from memory the member for Unley and the member for Goyder referred to some of the more elaborate forms of piercing and questioned whether we might specifically deal with those. I am grateful to the honourable member for having provided me with a copy of his version of a document received from people associated with a particular tattooing establishment in the city which suggests that the legislation in this respect should be tougher, and I commend them for that. However, because I am inexperienced in this place, I am not prepared to risk amending my own bill and, thereby, causing some unforeseen problem. However, I say in all sincerity to those individuals in the tattooing and piercing industry who have suggested that there should be a further provision saying that a person must not pierce the genitalia of a minor that I agree and, should the opportunity arise, I might have a crack at introducing an amendment to that effect at some later stage. That should not be even a matter of consent, in my opinion, and I agree with the authors of that document.

Piercing is an invasive procedure and there are issues in relation to infection and possible neurological damage. I received a document which I am not sure was intended to be funny, ironic or perhaps scathing, but one of the individuals who contacted me in relation to the piercing issue said that my reference to neurological damage 'may be implying that brain damage can occur due to body piercing'. This, of course, was never my intention. But they go on to say, 'This is completely inaccurate.' Having established the straw man of brain damage, they knock it over. They say, 'This is completely inaccurate unless, of course, a person undertakes to receive a brain piercing.' So, I then decided that this was not a really serious contribution on that subject.

So that is where the piercing aspect lies. We are not taking away people's rights. Individuals—even the two year old daughter of the member for Morphett—can, without their parents' consent, have their ears pierced, but certainly with their parents' consent can go ahead and do it. I think this is a responsible move, and I have to say that most of the responsible parlour operators that have contacted me and

other members basically do not have a lot of problems with the piercing aspect, so everybody seems to be fairly happy.

The other element, of course, relates to tattooing. This appears to be more controversial, and members will appreciate that tattooing of minors is already prohibited so we are dealing simply with the question of whether adults can get a tattoo and, if so, in what circumstances. This bill simply seeks to introduce a pause between the decision to have the tattoo and the application of the tattoo. It has been put to me that the major reason that this is a bad idea is that some people will be so anxious to have themselves tattooed immediately that they will not be able to contain themselves for three days and they will rush off and find some chap in a backyard somewhere, and that will be it.

Time expired.

Bill read a second time and taken through committee without amendment; committee's report adopted.

Mr RAU (Enfield): I move:

That this bill be now read a third time.

In so doing, I pick up where I left off. If honourable members recall, we were with the chap who was so desperate to have his tattoo immediately that he had gone scurrying about looking for a backyard operator. My point is simply that in the world of tattoos, as I am sure is the case in the world of virtually every endeavour, there are those people who do it the right way and those people who do it the wrong way. I very much doubt whether a three day cooling off period will affect those individuals who will do it the wrong way, and I doubt whether it will affect those who will do it the right way. In fact, as I am advised, studios that do it the right way have professional people working there; they are very busy; people have to make an appointment. I am not persuaded by that argument and, in any event, I agree wholeheartedly with the member for Hartley who says that, at the end of the day, the benefit of this outweighs any possible deficit that might come.

That then brings me to the last point which has been raised which is the question of the deposit. The concern has been expressed that people might make appointments and not turn up and that this should not be allowed to happen without a deposit being paid. The main argument which has been advanced in favour of that is that people spend a lot of time drawing these elaborate designs. In relation to that, I am not here to give legal advice to members of the tattooing industry, but they might consider offering two separate services, one being the tattoo and one being a design fee, but that is a matter for them. At the end of day, again I am not persuaded by that.

In summary, these measures are intended to minimise potential harm to individuals who are minors and who might be persuaded, for one reason or another, to do something that might be unwise from a health point of view, or, alternatively, adults who might for reasons of alcohol, peer pressure, a lapse of reason, or whatever, have decided that they want to have a tattoo in circumstances where they subsequently decide they do not. The people who want to have one, 10, 20 or 50, can go ahead and do it, it will not stop them. In conclusion I return to the comments I made in opening; that is, it is very gratifying indeed to have the support of my colleagues on both sides of the chamber. I hope the bill has a speedy and happy passage through the other place.

Mr KOUTSANTONIS (West Torrens): I will be very brief. First, I congratulate the member for Enfield on this bill. He is a credit to his electorate. He has done an excellent job in his short time in this house and he has impressed everyone in this chamber, especially members on this side of the house. I am sure he will have a speedy promotion. I will just relay a quick story from a concerned mother who came to my office asking me to support this piece of legislation after hearing about it on Leon Byner's 5AA show. About 10 years ago, her son when intoxicated went to a tattoo parlour to get a tattoo on his forehead. The person who performed the tattooing was also affected by some sort of substance. They did it using a mirror. He wanted to have the word 'Skins'—he was one of the those alternative culture people who was a skinhead—tattooed on his forehead. Unfortunately, they tattooed 'Sniks' on his forehead because they did it using a mirror when they were both inebriated. I took the matter very seriously when she came to my office. I said that we had a young member of parliament who was a credit to his electorate and who was tackling this head on. He was doing everything he could to ensure that people did not suffer the same fate as her son, and that I would be supporting this bill wholeheartedly. I urge members in the upper house to support this legislation to stop other young South Australians from living with the embarrassment of having 'Sniks' tattooed on their forehead.

Bill read a third time and passed.

PARLIAMENTARY COMMITTEES (PRESIDING MEMBERS) AMENDMENT BILL

Second reading.

Dr McFETRIDGE (Morphett): I move:

That this bill be now read a second time.

This is a bill for an act to amend the Parliamentary Committees Act 1991. It has come from the upper house. The Parliamentary Committees Act was enacted to establish certain committees which have now become an integral part of this parliament. There may be some discussion on the way in which these committees work in the future and also on the way in which these committees will be constituted in the future. I understand the Constitutional Convention will be discussing that as one of its items. The committees as they exist at the moment are: the Economic and Finance Committee, the Public Accounts Committee, the Environment, Resources and Development Committee, the Legislative Review Committee, the Public Works Committee, the Social Development Committee, the Statutory Authorities Review Committee, the Occupational Safety, Rehabilitation and Compensation Committee and the Statutory Officers Committee—and that completes that list of those useful committees.

The act sets out the membership of the committees. It does vary a little in that some are made up of members of the House of Assembly entirely, some are made up of members of the upper house entirely and some both. The Economic and Finance Committee and the Public Works Committee are solely comprised of members of the House of Assembly. The Statutory Authorities Review Committee is solely comprised of members of the Legislative Council. The ERD Committee, the Legislative Review Committee, the Social Development Committee, the Occupational Safety, Rehabilitation and Compensation Committee—

The Hon. M.J. Atkinson interjecting:

The ACTING SPEAKER (Mr Snelling): The Attorney-General will come to order!

Dr McFETRIDGE: —and the Statutory Officers Committee comprises members appointed in equal numbers from each house of parliament. In an administrative sense, the House of Assembly administers the Economic and Finance Committee, the ERD Committee and the Public Works Committee. The Legislative Council administers the Legislative Review Committee, the Social Development Committee, the Statutory Authorities Review Committee and the Statutory Officers Committee—that is a very good committee of which I happen to be a member and which we will have to resurrect. I am not sure when it last met, but it is a vital committee, particularly with the Auditor-General's bill coming up.

One of the first responsibilities of all committees is to appoint a presiding member pursuant to section 23 of the Parliamentary Committees Act, which simply says that each parliamentary committee must, from time to time, appoint one of its number to be the presiding member. However, the act is silent on the appointment or election process of that member. In the case of the Legislative Review Committee, the Social Development Committee, the ERD Committee and the Public Works Committee, an even number of members is appointed. As a consequence, there is a real and apparent risk for an equality of votes for the election of presiding member and, unfortunately, the act does not provide a process for resolving such a deadlock. This bill seeks to provide a mechanism to resolve such a deadlock should it occur.

The object of the bill is to refer the election of a presiding member to the House of Assembly in the case of the following committees: the Economic and Finance Committee, the ERD Committee, the Public Works Committee and the Occupational Safety, Rehabilitation and Compensation Committee where the committee is unable to come to a decision on who is to be the presiding member; and to refer the election of a presiding member to the Legislative Council in the case of the following committees, namely, the Legislative Review Committee, the Social Development Committee, the Statutory Authorities Review Committee and the Statutory Officers Committee where the committee is unable to come to a decision on who is to be the presiding member. There is also a transitional provision which provides that the position of a presiding member will immediately become vacant upon the commencement of the act.

Members may wonder why there is a need to introduce such a bill, given that previous parliaments have managed to work without a deadlock resolution mechanism in the past. Unfortunately, a situation has arisen that has come to the Liberal Party's attention—not mine personally, but other members of the party have spoken to me about this. Upon the Labor Party's being elevated to government, it sought to use the parliamentary committees presiding officers' positions as part of its patronage to reward factional loyalties ahead of normal traditions that had previously prevailed. It was brought to our attention that the member for West Torrens had sought to allocate presiding members' positions to members of 'the machine' who he believed needed rewarding. This is as I have been informed, and I just hope that it is not so—because I know the member for West Torrens well. He is a very enthusiastic member. He and I are happy to exchange banter in the house, but we know that we both mean well.

It is interesting, though, that the member for West Torrens does have a bit of a track history on this matter, as does the Attorney-General. In 1996, the Attorney-General stuck up for the then candidate for Peake (as the member for West Torrens was), when the member for West Torrens brought up the position of the Hon. Dr Bernice Pfitzner MLC, who was the presiding member of the Social Development Committee. Dr Pfitzner was appointed by the Liberals and, by virtue of being presiding member, obtained two votes—a deliberative and a casting vote. So, the member for West Torrens knows the power of the presiding member—and good on him for trying to use the politics of the committee system to try to gain some political advantage.

It is rather sad, though, that the member for West Torrens comes off second best in a lot of things. He is a member of the Public Works Committee: it is rather sad that he has not been elevated to a higher position in that committee. The member for West Torrens has been dudded on many occasions. I know that some of the comments that have been made about him over the years have been rather unkind—and, certainly, one that I came across was from Matthew Abraham not long after the member for West Torrens was elected as the member for Peake. The member for West Torrens had come out with some fairly strong interjections, and this is all part of the robust nature of this place, but what Matthew Abraham said at that time was—

The Hon. M.J. ATKINSON: Madam Acting Speaker, I rise on a point of order. We are debating the parliamentary committees bill. I am wondering what the relevance of remarks made by *Eastern Messenger* columnist Matthew Abraham about a back bench member of a previous parliament has to do with the bill before us.

The ACTING SPEAKER (Ms Thompson): I was focusing on the contents of the bill rather than the contents of the member's remarks, but I remind the member for Morphett of the need to speak to the bill.

Dr McFETRIDGE: I am just trying to illustrate that it is so important that the mechanisms to enable these committees to function in the way in which they have been designed are in place so that anyone who is acting in an unethical manner would be negated by the object of this bill. But I am not—

Mr KOUTSANTONIS: Madam Acting Speaker, I rise on a point of order. I ask that the member withdraw the imputation that I have acted unethically in this chamber or in my workings as a member of parliament.

The ACTING SPEAKER: I did not draw that inference, but the member for Morphett may wish to clarify the remarks.

Dr McFETRIDGE: If I had been allowed to continue, I was going to say that in no way was I casting dispersions upon the member for West Torrens. In fact—

The Hon. M.J. Atkinson: Aspersions!

Dr McFETRIDGE: Aspersions. I thank the Attorney-General. The bottom line is that (I will use the member for West Torrens' own words) I was shocked and appalled at some of the allegations and accusations that had been made about the member for West Torrens, because I know that it is important that the committees work in a very ethical way and a way predetermined by this parliament. I am not casting any aspersions; I am not degrading the character of the member for West Torrens in any way, shape or form in this place. I am just trying to illustrate the fact that it is not us whom the member for West Torrens needs to worry about; unfortunately, it is his own colleagues. He has been shafted; he has been dudded on a number of occasions, and it is important that—

The ACTING SPEAKER: Order, the member for Morphett! I previously asked you to address the content of

the bill. You have tried to indicate that you are illustrating, but you are really straying too far from the content of the bill. Please do not make any further remarks relating to other members. You can illustrate in a more concrete form.

Dr McFETRIDGE: It is so important that these committees function in the way in which they have been designed to function. I do not think that the committee to which I have been appointed—the Statutory Officers Committee—has ever met, and it would be rather disappointing for me if that committee was not used to examine the proceedings and the powers, as do many of the other committees, which are working exceptionally well. It is rather sad that the committee system in this place is not made more permanent, perhaps, as is the case with respect to the federal parliament. I would encourage the government to look at that matter during the upcoming Constitutional Convention. It is so important that the way in which the committees are appointed and positioned in this parliament is examined by this bill's introducing some amendments to clarify the way in which presiding members are appointed. It is also very important that the upcoming Constitutional Convention is very careful in the way in which it examines the role of the committees.

I reiterate that the allegations that have been made to me about the member for West Torrens and what he tried to do I find to be absolutely scurrilous, and I just hope that he is the honourable man that I personally know him to be. It is unfortunate—

The Hon. M.J. WRIGHT: Madam, I rise on a point of order. I remind you of your earlier ruling and I ask the member to get back to the debate.

Dr McFETRIDGE: Even his own colleagues will not—

The ACTING SPEAKER: Order! The member for Morphett will wait for the call and will not speak about the members about whom he has been told not to speak. I ask him please to stick to the content of the bill.

Dr McFETRIDGE: Thank you for the direction, Madam Acting Speaker. This bill is a worthwhile piece of legislation which I understand the government will support. I have no doubt that the Attorney-General will have some remarks to make about the way in which the bill is intended to act, and will be asking questions about why it needs to be implemented. But I think he has only to look at his own track record and be honest with himself as to the way in which the committees have operated and been appointed and the way in which they have been used just recently. It is so important that the committees are protected by this parliament, and this bill has been introduced to enable that crucial role to be enacted. I commend the bill to the house.

The Hon. M.J. ATKINSON (Attorney-General): Five of the eight parliamentary committees have an even number of members, and each of those five committees has membership from both houses. The act divides the committees so that each house administers four committees. The House of Assembly administers the Economic and Finance Committee, the Environment, Resources and Development Committee, the Public Works Committee and the Occupational Safety, Rehabilitation and Compensation Committee. The other place administers the Legislative Review Committee, the Social Development Committee, the Statutory Authorities Committee and the Statutory Officers Committee.

The Parliamentary Committees Act does not now set out a process to resolve a deadlock in a committee about the appointment of a presiding member of that committee. The bill before the house seeks to change that by introducing a deadlock provision. It goes further and says which house the presiding officer of a joint committee must come from. Although I do not recall there ever having been a deadlock about the appointment of a presiding member, given the current make-up of the parliament and the increased tendency for Australian electors to create parliaments that throw up minority governments, there is a possibility that there will be a deadlock on a parliamentary committee about its presiding officer in the next eight years or so. I support the bill because it provides a way of resolving such a deadlock.

The bill also provides that the presiding member of a committee must be a member of the house that administers that committee. For many years I was a member of the Social Development Committee. Its presiding members were: the Hon. Carolyn Pickles, then the Hon. Bernice Pfitzner (of blessed memory) and then the Hon. Caroline Schaefer. When the Hon. Caroline Schaefer became a minister of the Crown late last year she resigned from the committee which she had chaired so well. The committee consisted of three members from the lower house and three members from the other place—if one includes the Hon. Caroline Schaefer (resigned).

I promised to vote for a member of the other place to be the new presiding officer, and that is what the member for Morphett in his contribution today says that I should have done. I should have been obliged as a member of the Social Development Committee to vote for a member of the other place because, argues the member for Morphett, the presiding officer of a committee must come from the house which administers that committee. A smile plays across the face of the member for Morphett because he knows what a bind he has just got himself into with his incautious speech.

Dr McFetridge interjecting:

The Hon. M.J. ATKINSON: Perhaps the member for Morphett would be kind enough to tell me for whom I voted.

Dr McFetridge: You nominated the member for Hartley.

The Hon. M.J. ATKINSON: No. I hope Hansard has recorded that interjection, because the member for Morphett said that I nominated the member for Hartley. All I can say is that the member for Morphett cannot read a set of minutes, because I voted for a member of the house which administers the Social Development Committee. After the Hon. Caroline Schaefer resigned to become a minister the only two members of the other place left on the committee were the Hon. T.G. Cameron and the Hon. Sandra Kanck. So, I did what the member for Morphett would have me do and I supported the Hon. Sandra Kanck.

The Liberal Party proposed a member of this place to be the presiding member of the Social Development Committee. The Liberal Party proposed the member for Hartley. That is to say, the Liberal Party prevailed (with the vote of the member for Fisher and the Hon. T.G. Cameron) and a member of this place became the presiding officer of the Social Development Committee.

Since the general election, the Liberal Party has argued (inconsistently with its example) that presiding members of committees must come from the house that administers the committee. Do what we say, not do what we do. The Liberal Party says that the law should be changed to prohibit what it did less than 12 months ago. The Liberal Party is the only party that has acted in violation of this principle. The Labor Party has never acted in violation of it.

It is true that the Parliamentary Labor Party (after we formed government on 5 March) canvassed the possibility that we would do what the Liberal Party had done, that is, support people who were government members, who were

members of a house other than the administering house of the committee, as the presiding officer of the committee. The squeals of outrage from the Liberal Party were so great that we should do what they had already done that we decided to support the bill before us to make it clear that the presiding member of a committee could come only from the house that administers the committee.

That is the explanation of the history of this matter. It is a pity that the member for Morphett decided to chance his arm about matters that occurred in parliament before he was a member of parliament because he has got those matters gloriously wrong. With those remarks I support the bill.

Mr KOUTSANTONIS (West Torrens): It is true that I have been vilified on this issue in both the other place and here. I choose not to react to the cruel and hurtful remarks made by members opposite who attacked my integrity and the way I operate within this place and within my political party. I choose not to respond to the scurrilous, dirty politics played by members opposite. I will rise above the fray, the hurtful shallow insults thrown at me by members of the other place and in here, because my constituents in my electorate deserve better. They deserve not to have cheap shots thrown at members of parliament in this place and they expect us to go about our duty with dignity, honour and respect for others.

I will not take up the mantle that members opposite have taken against me—might I say, without the courage to repeat some of those remarks outside this chamber or the other chamber. There is one member in the other place whom I considered to be a friend before the election—I refer to the Hon. Angus Redford—but I now consider him to be just a party political hack. I will not respond to the attacks that he has made on my character in the other place other than to say that the Liberal Party was so outraged that this government wants to have government members chair committees. That has been the convention in this place since I have been here and long before I came here and probably when the parents of members opposite were here and when our founding fathers were here. We have always operated this place in that way.

If we want to start breaking conventions, perhaps we should do so. However, I repeat the Attorney-General's comment: they believe so passionately in the principle that they appointed the member for Hartley as chair of a committee administered by the other place and, straight after the election, they sought to overturn that but did not allow this government to do the same.

I point out to members opposite, who have nine members in the other place, that when they were in government they had a number of people from whom they could chose to chair committees. Sometimes, the government of the day which has the majority in the lower house does not always have the majority in the upper house, and it can be reduced in numbers, and members of the lower house may need to be called upon to chair committees in the other place because of a lack of numbers. The Liberal Party experienced this situation when it had no member of the upper house left on the Social Development Committee. So, members opposite should look at the hypocrisy of some members.

As a good government, we will support this legislation, and we will grant it speedy passage through the chamber. I do not like the hypocrisy of members opposite, when they attack me without having the courage to go outside this place and make those accusations. You have not heard me talk about making a candidate in a marginal lower house seat, who was fighting for his political life, chair on a committee to get a larger salary to contest the election. I have not accused the member for Hartley.

I have not accused the Liberal Party of beefing up the member for Hartley's global by transferring money to his global and giving him a higher salary by appointing him the chairman of a committee. I have not accused the member for Hartley or the Liberal Party of that hypocrisy, because I am above that. I will not accuse them of pork-barrelling a member to help him get re-elected and of using taxpayers' money for an election campaign, because I am better than that. I will not play those sort of politics. I do not campaign in the gutter: I campaign from the lofty heights of dignity, honour and honesty. I will support this legislation because, as the Attorney-General has said, we have not broken this principle, as members opposite have done.

The ACTING SPEAKER (Ms Thompson): Are there any members on my left? If not, I very slowly call the member for Enfield.

Mr RAU (Enfield): I rise to support this bill, and I do so for the reasons that were expressed by the Attorney-General. In so doing, I pay tribute to the member for West Torrens for the way in which he has restrained himself, and for the way in which he has come into this chamber and held back, despite provocation, when a lesser person might have come out with all guns blazing. There he sits—restrained, cool, calm, collected and, at all times, measured—

The Hon. M.J. Atkinson: And addressing the substance of the matter.

Mr RAU: —and addressing the substance of the matter before the parliament. Aside from paying tribute again to the member for West Torrens—

Mr BRINDAL: I rise on a point of order.

Mr RAU: I am on the topic now.

Members interjecting:

The ACTING SPEAKER: Order! The member for Unley has a point of order.

Mr BRINDAL: Quite seriously, Madam Acting Speaker, you are a very good chair, but I cannot hear what is going on, because there seem to be squabbles all over the house. I am trying to listen to the very intelligent contribution from my friend.

The ACTING SPEAKER: I think all members heard the issue raised by the member for Unley. I uphold the point of order, and I ask everyone to calm down.

Mr RAU: I thank the member for Unley for that most gracious assistance.

The Hon. M.J. Atkinson: Statesmanlike.

Mr RAU: Statesmanlike! The member for West Torrens raises an important issue, and I will delve briefly into a bit of history. There was a time when the Labor Party had one or two members only in the upper house, and that was because the Liberal Party did not run people in those seats, because the constitution required somebody to be in the other place representing Her Majesty's opposition.

An honourable member interjecting:

Mr RAU: I must say, to fill out the picture a little, that at that time the voting system was slightly different. It was not the current PR system: it was a restricted franchise. The point that the member for West Torrens makes is very valid: it is foreseeable, and it is conceivable that, for reasons on which I do not wish to speculate at the moment, a government in this place may be embarrassed by this measure. No doubt, in those circumstances the one or two members in the other

place will ask that the matter come back here for further amendment.

As the Attorney-General has indicated, I think it would have been preferable for this matter to have been dealt with by simple negotiation—as it has been satisfactorily. One would have thought that mature members in the government or the opposition would realise the practicality of dealing with the matter in that way and of not putting themselves in a straitjacket, as this legislation does.

In the true spirit of harmony and bipartisanship that typifies this government, we have decided that the Hon. Angus Redford should be supported, not because none of us has reservations about this bill but because we are keen to be able to demonstrate that a spirit of bipartisanship is alive and well on this side of the house.

I conclude by paying tribute to the member for West Torrens—

Mr Brindal interjecting:

Mr RAU: The member for Unley did not hear my tribute to the member for West Torrens. I think we were all moved by the restraint, the dignity and the pathos of his contribution; I certainly was, and that is why I am speaking now.

Members interjecting:

The ACTING SPEAKER: Order!

Mr BRINDAL (Unley): I commend the new member for Enfield, who has replaced someone for whom I had a lot of time in—

The Hon. M.J. Atkinson interjecting:

Mr BRINDAL: No—Ralph Clarke, and I use his name because he is no longer the member. He added a certain amount of colour and vibrancy to this place, especially after tea. To some extent, his place has been taken by the leader of government business in character and capacity in the house. I notice that he has made some—

The Hon. M.J. Atkinson: If you hadn't give your preferences to Ralph you would be in government.

Mr BRINDAL: I thought the Attorney was interjecting that, if we had not given our preferences to Mr Clarke, he would be in government. Well, they are in government. I do not quite understand.

The Hon. M.J. Atkinson: That you would be in government.

Mr BRINDAL: Morally, we are. It is just that we happen to sit on this side of the house.

An honourable member: They are a government in exile.

Mr BRINDAL: That is just about right.

The ACTING SPEAKER: Member for Unley, I have tolerated this long enough. You know the rules about interjections. I endorse the earlier comments of the Speaker today, and I ask you to practise them.

Mr BRINDAL: I thank you, and I stand chastened and humbled by your considerable skill in the chair. May I say that I hope we see you there more often. There is a sense of fairness and dignity that you bring to acting in that position which is not perhaps universally shown at times.

Mr KOUTSANTONIS: I rise on a point of order. I believe that the member for Unley has just reflected on the Speaker of the House of Assembly and I would ask him to withdraw.

Mr BRINDAL: The member for West Torrens can presume what he likes but I am afraid that there are a number of members—

Mr Koutsantonis: The Speaker will read *Hansard*.

The ACTING SPEAKER (Ms Thompson): Order! This is not a matter for debate. I ask the member for Unley to clarify his remarks in such a way that they do not reflect on the Speaker of the House of Assembly.

Mr BRINDAL: With due respect, I was not reflecting on the Speaker. I have occupied the chair during this session of the house, as has the member for Schubert and as have many other members, and I made no reflection on the chair.

Members interjecting:

The ACTING SPEAKER: I thank the member for Unley for that explanation and I now ask him to return to the topic of debate. There is no need to fill in all the time.

Mr BRINDAL: I thank the member for Enfield for his remarks and the fact that he believes that this measure is worth supporting. As the member for Enfield pointed out, it comes from another place and it has been sponsored by the Hon. Angus Redford. It therefore warrants the serious consideration of the house and I acknowledge that, if he speaks for his party, the government party is prepared to consider this measure. I found his contribution on the upper house most interesting. Of course, I knew that there was a gerrymander or 'Playfordmander', according to which paper you read at the time, in existence, but I did not realise that it was to the extent that we had to not run members—

Mr Snelling: The Playfordmander was in this chamber. There was a restricted franchise in the Legislative Council—

Mr BRINDAL: Yes, but it amounted to a manipulation—

Mr Snelling: And a malapportionment and a gerrymander.

The ACTING SPEAKER: Order! The discussion about constitutional history can occur in other forums. The discussion now is about this bill.

Mr BRINDAL: Yes, but with due deference, Madam Acting Speaker, it does actually touch on the last contribution, and I think that is a good reason why the government party may well be supporting this and a good reason why some of us may lament the passing of different times.

Mr Koutsantonis: You wouldn't have made preselection under Playford, mate.

Mr BRINDAL: The member for West Torrens makes a point but it is not a valid point because I probably would have been the senior member of his government. Section 23 of the Parliamentary Committees Act simply states:

> Each parliamentary committee must from time to time appoint one of its members as the presiding member.

The Hon. Angus Redford points out that the act is silent on the appointment or the election process and, given that that is the case with regard to the Legislative Review Committee, the Social Development Committee, the ERD Committee and the Public Works Committee and an even number of members is appointed, there is a real and—in the current circumstances—apparent risk that there will be an inequality of votes. In order to break this deadlock the proposal introduced in the bill contains a mechanism to deal with this issue. The bill refers the election of a presiding member to the House of Assembly in the case of the following committees: the Economic and Finance Committee; the Environment, Resources and Development Committee; the Public Works Committee; and the Occupational Safety, Rehabilitation and Compensation Committee, where the committee is unable to come to a decision as to who should be its presiding member.

The bill refers to the Legislative Council and the election of the presiding member of the following committees: the

Legislative Review Committee; the Social Development Committee; the Statutory Authorities Committee—

The Hon. M.J. Atkinson: Yes, I've done that. I've read all that.

Mr BRINDAL: I apologise—and the Statutory Officers Committee where the committee again is unable to come to a decision. I apologise to the Attorney if he has already raised this, but notwithstanding the merits of this bill and that the house should pass it, and not being capable of presuming the outcome of a constitutional convention, I understand from the Attorney in statements he has made to the house that some of these matters—and the Attorney might listen because he can tell me if I am wrong—might well be canvassed in the Constitutional Convention.

The Hon. P.F. Conlon: If we have to tell you every time you are wrong, we'll be exhausted.

Mr BRINDAL: If you told me, my friend, every time I was wrong and I told you every time you were wrong, I would run out of breath before you did.

The Hon. P.F. Conlon: I got you first.

The Hon. M.J. Atkinson: What's the question?

Mr BRINDAL: It is that some of these matters, in being canvassed in the Constitutional Convention, may well be superseded if the Constitutional Convention was minded to take some of the direction suggested by, for instance, the presiding member of this place. That would be correct, would it not? I do not wish to detain the house any longer. I have—

The Hon. M.J. Atkinson: You've detained us for eight minutes and you haven't said one thing relevant to the bill, apart from listing provisions which I had already listed.

Mr BRINDAL: You had already listed them, had you?

The Hon. P.F. Conlon: Well, they are now very well listed. Well done.

Mr BRINDAL: That is very good. They are very well listed and we all know what we are doing and I, in accordance with the wishes of the member for Bright, commend the bill to the house.

Dr McFETRIDGE (Morphett): I thank members opposite for their passionate responses. I am new to this place and certainly I know there are roads one should not go down because sometimes those roads turn around in U-turns and things come back to bite you. I do remind members opposite of that. We are in an interesting place here, and that is why we must protect it with a workable system of committees.

I will not say any more now but I just hope that members opposite remember my remarks in the way they were intended, and that was not to injure or insult, but rather to advance the way this parliament operates. With those remarks, I commend the bill to the house.

Bill read a second time.

In committee.

Clause 1.

The Hon. M.J. ATKINSON: Will the bill commence on royal assent or proclamation?

Dr McFETRIDGE: I would be happy to take advice from the Attorney-General on that. I know what a learned fellow he is, and I am in his hands in a bipartisan way on this one because I know that members opposite support the bill.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. M.J. ATKINSON: Will the temporary presiding member have a deliberative and a casting vote?

Dr McFETRIDGE: It is my understanding that this matter will be covered and can be handled by the government. It is not a problem at all. Once again, I trust the Attorney-General on this matter.

Clause passed.

Clauses 4 to 10 passed.

Clause 11.

The Hon. M.J. ATKINSON: Can the member for Morphett say whether the transitional provision is necessary?

Dr McFETRIDGE: Yes.

Clause passed.

Title passed.

Bill reported without amendment.

Bill read a third time and passed.

[Sitting suspended from 5.54 to 7.30 p.m.]

TRAINING AND SKILLS DEVELOPMENT BILL

The Hon. J.D. LOMAX-SMITH (Minister for Employment, Training and Further Education) obtained leave and introduced a bill for an act to make provision relating to higher education, vocational education and training and adult education; to establish the Training and Skills Commission; to repeal the Vocational Education, Employment and Training Act 1994; and for other purposes. Read a first time.

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): 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 Training and Skills Development Bill is the product of a long period of review and consultation.

In introducing the Bill to the House, I want to acknowledge the contribution made by my predecessors to its development—to Mark Brindal who first brought the Bill to the House, to Stephanie Key who achieved some important amendments, and to members of the previous Parliament who supported the Bill when it was debated in the House in 2001.

The current Bill retains the key provisions of the Bill that was accepted by the House in 2001, namely—

- it establishes a new body to be known as the *Training and Skills Commission* (the Commission), to be the peak government advisory body on vocational education and training, the apprenticeship system, adult community education, and non-university higher education in the State; and
- it provides the legislative basis for assuring the quality of vocational education and training and non-university higher education in the State; and
- it underpins the apprenticeship and traineeship system in South Australia.

Within that framework, further development of the Bill has occurred to—

- emphasise that members of the Commission and its Committees are to be appointed on the basis of their expertise rather than to represent particular interests; and
- support attempts to achieve greater consistency in the way the vocational education and training (VET) sector is regulated across Australia; and
- give effect to the Government's commitment to use legislative means to improve the recognition of skills and qualifications gained by people overseas; and
- enable matters affecting employers and their employees who are employed under contracts of training ie as apprentices and trainees, to be referred to the Industrial Relations Commission and other bodies, where appropriate.

The purpose of the Bill is to support the development of a high quality education and training sector that is responsive to the current and future skill formation needs of government, business/industry and the community at large.

It will assist in ensuring the strategic and effective use of public funds for education and training to support employment and economic growth and social development.

It will promote the development of a culture of lifelong learning through adult community education and other means.

The new Commission will provide advice on priorities and funding for vocational education and training and adult community education, to ensure that the workforce skills required to implement the government's economic and social development strategies are available. The planning work of the Commission will complement the work of the Government's Economic Development Board in that regard.

The Commission will also be responsible for—

- quality assurance in vocational education and training and higher education, including education offered to post secondary overseas students in South Australia;
- advising on the recognition of skills gained by people trained overseas;
- developing an overview of publicly funded vocational education and training and adult community education activity in the State, and reporting on those matters to the Minister;
- providing leadership for business and the community generally on training matters and encourage increased involvement and investment by the business sector;
- promoting equity and participation in and access to education and training, and pathways between schools, VET/TAFE, universities and adult community education.

The Commission will consult with industry stakeholders, and relevant government and community bodies in the performance of its functions, and with the State's universities in matters involving degree courses and qualifications.

The Bill gives effect to new national quality standards for vocational education and training and higher education. This will enable South Australian training organisations such as Institutes of TAFE, to compete in the national training market. It will also ensure that competencies and qualifications gained by South Australians will be recognised throughout Australia.

The Bill provides greater flexibility in the apprenticeship and traineeship area. It will continue to recognise traditional trades and declared vocations, but it will also enable the contract of training system to be extended to other occupations.

The Bill provides improved protection for clients of the training and education system by establishing a *Grievances and Disputes Mediation Committee* to hear disputes between students and training organisations and between apprentices and their employers.

In summary, the Bill will underpin a high quality training and education sector in South Australia that is responsive to the State's needs for a skilled workforce and the community's need for high quality training and education. I commend the Bill to the House.

Explanation of clauses

PART 1: PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Objects

The clause elaborates on the objects of the measure.

Clause 4: Interpretation

This clause contains definitions of words and phrases used in the measure.

Clause 5: Declarations for purposes of Act

The Minister may make a declaration by publishing a notice in the Government Gazette declaring—

- an institution to be a university for the purposes of this measure; or
- declaring an occupation to be a trade or a declared vocation for the purposes of this measure.

PART 2: ADMINISTRATION

DIVISION 1—STATE TRAINING AGENCY

Clause 6: Minister to be Agency

The Minister is the State Training Agency contemplated by the *Australian National Training Authority Act 1992* of the Commonwealth (the Commonwealth Act).

Clause 7: Functions of Minister as Agency

The functions of the Minister as the State Training Agency relate to providing advice to, and developing plans in conjunction with, the Australian National Training Authority established under the Commonwealth Act (ANTA) in respect of vocational education and training and adult community education needs and the funding implications of those needs and the management of the State's system of vocational education and training and adult community education.

Clause 8: Delegation by Minister

The Minister may delegate to the Commission, or any other person or body, or to the person for the time being occupying a particular office or position, a function of the Minister as the State Training Agency or any other function or matter that the Minister considers appropriate.

DIVISION 2—TRAINING AND SKILLS COMMISSION

Clause 9: Establishment of Training and Skills Commission

The *Training and Skills Commission* (the Commission) will be established by this measure and will consist of not more than 9 members appointed by the Governor on the nomination of the Minister. The Commission will include persons who together have the abilities and experience required for the effective performance of the Commission's functions.

Clause 10: Commission's functions

The Commission's general functions will be—

1. to assist, advise and make recommendations to the Minister on the Minister's functions as the State Training Agency and other matters relating to the development, funding, quality and performance of vocational education and training and adult community education; and
2. to regulate vocational education and training and higher education (other than that delivered by a State university (that is, a university established under a South Australian Act).

The measure also lists other functions of the Commission.

Clause 11: Ministerial control

Except in relation to the formulation of advice and reports to the Minister, the Commission is, in the performance of its functions, subject to control and direction by the Minister.

Clause 12: Conditions of membership

A member of the Commission will be appointed for a term of up to 2 years and on conditions specified in the instrument of appointment, and will, at the expiration of a term, be eligible for reappointment.

Clause 13: Commission's proceedings

This clause sets out the proceedings for meetings of the Commission.

Clause 14: Validity of acts

An act or proceeding of the Commission or a committee of the Commission is not invalid by reason only of a vacancy in its membership.

Clause 15: Immunity

A member of the Commission or a committee of the Commission incurs no liability for anything done honestly in the performance or exercise, or purported performance or exercise, of functions or powers under this measure. A liability that would, but for this clause, attach to a member attaches instead to the Crown.

Clause 16: Minister to provide facilities, staff, etc.

The Minister must provide the Commission with facilities and assistance by staff and consultants as reasonably required for the proper performance of the Commission's functions.

Clause 17: Report

The Commission must present to the Minister each year a report on its operations for the preceding calendar year and the Minister must cause copies of it to be laid before each House of Parliament.

DIVISION 3—REFERENCE GROUPS

Clause 18: Establishment of reference groups

The Minister must establish—

- a reference group to advise the Commission in relation to the performance of the functions assigned to the Commission under Parts 3 and 4; and
- a reference group to advise the Commission in relation to the performance of its functions relating to adult community education.

The Minister may establish other reference groups as the Minister considers necessary to advise the Commission in relation to the carrying out of its functions or particular matters relating to its functions.

DIVISION 4—GRIEVANCES AND DISPUTES MEDIATION COMMITTEE

Clause 19: Establishment of Grievances and Disputes Mediation Committee

The *Grievances and Disputes Mediation Committee* will be established as a committee of the Commission with the functions assigned to the Committee under Parts 3 and 4.

The Minister must appoint a member of the Commission to chair proceedings of the Committee and the Committee will be constituted

of the member appointed to chair proceedings and at least 2 but not more than 4 other persons selected in accordance with Schedule 1.

The Committee is not subject to control or direction by the Commission and (subject to an exception) the Commission has no power to overrule or otherwise interfere with a decision or order of the Committee under Part 4.

The exception is that if the Commission, on the direction of the Minister, requests the Committee to review a decision or order of the Committee under Part 4, the Committee must review the decision or order and may, on the review—

- confirm, vary or revoke the decision or order subject to the review; or
- make any other decision or order in substitution for the decision or order.

The Committee may, at any one time, be separately constituted for the performance of its functions in relation to a number of separate matters.

PART 3: HIGHER EDUCATION AND VOCATIONAL EDUCATION AND TRAINING

Clause 20: Registration of training organisations

The Commission may, on application or of its own motion, register a person as a training organisation—

- to deliver education and training and provide assessment services, and issue qualifications and statements of attainment under the policy framework that defines all qualifications recognised nationally in post-compulsory education and training within Australia entitled *Australian Qualifications Framework* (the AQF), in relation to higher education or vocational education and training, or both; or
- to provide assessment services, and issue qualifications and statements of attainment under the AQF, in relation to higher education or vocational education and training, or both.

The Commission may, on application or of its own motion, register a person as a training organisation for the delivery of education and training to overseas students.

An applicant must provide the Commission with any information required by the Commission for the purposes of determining the application.

Clause 21: Conditions of registration

Registration of a training organisation is subject to—

- the conditions determined by the Commission as to what operations the organisation is authorised to conduct by the registration; and
- the condition that the organisation will comply with the standards for registered training organisations; and
- if guidelines have been developed by the Commission and approved by the Minister—the condition that the organisation will comply with the guidelines; and
- any other conditions determined by the Commission.

Clause 22: Variation of registration of training organisations

The Commission may, on application, vary the registration of a training organisation. An applicant must provide the Commission with any information required by the Commission for the purposes of determining the application.

Clause 23: Criteria for registration, etc., of training organisations

The Commission must, in determining whether to register, or renew or vary the registration of, a training organisation, and in determining conditions of registration—

- apply the standards for registered training organisations and the guidelines (if any) developed by the Commission and approved by the Minister; and
- have regard to the standards for State and Territory registering/course accrediting bodies; and
- have regard to the prior conduct of the organisation or an associate of the organisation (whether in this State or elsewhere), and any other matter that the Commission considers relevant.

The Commission may not register, or renew or vary the registration of, a training organisation in relation to vocational education and training—

- if the organisation is registered as the result of a determination by some other registering body; and
- unless the Commission determines (according to such criteria as the Commission thinks fit) that this State will be the organisation's principal place of business as a training organisation in relation to vocational education and training.

Clause 24: Accreditation of courses

The Commission may, on application or of its own motion, accredit a course or proposed course, or renew the accreditation of a course, as a course in higher education or vocational education and training. An applicant must provide the Commission with any information required by the Commission for the purposes of determining the application.

Clause 25: Conditions of accreditation

Accreditation of a course is subject to—

- the condition that the course will comply with the standards for accreditation of courses; and
- if guidelines have been developed by the Commission and approved by the Minister—the condition that the course will comply with the guidelines; and
- any other conditions determined by the Commission.

The Commission must consult with the State universities before determining an application for accreditation of a course in relation to which a degree is to be conferred.

Clause 26: Criteria for accreditation of courses

The Commission must, in determining whether to accredit, or renew the accreditation of, a course, and in determining conditions of accreditation—

- apply the standards for accreditation of courses and the guidelines (if any) developed by the Commission and approved by the Minister; and
- have regard to the standards for State and Territory registering/course accrediting bodies.

Clause 27: Duration of registration/accreditation and periodic fee and return

Subject to this measure, registration or accreditation remains in force, on initial grant or renewal, for a period (which may not be longer than 5 years) determined by the Commission. The holder of registration or accreditation must, at intervals fixed by regulation—

- pay to the Commission the fee fixed by regulation; and
- lodge with the Commission a return in the manner and form required by the Commission.

The penalty for an offence against this clause is a fine of $2 500 but the offence may be expiated on payment of $210.

Clause 28: Grievances relating to registered training organisations

A person with a grievance relating to—

- the delivery of education and training, provision of assessment services, or issue of qualifications and statements of attainment under the AQF, in relation to higher education or vocational education and training; or
- the provision of education and training to overseas students,

by a registered training organisation, may refer the grievance to the Grievances and Disputes Mediation Committee for consideration.

The Committee must inquire into a matter referred to it under this clause and may, if it thinks fit, make a recommendation to the Commission about what action (if any) the Commission should take as a result of the inquiry. The Commission may, without further inquiry, accept and act on any recommendation of the Committee under this clause.

Clause 29: Commission may inquire into training organisations or courses

The Commission—

- may, at any time; and
- must, at the request of the Grievances and Disputes Mediation Committee,

inquire into a training organisation or course whether registered or accredited or the subject of an application for registration or accreditation.

The Commission may inquire into—

- a training organisation the registration of which was, or is to be, determined by some other registering body; or
- a course the accreditation of which was, or is to be, determined by some other course accrediting body,

at the request of or after consultation with the relevant registering body.

The holder of, or applicant for, the registration or accreditation must provide the Commission with any information required by the Commission for the purposes of an inquiry (penalty $2 500).

Clause 30: Commission may cancel, suspend or vary registration or accreditation

If the holder of registration or accreditation contravenes this measure or a corresponding law or a condition of the registration or accreditation (whether the contravention occurs in this State or elsewhere), the Commission may do one or more of the following:

- impose or vary a condition of the registration or accreditation;
- cancel or suspend the registration or accreditation.

The Commission may not take such action in relation to a training organisation the registration of which was determined by some other registering body except to impose conditions preventing the organisation from operating in this State or restricting the organisation's operations in this State.

The Commission may, subject to the regulations, cancel the registration of a training organisation the registration of which was determined by the Commission if the Commission determines (according to such criteria as the Commission thinks fit) that this State is no longer the organisation's principal place of business as a training organisation in relation to vocational education and training.

The Commission may not take action under this section unless the Commission first—

- gives the holder of the registration or accreditation 28 days written notice of the nature of the action the Commission intends to take against it; and
- takes into account any representations made by the holder of the registration or accreditation within that period; and
- in the case of cancellation of the registration of a training organisation in relation to vocational education and training—consults the registering body in each State and Territory where the organisation operates.

Any action to be taken under this clause—

- must be imposed by written notice to the holder of the registration or accreditation; and
- may have effect at a future time or for a period specified in the notice.

Clause 31: Provision of information to other State or Territory registering/course accrediting bodies

The Commission may provide to another registering body or course accrediting body any information obtained by the Commission in the course of carrying out its functions under this measure.

Clause 32: Cancellation of qualification or statement of attainment

The Commission may cancel a qualification or statement of attainment issued by a registered training organisation (the issuing registered training organisation) if the Commission is satisfied that the qualification or statement of attainment was issued by mistake or on the basis of false or misleading information.

Cancellation must be imposed by written notice to the holder of the qualification or statement of attainment and the issuing registered training organisation.

Clause 33: Appeal to District Court

An appeal to the Administrative and Disciplinary Division of the District Court may be made (by a person within 1 month of the making of the decision appealed against) against a decision of the Commission—

- refusing an application for the grant or renewal of registration or accreditation; or
- imposing or varying conditions of registration or accreditation; or
- suspending or cancelling registration or accreditation; or
- cancelling a qualification or statement of attainment.

Clause 34: Offences relating to registration

A person must not claim or purport to be a registered training organisation in relation to higher education unless registered as a training organisation in relation to higher education.

A person must not issue, or claim or purport to issue, qualifications or statements of attainment under the AQF in relation to higher education unless

- the person is a State university; or
- the person is registered as a training organisation under Part 3 and is operating within the scope of the registration of the organisation.

A person must not claim or purport to be a registered training organisation in relation to vocational education and training unless registered as a training organisation in relation to vocational education and training.

A person must not issue, or claim or purport to issue, qualifications or statements of attainment under the AQF in relation to vocational education and training unless the person is—

- registered as a training organisation in relation to vocational education and training; and
- operating within the scope of the registration of the organisation and complying with the conditions of the registration.

A person must not claim or purport to be able to deliver education and training that will result in the issue of a qualification or statement of attainment by another person if the person knows that the other person is not lawfully able to issue the qualification or statement of attainment.

The penalty for an offence against this clause is a fine of $2 500.

This clause does not apply to the Commission.

Clause 35: Offences relating to universities, degrees, etc.

A person must not claim or purport to be a university unless the person is a State university, an institution declared to be a university under clause 4, an institution or institution of a class prescribed by regulation or the person has been exempted from the operation of this subclause by the Minister.

A person must not offer or provide a course of education and training in relation to which a degree is to be conferred unless the person is registered as a training organisation, and the course is accredited as a degree course, under Part 3.

A person must not offer or confer a degree unless the person is registered as a training organisation under Part 3 and the degree is in relation to successful completion of a degree course accredited under Part 3.

The penalty for an offence against any of the provisions of this clause is a fine of $2 500.

Subclauses (3) and (4) do not apply to—

- a State university; or
- an institution declared to be a university under clause 4 that is authorised by the Commission to provide such a course or confer such a degree; or
- an institution or institution of a class prescribed by regulation.

PART 4: APPRENTICESHIPS/TRAINEESHIPS

Clause 36: Interpretation

This clause contains definitions for the purposes of Part 4.

Clause 37: Training under contracts of training

An employer must not undertake to train a person in a trade except under a contract of training (penalty $2 500). An employer may undertake to train a person in any other occupation under a contract of training.

An employer must not enter into a contract of training unless the employer is an approved employer or the contract is subject to the employer becoming an approved employer (penalty $2 500.)

A contract of training must—

- be in the form of the standard form contract; and
- contain the following conditions:
  a. a condition that the apprentice/trainee will be employed in accordance with the applicable award or industrial agreement (which must be specified in the contract);
  b. a condition specifying the probationary period for a contract for the relevant trade, declared vocation or occupation;
  c. if the contract is in respect of a trade or declared vocation—the standard conditions for a contract for the trade or declared vocation;
  d. a condition that the apprentice/trainee will be trained and assessed in accordance with the training plan (to be agreed between the employer, the apprentice/trainee and a registered training organisation chosen jointly by the employer and the apprentice/trainee);
  e. any other conditions that have been agreed between the employer and the apprentice/trainee after consultation with the registered training organisation.

An employer under a contract of training must comply with the employer's obligations specified in the contract (maximum penalty: $2 500).

An apprentice/trainee under a contract of training must comply with the apprentice's/trainee's obligations specified in the contract.

An employer must permit an apprentice/trainee employed under a contract of training to carry out his or her obligations under the contract (maximum penalty: $2 500).

No person is disqualified from entering into a contract of training by reason of his or her age.

Clause 38: Minister may enter contracts of training

The Minister may enter into a contract of training, assuming the rights and obligations of an employer under the contract, but only on a temporary basis or where it is not reasonably practicable for some other employer to enter into the contract of training.

Clause 39: Approval of employers for training of apprentices/trainees

The Commission may, on application or of its own motion, grant approval of an employer as an employer who may undertake the training of an apprentice/trainee under a contract of training.

Approval may be granted to an employer in relation to the employment of a particular apprentice/trainee or apprentices/trainees

generally and be subject to conditions determined by the Commission.

The Commission may withdraw an approval if—

- there has been a contravention of, or failure to comply with, a condition of the Commission's approval; or
- the circumstances are such that it is, in the Commission's opinion, no longer appropriate that the employer be so approved.

Clause 40: Terms of contracts of training

The Commission may in relation to a contract of training for a trade or declared vocation make determinations about the term of the contract.

Clause 41: Approval of contracts of training

An employer must, within 4 weeks after entering into a contract by which the employer undertakes to train a person in a trade, apply to the Commission for approval of the contract (maximum penalty $2 500).

An employer must, within 4 weeks after entering into a contract with a person that is intended to be a contract of training under this Part, apply to the Commission for approval of the contract (maximum penalty $2 500).

The employer must provide the Commission with any information required by the Commission for the purposes of determining an application for approval of a contract as a contract of training.

The Commission may decline to approve a contract as a contract of training in certain circumstances.

Clause 42: Alteration of training under contract of training to part-time or full-time

The Commission may alter a contract of training so that it provides for part-time training instead of full-time training, or full-time training instead of part-time training, if to do so is consistent with the award or industrial agreement under which the apprentice/trainee is employed.

Clause 43: Termination of contract of training

A contract of training may not be terminated or suspended without the approval of the Commission. However, a party to a contract of training may, after the commencement of the term of the contract and within the probationary period specified in the contract, terminate the contract by written notice to the other party or parties to the contract.

If a contract of training is terminated during the probationary period, the employer under the contract must, within 7 days of the termination, notify the Commission in writing of the termination (maximum penalty $2 500).

Clause 44: Transfer of contract of training to new employer

A change in the ownership of a business does not result in the termination of a contract of training entered into by the former owner but, where a change of ownership occurs, the rights, obligations and liabilities of the former owner under the contract are transferred to the new owner.

Clause 45: Termination/expiry of contract of training and pre-existing employment

If a contract of training is entered into between an employer and a person who is already in the employment of the employer, the termination, or expiry of the term, of the contract of training does not of itself terminate the person's employment with the employer.

Clause 46: Disputes and grievances relating to contracts of training

If a dispute arises between parties to a contract of training, or a party to a contract of training is aggrieved by the conduct of another party, a party to the contract may refer the matter to the Grievances and Disputes Mediation Committee.

If the Commission suspects on reasonable grounds that a party to a contract of training has breached, or failed to comply with, a provision of the contract or this Act, it may refer the matter to the Grievances and Disputes Mediation Committee.

The Grievances and Disputes Mediation Committee must inquire into a matter referred to it and may, if it thinks fit, by order, exercise one or more of the powers listed in the clause.

Clause 47: Relation to other Acts and awards, etc.

This measure prevails to the extent of any inconsistency over the *Industrial and Employee Relations Act 1994* and any regulation, award or other determination, enterprise agreement or industrial agreement made under that Act or an Act repealed by that Act.

Despite subclause (1), a provision of an award or other determination, enterprise agreement or industrial agreement made under the *Industrial and Employee Relations Act 1994* or an Act repealed by that Act requiring employers to employ apprentices/trainees under contracts of training in preference to junior employees remains in full force.

Clause 48: Making and retention of records

An employer who employs a person under a contract of training must keep records as required by the Commission by notice in the *Gazette* (maximum penalty: $2 500).

PART 5: RECOGNITION OF COMPETENCY

Clause 49: Commission may issue qualifications or statements of competency

The Commission may assess, by such means as the Commission thinks fit, the competency of persons who have acquired skills or qualifications otherwise than under the AQF and, in appropriate cases, having regard to the standards and outcomes specified in accredited courses or training packages, grant, or arrange for or approve the granting of, qualifications or statements certifying that competency.

PART 6: MISCELLANEOUS

Clause 50: State register

The Commission must establish a State register for the purposes of this measure.

Clause 51: Maintenance of registers

The Commission must ensure that the State register or the National register (as the case requires) records registration and accreditation under this Act and any variation, cancellation, suspension or expiry of registration or accreditation (whether by the making, variation or deletion of entries in the register).

Clause 52: Powers of entry and inspection

For the purposes of Part 3 or 4, a member of the Commission, or a person authorised by the Commission to exercise the powers conferred by this section, may—

- enter at any reasonable time any place or premises in which education and training is provided; and
- inspect the place or premises or anything in the place or premises; and
- question any person involved in education and training; and
- require the production of any record or document required to be kept by or under this measure and inspect, examine or copy it.

Clause 53: False or misleading information

A person who makes a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided under this measure is guilty of an offence and liable to a penalty of $2 500.

Clause 54: Evidentiary provision relating to registration

In proceedings for an offence against Part 3, an allegation in the complaint that—

- a training organisation was or was not at a specified time registered; or
- the registration of a training organisation was at a specified time subject to specified conditions; or
- a registered training organisation was at a specified time acting outside the scope of the registration of the organisation,

will be accepted as proved in the absence of proof to the contrary.

Clause 55: Gazette notices may be varied or revoked

A notice published in the *Gazette* by the Commission under this measure may be varied or revoked by the Commission by subsequent notice in the *Gazette*.

Clause 56: Service

A notice or other document required or authorised to be given to or served on a person under this measure may be given or served personally or by post.

Clause 57: Regulations

The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this measure.

SCHEDULE 1: Grievances and Disputes Mediation Committee

This Schedule provides for the constitution of the Grievances and Disputes Mediation Committee for the purposes of Part 3 or 4 of the measure.

SCHEDULE 2: Repeal and Transitional Provisions

This Schedule provides for the repeal of the *Vocational Education, Employment and Training Act 1994* and for various transitional matters consequent on the repeal of that Act and the passage of this measure.

The Hon. D.C. KOTZ secured the adjournment of the debate.

FREEDOM OF INFORMATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 October. Page 1691)

The Hon. P.F. CONLON (Minister for Government Enterprises): It was not my intention to speak on this bill, as it is so well and ably handled by the Minister for Administrative Services. Having heard the contributions of the lead speaker for the opposition and, in particular, the member for Bright, and being so appalled, frankly, by the levels of hypocrisy shown by the opposition, I felt it necessary to respond. I will come later in this address to why such profound hypocrisy has been shown by the other side to this very good bill.

Apparently, one of the central sources of criticism to our bill from the member for Newland is that I would not agree to have some sort of natter with her about my areas of responsibility when she—

The Hon. D.C. Kotz interjecting:

The Hon. P.F. CONLON: She says that I should not flatter myself. Apparently, she insisted I should meet with her and sit down to have a general conversation about what might or might not be happening in my area—like they used to do when they were in government. In order to save the member for Newland as an opposition spokesperson from the tiresome work of finding out what I did, we advised her what I did; we gave her a run-down of all my areas of responsibility; and we told her that if there was any specific area on which she needed more advice she could have it. We did recommend that she read the annual reports of the areas for which she had responsibility as the shadow spokesperson.

But, as the minister and under the Freedom of Information Act, it is not my responsibility to overcome her unwillingness to learn the job. I make that point to the honourable member. If the member for Newland has a specific area in which she requires clarification of the government's platform of our activities, we are happy to do it, but I am not happy to overcome her lack of her understanding of her fundamental responsibilities by sitting down and having a natter with her. I have better things to do.

I was very incensed by the contribution of the member for Bright. Plainly, the opposition's strategy was to wheel out its big guns who, in a nasty, spiteful and invective manner, talked about what a deceitful, dishonest and duplicitous government we are. This was the big gun being wheeled out—the member for Bright, who I describe as, basically, the low rank, markdown Cunningham's Warehouse type political assassin. He does have one political scalp to his credit. Unfortunately, it was his premier.

The Hon. D.C. KOTZ: I rise on a point of order, Madam Acting Speaker. I wonder whether the member is going to address the matters in the Freedom of Information Bill. This is debate outside that.

The ACTING CHAIRMAN (Ms Thompson): I am sure the member will—very briefly.

The Hon. P.F. CONLON: I assume that the member for Bright, in his own fumbling way, was addressing the bill, and I am addressing what he had to say. As I said, the only political scalp he ever got was his own premier. We on this side actually know who the enemy is. His fundamental criticism of the bill—why we were dishonest, deceitful and not living up to our promise to be an open and accountable government—is apparently that we will extend from 30 to 80 years the protection on documents revealing personal details. In the fettered little mind of the member for Bright, this was to protect some personal details from the Dunstan government.

The member for Bright does not have the courage to come in here and say what it was, but he said this is a Labor plot to protect personal details of lives from the Dunstan government. If he really wants to get into that area of debate, if he wants to talk about personal details of people's lives, he ought to be careful because these things can often be misunderstood. Previously in this place, hardworking members' doing very hard research—in fact, I say, researching their brains out into certain phone numbers—have been misunderstood. I think the honourable member needs to be very careful.

I might also comment that certain members of this place, as a result of their overweening vanity, on occasion have resorted to all sorts of artifice and device to cover their shortcomings. I do not think we need to go down that path to talk about things such as that. I think that if the member for Bright wants to slide in here with his sleazy allegations about Labor's covering up something from the Dunstan years, he best think about it and, in the words of the *Bible* on these matters, 'It is always very important to consider the beam in one's own eye.'

My primary concern is the hypocrisy of the opposition's position; the sheer gall of their standing up to criticise this bill. First, I will give an example of how members opposite dealt with freedom of information. It is quite understandable they would be ashamed of this, but the previous government decided to betray the people of South Australia and fundamentally break their promise by privatising ETSA. They obtained a load of consultants' reports on which they apparently based their decision. The Premier, when he was Leader of the Opposition in February 1998, sought some documents concerning the privatisation of ETSA, in particular, the Troughton, Sweir & Associates report, which was commissioned with taxpayers' money. Apparently, our interest was not sufficient for the former government to make it available to us for scrutiny and they threw it to this parliament.

The freedom of information application was refused because members of the former government said they had attached it to a cabinet document—that is a great trick, isn't it! They refused it because it was not in the interests of the people of South Australia. When it was in their interests, for example, on 17 March 1998, they sent a copy of the document to the Hon. Sandra Kanck. One would have to wonder about the opposition's consistency of approach in terms of freedom of information.

I can point to the approach of the opposition in relation to freedom of information. I have with me a copy of the document which I think the then Deputy Leader of the Opposition called a working document that they were devising with the Speaker, when he was the member for Hammond and when the Leader of the Opposition and the Deputy Leader of the Opposition were the caretaker premier and deputy premier. That document seems to be promoting open and accountable government. It was a document about which we on this side had no difficulty coming to agreement, because we are an open and accountable government—despite the hypocrisy of members opposite.

This document is initialled by DB and RK and we know, from admissions in this place, that that is the then caretaker premier and the caretaker deputy premier. Clause 1.2 of the

document says, 'rebuild freedom of information legislation to give full and proper access to government documents by reducing the restrictions on access to documents on the grounds of cabinet confidentiality'. We saw the Troughton, Sweir & Associates report withheld until it was convenient, of course, for the then government to release it. The document then talks about removing restrictions based on commercial confidentiality to the extent of the New Zealand act: that is all crossed out and initialled by the then caretaker premier and deputy premier—the current Leader of the Opposition and the Deputy Leader of the Opposition.

The reference to removing obstructions such as excessive costs claims and appeals against document release is crossed out, of course, and initialled by the Leader of the Opposition and the Deputy Leader of the Opposition. The reference to reducing the delay between a request for and the provision of documents is crossed out as well by the then caretaker premier and deputy premier—the current Leader of the Opposition and Deputy Leader of the Opposition.

One must remember that they were doing this in the fond expectation that they would carry on their dreadful government of hidden documents, hidden deals, things not going to tender, front benchers that look like a police line-up, premiers who were resigning and ministers who were resigning. They were hoping they were going to have four more glorious years when they signed this. The last clause was, 'adhere to the spirit of FOI legislation and its underlying principles,' and that is crossed out and initialled by Rob Kerin and Dean Brown—the Leader of the Opposition and the Deputy Leader of the Opposition.

So, I simply make this point: when these people come into this place and criticise this government for improving freedom of information legislation, they should be struck down where they stand. We have seen the unmitigated hypocrisy in this place of their trying to make political mileage out of the price increase of electricity that they forced on the people of South Australia after breaking their word. Then we saw them try to sign up for four more glorious, sleazy years and then cross out all the things that might help a decent opposition find out what they were doing. We saw all of that. Then we had the lead speaker on this bill come in and say that this government is not good because I would not sit down and have a natter with her. I do not have anything more to say—I do not think there is anything more to say. Thank God we have a new government in South Australia which is committed to the principles of open, democratic and accountable government, and I really think that if these people were not strangers to shame they would have no more to say and would simply pass this legislation.

Mr WILLIAMS (MacKillop): Again, like the previous speaker, I was not going to enter this debate.

Mr Hanna: Because you have nothing to say.

Mr WILLIAMS: Just like the previous speaker. He had nothing to say.

The Hon. P.F. Conlon: Read this.

Mr WILLIAMS: I have read it, Patrick. The minister leaves the chamber, after his contribution, although it could hardly be called that. As is his wont and that of his colleagues, they take great delight in coming into this place and quoting totally out of context and misrepresenting documents; they have made it an art form, and they did it in opposition.

The opposition, over recent months, has been accused of not realising that it has lost government. The government that South Australia is unfortunate to have at the moment does not realise that it is actually in government and still believes that it is in opposition. It still acts like an opposition. It has spent eight months doing nothing but trying to mislead the people of South Australia. It has no idea where it is going: it has been flailing around. But it keeps telling the people of South Australia, in this place and through the media, that it is a government of openness, honesty and accountability. Nothing could be further from the truth. Anybody who would care to take the time—and I doubt whether many people would care to take the time—to read the contribution just made by the Minister for Government Enterprises would soon see that ministers follow each other into this place and continually make outrageous claims and statements, quoting from documents out of context, partially quoting and truncating sentences and phrases to try to convey a meaning to a document different from its true meaning.

If I might take a moment to refer to the document and the accusations made by the previous speaker, he knows full well the background to that particular document and he knows full well why certain sections of that document were crossed out and signed.

Mr Koutsantonis: Tell us why.

Mr WILLIAMS: I will tell you why, and the Leader of the Opposition has explained that to the house previously. But members opposite choose not to listen to or take notice of the truth because it does not serve their purpose. In those few days when there were negotiations between various members following the last election, several things were sought and the Leader of the Opposition and the Deputy Leader of the Opposition, negotiating on behalf of their colleagues in the Liberal Party, said, 'There are certain matters that we are not in a position to negotiate at this stage, and we will just remove those matters from the negotiations.' That has already been explained to the house, but the Minister for Government Enterprises continues to come into this place and try to misrepresent the context of that document. And he can do it over and over again—I do not mind—because he is the one who is seen to be the fool: he is the one who is seen to be continuing this dishonest act, not the opposition. This bill goes to the heart of the ruse which the Premier and his ministers would try to put over the people of South Australia, claiming honesty, openness and accountability.

Freedom of information laws have not been around for many years and they are designed to give the public and, principally, oppositions and other members of parliament the opportunity to act in the way that they are meant to, and that is to represent their electors and get to the heart of what is happening and why executive governments, principally, take certain decisions. This bill is not about openness, honesty and accountability: it is about hiding things, covering up and giving the opposition and the general public of South Australia a much tougher time in finding out what is going on behind the doors of executive government. That is what this bill is about. It is about closing the doors and about closing off a whole range of documents which have, to date, been available to the public and members of the opposition for scrutiny so that they can ask questions of the relevant ministers and get to the bottom of why and how decisions are made. This government is running scared.

Madam Acting Speaker, I do not mind, because I have always known that this lot on the other side would be running scared. What really disappoints me, though, is that they all stand up one after the other and parrot that they are open, honest and accountable. What a load of codswallop! This government will go down in history as being the most

secretive one—and we have had some secretive governments here in South Australia over the last 20 to 30 years. This government will go down in history as being the daddy of them all. This government is the first government in the history of South Australia which sought to nobble the opposition by inflicting charges on opposition members who seek access to government documents. This government is the first government in the history of South Australia which would seek to inflict burdens and costs on members of the opposition merely because they want to go about their work and perform their duty on behalf of the constituents they represent. That is what this government is doing. Suddenly—

Mrs Geraghty interjecting:

Mr WILLIAMS: I am not allowed to reply to your interjections, so you may as well stop them. I have no intention of replying to your inane interjections. Under the existing legislation, members of parliament are not obliged to pay for freedom of information applications when the cost is—I think I am reading this correctly; it is fairly small print—less than $350. The minister says that he cannot see why politicians should be treated differently from the general public. He says that 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 free. Good God, the Leader of the Opposition is not seeking information for his own good: he is seeking information so that he can actively perform his duty representing the interest of hundreds of thousands of South Australians.

In fact, it is very interesting that the Leader of the Opposition is representing more South Australians in this place today than the Premier. Yet this government is so intent on 'openness', 'honesty' and 'accountability'—that is what it would like the people of South Australia to believe—that it will restrict the opposition from having access to government documents by imposing a fee. The average member of the public might be interested in one part of government activity and might seek one freedom of information application. The Leader of the Opposition and members of the opposition are interested in a whole raft of government activity. It is our responsibility to question and to look into every aspect of government activity on a daily basis. It is incumbent on members of the opposition to inquire into what the government is doing.

Instead of the Leader of the Opposition being interested in one freedom of information application, he might be in interested in one a week or one a day. The chances are that, with the sort of administration we have, he might be interested in more than one a day. To impose a cost on members of this parliament, who are merely trying to do their duty in representing the interest of the public of South Australia, is unconscionable. For the Premier to try to impute to the media—in front of all South Australians—that he is representing openness, honesty and accountability is absolutely outrageous. That outrageousness is demonstrated by the bill which is before us today. Why would the government want to restrict the release of government documents for a further 50 years? I find that incredible.

I will not dwell on that point for very much longer, but I can see no sound basis for restricting documents beyond the 30 year limit, although I am sure that an argument could be raised that access to certain documents should be prolonged to a point where certain people who are involved might be departed from this world. I might be able to accept that argument, but 80 years—what a nonsense! Moving to restrict access to documents and exempting documents from being accessed by the general public or by members of the opposition representing the general public by exempting internal working documents is unbelievable; that is, a document that is defined as being an internal working document if it contains information representing opinion, advice, recommendations, consultation or deliberation.

It would be interesting if, during the committee stage, the minister could indicate to the opposition just what percentage of documents generated within the bureaucracy and the workings of government do not come under one of those headings. I believe that it would be very few documents. This piece of legislation is designed to do absolutely nothing but tie up all government documents and lock them away from public scrutiny. That is what it is about. It is not about openness, honesty and accountability: it is about the direct opposite. As I have said, the temerity of the Premier to preach that he is leading a government of openness, honesty and accountability is mind-boggling.

The opposition has voiced its disapproval of a number of clauses in this bill. I believe that the opposition has no problem with true honesty, true openness and true accountability. We do not expect that to be delivered by this bill or this government.

The Hon. J.W. WEATHERILL (Minister for Administrative Services): I begin by saying that I believe that this is one of the most important bills that will come before this house, because it affects not only the narrow affairs of one particular portfolio but also the way in which each of the agencies does its business and all the business of this house. Indeed, it goes further than that: it bears on the reputation that each of us has as an elected member of this house. I remind members opposite that, when they criticise this legislation, they must realise that it is about trying to enhance the respect that ordinary citizens have for us in this place. We see that this legislation is doing members on the other side of the house a favour. It certainly does members on this side of the house a favour, because it enhances the respect for the institution.

We can be trusted about these things because we have ambitions for the role of government. I can understand how members opposite are happy to have cynicism grow in the political process because they have no ambitions for government. They are happy for people to criticise politicians and regard the whole process as worthless because they have no ambitions for this place. They do not want proper public policy. They do not want to assert the role of government. They would rather have the whole thing run by the market. We have an ambition for the role of government—

The ACTING SPEAKER (Ms Thompson): Minister, I just remind you that I share your sentiments.

The Hon. J.W. WEATHERILL: Yes, Madam Acting Speaker. Clearly, this bill is designed to enhance the role of the legislature, and they are the main measures contained within this bill. I must say that it is with some amusement that I hear the member for MacKillop remark about secrecy. Indeed, he owes his whole career to the secrecy that was practised by the previous Liberal government on this parliament. Who can forget the heady days of the Anderson report, which was suppressed and kept from this parliament? Notwithstanding that it was promised to be delivered to this place, it was suppressed. It could not have been dragged out of the Premier with wild horses. Finally, it was released, but not until the government of the day, the Olsen Liberal

government, suffered the most humiliating destruction in the 1997 election, which, incidentally, led to the member for McKillop enjoying the current position that he holds in this place. To think of the ingratitude shown by the member for MacKillop to a government that now seeks to promote honesty and accountability and remove a culture of secrecy is breathtaking.

This measure should be welcomed by all members in this house. Instead, we have seen a cynical attempt to try to twist the language, to try to somehow assert that these are measures about secrecy, when they will provide the best regime of access to information anywhere in this country. Any decent analysis of the legislation will lead to that conclusion.

This is a bill of great importance which will underscore the work of this government. It is crucial that it be introduced in the early days of the government, because it indicates our commitment to the way in which we seek to approach the community.

Mr Williams interjecting:

The Hon. J.W. WEATHERILL: This legislation empowers those opposite. There can be no doubt that the consternation and the criticism about the freedom of information legislation in this state was always levelled at the issues of executive government. The nonsense that was gone on with previously about personal information, and that that somehow comprised the lion's share of the FOI requests and was the issue of contention in relation to this legislation, is just that: nonsense. It is statistical nonsense to talk about those thousands of ordinary FOI applications that are processed in the ordinary course—often about medical records, police records or those other issues—where, on any view of it (and I think the Legislative Review Committee of the Legislative Council found as much), it operates in more or less a reasonable fashion, albeit with some important areas where there is a need for change; but, by and large, it operates reasonably effectively.

It has always been about the power of executive government, and those are the issues that we address in our legislation. We address them in a comprehensive way; in a way that has never been done before. I remind those opposite that, when they criticise the reforms that are sought to be promoted here, those reforms that eked into play in the dying days of the last parliament were dragged out of the previous government. There was embarrassment after embarrassment. With respect to privatisation documents, there was always an excuse, as a matter of commercial confidentiality, why important documents in the public interest should not be made available to the people of this state. They pay a fortune for these privatisations, and they are not allowed to scrutinise them. That was always one of the central issues at call in this debate, and we addressed that matter. With respect to cabinet confidentiality, it was always a central issue that people would drag documents that ought to be made subject to public scrutiny through the cabinet process and, by that means, clothe them in secrecy. That was always an issue of contention, and it is addressed in this legislation. Those are two central issues.

A further issue was ministerial certificates—slapping a ministerial certificate on top of a document so that no-one could look at it and go behind it and ask serious questions about whether there was some proper ground for exemption. Those matters also have been addressed. The process of external review has also been a slow and cumbersome exercise. We now give full rights of review to the Ombudsman to carry out an extensive merits review. That was always a matter of contention—and, indeed, a question of contention that was raised in the course of the Legislative Review Committee's report in the upper house—and it is addressed in this legislation. We address each of the very important and clear issues that have been the subject of public debate about the power of executive government, and it is galling to hear suggestions that, somehow, this is a measure about secrecy. It is crucial that it is understood that this legislation is directed at open and accountable government.

I wish to address some of the broader points that have been made by those opposite. I will not descend into some of the more detailed matters of debate, which no doubt will be dealt with in the committee stage. Some of the questions that the member for Newland raises are probably matters that are more appropriately dealt with in the committee process, and I certainly intend to deal with them at that stage.

In broad terms, the aim is that the legislation be drafted in a way that is easy to use by those FOI officers who are empowered with the responsibility to administer the act. It has been drafted in a fashion whereby members of the general community also can pick up the act and make some sense of it. In circumstances where we have received advice that there are measures which, in broad terms, could be said to be implied but are not necessarily explicit in the legislation, we have sought to have those expressed in written form in the legislation so that the legislation is as useable and comprehensive as possible. So, that explains a number of the amendments.

Crucially, we also seek to introduce a high degree of clarity in the legislation about what it is that those people who are empowered to administer the act are to take into account in their decision making process. Crucially, there is a presumption in favour of disclosure—once having had regard, of course, to the obvious matters of privacy and the proper workings of executive government. There is a bias in favour of disclosure, which is one of the principles of operation of this legislation.

Extensive consideration was given to a range of regimes that exist both in this state and overseas, and much has been made of the New Zealand legislation. What needs to be said about the New Zealand legislation is that there is a very different structure to it. In certain respects, we believe that there are measures in the South Australian legislation that achieve even more than what could be said to be the case with respect to the New Zealand legislation. In broad terms, the New Zealand Official Information Act 1982 allows access to official information in accordance with the principle that information should be made available unless there is good reason for withholding it. The grounds on which a document may be withheld essentially correspond with our list of exempt documents, although they tend to be described in more general terms.

The New Zealand act states that a document may be withheld if it is exempt, unless it is in the public interest to make the information available—in other words, public interest justifying disclosure must be found. That is an important point to bear in mind because, with respect to many of the exemptions contained within the South Australian act where the public interest test applies, the public interest justifying nondisclosure must be found. So, the New Zealand act is framed in a different way from the South Australian act.

The South Australian act is framed in terms of requiring a reason. There is a presumption in favour of disclosure: one has to find a reason in the public interest to justify nondisclosure. When one analyses what is going on within

the New Zealand legislation, one needs to bear that steadily in mind. In this respect, the amendments that were introduced in the dying days of the last government include a number of these public interest tests. To the extent that the former government took those steps, it is to be congratulated. But it was very late in the piece—and, indeed, that legislation did not come into operation until 1 July this year. That needs to be borne in mind, because I will have something to say in due course about the statistics that have been quoted.

The main difference between the South Australian act and the New Zealand act is that we currently have an absolute exemption for restricted documents—that is, cabinet documents—whereas under the New Zealand act some of what we class as restricted can be released if the requisite public interest can be established. But it needs to be borne in mind that they are out until the public interest justifies them coming in and, in respect of cabinet documents, that is unlikely to be lightly overridden. It is also crucial to bear in mind that, under the New Zealand legislation, the government can override what the Ombudsman says by way of regulation.

Ultimately, there exists control by way of executive government for which somehow we are being criticised. I make those broad comments about the New Zealand legislation, which may be widely perceived as being superior to the South Australian legislation—that is the point that is being made by members opposite—but when one analyses the specific exemptions and the way in which they operate in practice we say that the South Australian position is equivalent. It is difficult to compare them because they have different ways of dealing with these matters, but we say that, at the very least, they are equivalent in this respect.

The Legislative Review Committee's report on the external review process was also referred to by the member for Newland in her contribution. We took great care to look at the Legislative Review Committee's document. Indeed, we picked up several of its recommendations, a number of which had already been considered by the previous government and found their way into legislation, not necessarily at the behest of the previous government but certainly through the processes in the Legislative Council some of those matters did find their way into the legislation.

It is true to say that the Legislative Review Committee's report canvassed some options which were not acted upon. These were given careful consideration but some of those options were not acted upon for good reason. In particular, there was a suggestion that somehow the internal review procedures should be abolished. We carefully analysed that question. Internal review procedures, especially in circumstances where we now have a full right of review by the Ombudsman, are still regarded as an important means by which agencies, especially if they have oversight by senior officers within the department, could correct a determination prior to time being wasted and the expense being incurred of a full merits review in circumstances where a decision had been made and where it had been reviewed by a dissatisfied person.

We take the view that it is important to retain the internal review procedure in these circumstances to allow there to be an informal means of resolving a matter before a time-wasting and costly appeal process is proceeded with. It is also worth noting that the Legislative Review Committee's report itself in terms of the text of the discussion of this matter was by no means conclusive. On our reading of the report, this recommendation does not seem to fit comfortably with the discussion.

A further matter that was canvassed in the Legislative Review Committee's report on which we have chosen not to act is that the legislation contains the principle of deemed consent to the release of documents in the absence of a response. In our consideration, such a proposal is simply too dangerous to have in the legislation. One could imagine that there are a number of documents held by government which members opposite would clearly accept should never be released under any freedom of information regime. They may be sensitive documents which affect the interests of the state which even members opposite would not promote to be released under freedom of information legislation.

There could also be documents affecting personal affairs which no-one would dream of suggesting should be released. In a 'deemed consent' environment, an oversight by an agency could require as a matter of law that those documents be produced. We do not believe that that is an appropriate provision to have in the legislation. What we have is a deemed rejection in the present legislation which triggers appeal rights and therefore the process finds its way from there.

There were three other recommendations in the report, the first of which was that, in the event of services of the government being outsourced, all documents that might be subject to a successful FOI application should be deemed to be in the possession of the contracting agency. The previous government did not accept that proposition; neither do we. The second recommendation was that the process of separating regulatory functions from commercial functions should be continued with information pertaining to the former function being subject to FOI. Once again the previous government rejected that proposition, and so do we. And the third recommendation was that GBEs that are natural monopolies should be subject to the FOI Act. We rejected all of those options as did the previous government.

What we say about all of those matters, which in the broad relate to our relations with other commercial bodies, is that we have taken a step that has not been taken before in that we are now prepared under legislation to make available all contracts that exist between government and the private sector so that those documents which were previously the subject of a public interest test are now capable of being accessed as of right. The only limiting factor is the extent to which—

Mr BRINDAL: I rise on a point of order, Madam Acting Speaker.

Mr Koutsantonis: Frivolous.

Mr BRINDAL: It is not a frivolous point of order. I have listened to the minister continually saying—

Mr Koutsantonis: You just walked in. How could you be listening?

Mr BRINDAL: Because I was listening on the speaker. Madam Acting Speaker, the minister has continually referred to 'we say'. In this place it is tradition for the minister to take the responsibility. I ask that you either rule that way or ask the minister whether he is speaking on behalf of his entire government.

Members interjecting:

The ACTING SPEAKER (Ms Thompson): Order! There is no point of order. The minister has been behaving most appropriately. Please continue, minister.

The Hon. J.W. WEATHERILL: I say to the member for Unley that we all stand together on this side. This is a slightly different approach to governance but we believe in collective responsibility. The one limitation—

Members interjecting:

The ACTING SPEAKER: Order! A little quiet please to enable the minister to resume his important summation.

The Hon. J.W. WEATHERILL: The one limitation on the contracts that will be made available is in circumstances where it is absolutely necessary for an aspect of the contract to be the subject of a confidentiality requirement. That would happen where there was a trade secret or some other important matter that is properly to be protected. The government would be precluded from contracting with a business enterprise in circumstances where it was not prepared to grant that confidentiality. That is an important fail-safe measure to have because it could otherwise damage the interests of the state if a deal was unable to be concluded on the basis that certain intellectual property could not be protected.

What we seek to get away from is situations that occurred in the past where these clauses were incorporated into contracts as a matter of course or almost process, spitting out the standard confidentiality clause and therefore cloaking all of those clauses that were contained within the document with commercial confidentiality and therefore making them immune from production under freedom of information legislation. So, the political process will have to take responsibility for those clauses.

There are measures within the legislation which require an auditing function to ensure that ministers take responsibility for the number of such clauses that they include in commercial contracts. So, there will be careful consideration of when that is appropriate. That is a massive change. The previous government had to be dragged kicking and screaming to have their privatised contracts produced. Those matters were matters of crucial public interest. They did dribble out eventually when they were completely embarrassed, but we are committing to these things coming out straightaway.

Mr Brindal interjecting:

The ACTING SPEAKER: Order! The member for Newland deserves to hear what the minister has to say and the minister needs to be able to pull his remarks together. This is a time during consideration of the bill when there should be decorum in the house. I ask that all of you observe that and allow the minister to proceed.

The Hon. J.W. WEATHERILL: Regarding the particular clause that I mentioned concerning contracts, I take this opportunity to address some remarks made by, I think, the member for Newland about the contract disclosure policy. Once again, the contract disclosure policy was an initiative of the previous government, albeit in its dying days. The problem with the policy is that it is only a policy, and it can be changed at will. In circumstances where there is fear of embarrassment, it could very well be changed. Indeed, those commercial interests that deal with government may pressure it to do so.

However, the bill goes even further than the contract disclosure policy in enabling access to contracts. The policy allows several exemptions from disclosure, particularly where expenditure is less than $500 000; the legislation has no such threshold. So, the commercial confidentiality issue has been addressed by this legislation (a running sore with the previous government), and we have taken a stand on this very important matter—a stand which, sensibly, also protects the interests of the state in circumstances where trade secrets simply must be protected.

The member for Newland did not address the importance of removing the abuse associated with attaching a document to a cabinet document and then dragging it through cabinet, thereby clothing it in secrecy. That amendment is crucially important, and it deserves to be given credit, because the previous government used that amendment to ensure that a blanket approach was taken to those documents that caused embarrassment. The next destination was always cabinet, and that was promoted as a means of preventing the disclosure of embarrassing material.

One only needs to consider the Rann v SA Water litigation, which was another high-water mark in secrecy in government by the previous government, when a ministerial certificate was dropped on top of marketing, and other consultancy reports, into the SA Water privatisation. Some of that was opinion polling. It was suggested that somehow these documents were prepared for cabinet, whereas they were simply attached to a cabinet document and thereby were precluded from access.

Mr BRINDAL: I rise on a point of order. I understand that this is the minister's contribution in summarising the second reading speeches. I believe that it is a tradition in the house that the minister comments on the contributions and does not introduce new subject matter, because he is closing the debate. The minister is clearly debating further and is purporting to introduce new debate.

Mr Koutsantonis: What standing order is that?

Mr BRINDAL: The Acting Speaker can rule on any issue she wishes, and I am raising a serious matter with her.

The ACTING SPEAKER: The minister is entitled to discuss issues raised in the debate and any other matters that are appropriate for the further consideration of the bill. I invite the minister to continue.

The Hon. J.W. WEATHERILL: Thank you, Madam Acting Speaker. Another remark made by the member of Newland concerned the external review process (where we identified difficulties associated with that process) and concerned the fact that our amendments were responsive to this. In aid of her comments, the member cited the annual report of the freedom of information legislation. I think the member attempted to make the point that the amendments that were made by the previous government must have had the effect of improving the situation, as evidenced by the number of FOI requests that had been processed under the Freedom of Information Act.

The member needs to be aware that the annual report under the Freedom of Information Act was for the period 2001-2002. The new amendments did not come into existence until 1 July 2002, so the effect of the previous government's amendments on reporting could not be felt in relation to the last annual report. I hope the member considers that when she formulates her response.

The member for Fisher supports the legislation, and I thank him for that indication. He referred to the need to process the bill in a more timely fashion, and I think his remarks were probably more directed at the pre-amended situation, where he noted a 45-day time limit. The amendments that were promulgated on 1 July 2002 included a reduction in time to 30 days. I think his ambitions were for 20 working days, so there is a degree of congruity between the current proposal of 30 calendar days and 20 working days.

The question was raised by a number of speakers about the charging of fees to MPs, and that seems to be the cause celebre for members opposite. The status quo is that all MPs are entitled to make an application for freedom of information without charge, unless the cost associated with the amount of work exceeds $350. The reality is that the majority of the

requests that have been made by those opposite (and there have been some astounding statistics that I will draw to the attention of the house in a moment) required work worth in excess of $350. So, the agencies that processed these applications were within their rights to charge members opposite for the plethora of applications that have been submitted since Labor came into government.

To give members some idea of the magnitude of the issue, I will cite some statistics. Most agencies reported a vast increase in FOI applications by MPs. In fact, in the last reporting year, 2001-2002, a total of 48 FOI applications were made by MPs; since March this year, in excess of 115 applications have been submitted. By way of example, the Department of Treasury and Finance advises that since March 2002 it has received 31 FOI applications from MPs and eight from the public. It estimates that the cost to the agency of processing those applications was $80 000 in staff time and approximately $110 000 in legal costs.

The high volume of FOI applications being received from MPs has resulted in agencies being obliged to commit more resources to process applications within the 30-day time limit. Many of the applications have been complex, resulting in staff being removed from their normal duties and extra staff being recruited to deal with the applications, thus creating extra pressures and tying up resources.

I will cite some further facts and figures. There have been no significant trends since January 1992, when the FOI Act came into existence, in terms of applications by MPs, despite changes in government—until now. On average, since the act commenced operation, every year 51 applications have been made by MPs. Since March 2002, based on 115 applications over an eight-month period, we expect 172 applications for the 12-month period (121 more applications more than the government would ordinarily receive from MPs), which is an increase of 237 per cent.

It needs to be borne in mind that some of these applications are for documents such as every estimates folders that exists within government. The Crown Solicitor's Office, which is called in to advise, has to go through every one of these documents—every line—and provide advice about whether the documents fit within any of the exemptions in the legislation, or personal affairs; whether it fits within commercial in confidence; whether matters of public interest need to be considered; and whether the deliberations of cabinet are disclosed. So, the geniuses opposite have generated this extra work during this period since the change of government.

Members opposite can come into estimates and ask any question they like, put on notice any question they like—ask any single question they like—yet they want every document sitting in ministerial and other departments. It is a nonsense. It is costing an absolute fortune. It is an abuse by those sitting opposite.

The sensible members of this house, the Independent members, who see the nonsense being carried on by members opposite realise that a privilege is being abused, and they do not like it any more than we like to suffer the unreasonable diversion of resources of agencies to go on these ridiculous fishing expeditions. This is an attempt by members opposite to get those agencies that were formerly working for them to work for them again. They simply have not come to terms with the fact that they are not in government. They still think that the public sector is at their beck and call, but that is simply not the case. This simple measure of charging members is aimed at putting some tiny bit of rationality back into this debate.

This is not a costless process. It recovers something like 10 per cent of the total fees associated with processing these applications. This measure will merely ensure that those members opposite who absentmindedly wake up one morning and, over their cornflakes, write out another FOI application will actually have to think twice about the resources they are seeking to drag out of government and out of the taxpayers' purse. We simply want them pause and think about what they are asking for. That is why we are seeking to impose a modest fee on members of parliament.

Some members have expressed concern about that and, at some levels, I accept advice that this does create an unfortunate message. But those sitting opposite have to take responsibility for the abuse they have perpetrated. Perhaps they could come up with a workable solution. I note that the member for Fisher has proposed a couple of sensible solutions in his contribution. He proposes that we might consider a deposit which is refundable if the application is reasonable. He also proposes a notional increase in the global allowance, although that raises some complications with questions of remuneration and the like. The Speaker of the house has suggested that an oversight committee of the Legislative Council may be an appropriate way of dealing with the matter. Other members have suggested an allocation for shadow ministers, among other proposals.

I foreshadow that the government is prepared to consider sensible propositions about that matter. We understand that some sensible propositions may emerge from debate in another place, and we are prepared to entertain those matters in due course. But, for the time being, we believe that this is one sensible way of doing it. There is another solution, of course. We could enforce the $350 limit and send them some of the ridiculous bills they sent us, like $70 000 sent by the former minister for administrative services to the then leader of the opposition (now Premier) when he asked for some documents. That was a ridiculous, rather smart alec approach to a response to a request for information and, arguably, on the edge of legality in relation to the legislation.

There is an important issue here that needs to be grappled with and that is that this information is not costless and there needs to be some sensible regime of ensuring that oppositions get the information that they are properly entitled to, without the unreasonable diversion of resources from agencies. We have not taken the bait that has been dangled in front of us in the early days of this government to knock off some of these ridiculous requests. We have worked assiduously to try to deal with them and we have been releasing documents hand over fist. It is outrageous to suggest that somehow this is a secret government when we have been handing over documents left, right and centre to members opposite, even though they can make nothing of them. This is the most open government that has existed in the state in a very long while, and all we hear is bleating from members opposite.

I think there was a suggestion that somehow we are being a little unkind in restricting access to documents that are available through the estimates process. The estimates process is, indeed, a process which is about the statement of accounts and expenses for government. When they are finalised there is a published budget and, more than that, there is a budget sitting. There are then estimates processes where every minister drags in every relevant executive in their agency, and they present themselves for questioning. In addition to those questions that are sought to be asked without notice, any question can be asked on notice. To suggest that somehow there ought to be a process of handing over every

estimate document in addition to that just smacks of an opposition that is seeking to undermine and derail what is otherwise a sensible process for accountability in government.

The member for Unley suggested that these changes somehow impinge upon the privileges of members of this house. What needs to be understood is that the freedom of information legislation sits separate and apart from those privileges that pertain, as a matter of common law right, to members. It can have no effect on those privileges: they continue to be in place and what we do or do not do with the freedom of information legislation cannot affect them. There can be no suggestion that a modest fee does anything other than qualify, in a reasonable fashion, the exercise of that right. To suggest that somehow the charge of $21.50 is removing a right is an absurdity because members of the public are indeed charged $21.50, so it simply does not follow.

I foreshadow, just by way of argument to assist the member for Newland prior to our going into committee, the reason why the late amendments that I intend to propose in committee are promulgated. They are internal amendments that were generated after consultation, and I will give some explanation to assist her in understanding what those amendments seek to achieve. These are the amendments which I foreshadow I will be moving in committee and which I think have been provided to the honourable member. Perhaps if I give the explanation the reason will become apparent.

Following consultation on the bill, it has become apparent that the rights of review and appeal under Part 5 of the current act are somewhat anomalous in their application to what might be termed 'third parties'. The main objective of the amendments proposed is to fix those anomalies and to ensure that the appeal and review provisions are consistent with other provisions of the act that recognise the legitimate interest of such third parties in FOI applications.

Under the act as it currently stands, a person can apply for an Ombudsman's review or an appeal only if they are dissatisfied with the initial decision of the agency and remain dissatisfied following internal review. This could produce some curious results. For example, if an agency decided not to release a document because it would unreasonably disclose another person's personal affairs, the applicant could apply for an internal review of that decision but, if on an internal review it was decided that the document should be released, neither the applicant nor the person whose personal details are being released could apply to the Ombudsman or the District Court, because neither of them are persons who are dissatisfied with both the initial determination and the determination on the review. This result cannot be intended. So, it is to protect people who might be the subject of an FOI application—

The Hon. D.C. Kotz interjecting:

The Hon. J.W. WEATHERILL: Yes—but who are not directly the agency or the applicant. In addition, while the act specifically recognises that certain documents, for example, documents containing personal details of another person, should not be released without consultation and notification, these consultation and notification requirements are not carried through to the review or appeal stage.

The opportunity is therefore being taken to address these issues. The amendment proposed would remove the requirement in both the Ombudsman review and the District Court appeal that a person be dissatisfied with both the initial decision and the decision on the internal review, and would merely require that the person be dissatisfied with the decision on review. The bill includes a requirement, stated in general terms, that the Ombudsman consult with persons who might be affected by a decision on review. Under the proposed amendments, this would be replaced with the specific consultation and notification requirements that reflect the consultation and notification requirements in division 2 of part 3 of the act.

Further amendments were required to the District Court appeal provision to ensure that the wording of that provision is appropriately wide to deal with appeals by persons other than the applicant for review and the agency. The amendments ensure that the agency and the applicant for the review will always be parties to such proceedings and that the Ombudsman and the Police Complaints Authority cannot be joined as parties but, other than that, they leave the question of parties open so that the appeal provision can have the necessary flexibility. In addition, both the current act and the bill give rise to appeal rights to persons who are dissatisfied with determinations.

The internal review provisions, by contrast, refer to persons who are aggrieved. The amendments address this inconsistency so that they all refer to persons who are aggrieved. This particular language change is not substantive, merely aiming to achieve consistency of language so that there are not two different phrases for something we intend to be the same thing in the act.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. D.C. KOTZ: I indicated during the second reading phase of the bill that I intended asking the minister to give me an explanation of the wording that had been altered in the substitution relating to clause 3(1)(a), which talked about ensuring that information about government operations is published and is readily available to members of the public. The word 'published' is quite new, whereas the rest of the wording has only been reworded from the previous act. Is there a reason to use the word 'published' rather than talking about 'information'?

The Hon. J.W. WEATHERILL: There is nothing sinister in the use of the term. It is not meant to limit the documents that are available to only those published documents to which the honourable member referred in her speech yesterday. It is not meant to be limited to questions of annual reports and the like. Basically, the objects follow the scheme of the act. If we look at part 2 of the act, we see that the heading (which does not form part of the act but which obviously sets it out) is 'Publication of certain information'. It just makes the connection between the object and what is contained in part 2. Part 2 is all about those things we publish in a proactive fashion to members of the public. The language of publication is a clarifying insertion. It is in no way intended to limit the scope of that provision. If anything, it is designed to clarify that there is a philosophy within the act about proactive publication.

The Hon. D.C. KOTZ: Supplementary to that question, I understand what the minister is saying but, obviously, there is a concern when we are talking about the fact that he suggests there is in part 2 an area that talks about published material of government. Considering the happenings of recent days, when I am specifically told by a minister of government that all the information I require can be found in a published

document with relation to my shadow ministerial responsibilities, and I can find that information in a public document that is classified as an annual report, there is far more involved in information seeking from government than just that which is actually published. The seeking not just of documents but also of information are two different things. I am therefore pressing the point for an explanation, because this replaces the information that the government will readily provide to the public, but it only mentions in this instance that it be published, whereas the clause that it replaces talks about purely an information base.

The Hon. J.W. WEATHERILL: I think there is a misunderstanding about the ambitions of part 2. It is an existing part of the document. The Freedom of Information Act is divided into parts, and part 2 is about the proactive publication of certain information. There is a whole range of things that agencies are required to publish. That is quite separate from all the documents which the agencies hold and in relation to which there are legal entitlements to make FOI applications. There is proactive publication—in other words, documents that are promoted publicly—and there are other documents that are just held in agency archives, which are accessible under the freedom of information regime.

The first of the objects is responsive to the first of those ideas, those things that are published, and it talks about information statements. The information statement itself lists those documents capable of being accessed. It is about ensuring that people are aware of what documents are out there and available. There is nothing sinister about the use of the term 'publish'. The use of the term 'publish' simply more accurately explains what part 2 is on about. They are not words of limitation.

The Hon. D.C. KOTZ: I am pleased to have the minister at least put his assurances on the record. My next question relates once again to talking about the substitution of section 3. Clause 3(1)(b) refers to restrictions that are necessary for the proper administration of government. The existing version in the current act, which is section 3(2)(b), refers to restrictions as reasonably necessary. The word 'reasonably' has been omitted with the amendment. I believe that this omission will put into question the possibility that a review court could very well have difficulty in assessing the reasonableness of an agency judgment as to the need to exempt particular material when exercising discretion under the various exemption provisions.

The minister, with his legal training, obviously knows that the words 'reasonable' and 'reasonableness' have been well and truly tested in the courts for many a year. The question does not necessarily then have to be put but, by removing the test of reasonableness, I suggest that this in itself could very well mean that the legal question could be put. In term of this clause, the opposition would prefer to see the word 'reasonableness' reinserted in this legislation.

I would like to reiterate at this point a previous discussion that I had with the minister in relation to the bill, and state that the opposition does not intend to move amendments to the bill at this time as we are still having discussions on many of the areas within it. However, there will be notification to the minister on each of the clauses, which we feel we could not support or on which we would like to see amendments made, and they will then be dealt with in another place. I reiterate our commitment to seeing this measure through the committee stage. However, I assure the minister that as a result of the concerns we will be expressing there will definitely be amendments. In this instance, I ask the minister to give an answer on his assessment of the removal of the word 'reasonableness' from this legislation.

The Hon. J.W. WEATHERILL: This is simply an amendment to tidy up the objects. The word 'proper' is the relevant active word in the clause: 'proper' would drag into consideration the balancing act about what is reasonable in the circumstances. There is already adequate protection for what would be regarded as the proper limits of effective functions of government, so it does not need to be further qualified. Again, the individual clauses in the schedule (which talk about exemptions) actually include notions of reasonableness. One needs to look at the exemptions to understand that.

The exemptions require a balancing act in relation to public interest. In certain circumstances they require disclosure. For instance, when one is weighing up intergovernmental relations, there needs to be consideration of what could reasonably be expected to cause damage to intergovernmental relations. If the member for Newland could be aware that when one looks at the exemption clauses contained within the legislation, what is embedded in each of those exemptions is reference to the public interest (where there is a weighing exercise) and reasonableness. They are contained within the operative provisions of the act.

We think there is sufficient protection within the objects by the use of the word 'proper'. There is not some subjective analysis by executive government, or somehow executive government's workings are preferred or given primacy. It is only the proper workings of government that are protected or those things that are necessary for the proper workings of government. There is no overriding sense in which the workings of government somehow dominate this exercise. The fact that the word 'proper' and limitations in terms of reasonableness and public interest are contained in each exemption is sufficient protection. This is very much a tidying-up provision.

The Hon. D.C. KOTZ: It is extremely important that the minister understand that I am aware of what the rest of the act provides and the relevant part it plays in terms of the whole act. In this instance we are talking about the objects. In any court case that may rest on legal challenge, we all know that the objects—

The Hon. J.W. Weatherill interjecting:

The Hon. D.C. KOTZ: Allow me to have my say without the personal comment. The words are exactly what I am talking about. I can understand the minister's explanation, too, but whatever we write in this legislation will be interpreted in a court of law. The minister has taken out 'reasonableness', which does not apply to the administration of government, as he has tried to say. The word 'proper' does, and the word 'proper' is placed correctly in relativity to the administration of government. 'Reasonableness' has been removed from the restriction area where it provides:

> . . . only to such restrictions as are reasonably necessary. . .

The 'reasonableness' applied to the restrictive area. In relation to the 'proper' that the minister is trying to tell me is sufficient for the whole clause, I suggest he think again in terms of the explanation where 'proper' in fact does not relate to the whole clause but, rather, only to the 'administration of government' aspect.

The ACTING CHAIRMAN (Mr Snelling): Do you wish to respond, minister?

The Hon. J.W. WEATHERILL: No.

Clause passed.

Clauses 4 and 5 passed.

Clause 6.

The Hon. J.W. WEATHERILL: I move:

Page 5, after line 7—Insert:

'Interested person', in relation to a review, means a person who should, under Division 2 of Part 3, be consulted in relation to an application for access to a document the subject of the review;

Page 5, lines 15 and 16—Leave out 'dissatisfied with a determination of an agency that is liable to internal review and remains dissatisfied' and insert:

aggrieved by a determination of an agency

Page 5, line 17—Leave out 'dissatisfied with' and insert:

aggrieved by

Page 5, lines 26 to 29—Leave out subclause (5).

Page 6, after line 32—Insert:

(10a) A relevant review authority must not make a determination to the effect that access is to be given to a document to which Division 2 of Part 3 applies unless the relevant review authority has taken such steps as are reasonably practicable to obtain the views of any interested person as to whether or not the document is an exempt document under a provision of Part 2 of Schedule 1.

Page 7, lines 6 to 10—Leave out subclause (13) and insert:

(13) On making a determination on a review under this section, the relevant review authority must notify each of the following persons of the determination and the reasons for the determination:

(a) the applicant;

(b) the agency;

(c) if—

(i) the determination is to the effect that access is to be given to a document; and

(ii) the relevant review authority—

(A) is aware that the views of an interested person are that the document is an exempt document under a provision of Part 2 of Schedule 1; or

(B) after having taken reasonable steps to obtain the views of an interested person, has been unable to obtain the views of the person,

the interested person.

Page 7, line 34—Leave out 'dissatisfied with' and insert:

aggrieved by

Page 7, lines 36 and 37—Leave out 'the applicant for the review or by the agency' and insert:

an agency or person

Page 7, lines 38 and 39—Leave out 'applicant for the review or the agency (as the case may be)' and insert:

agency or person or, in the case of a person who was not given notice of the determination, within 30 days after the determination.

Page 8, line 1—Leave out 'the' appearing immediately before 'parties'.

Page 8, after line 2—Insert:

(3a) Neither the Ombudsman nor the Police Complaints Authority can be a party to proceedings under this section.

Amendments carried; clause as amended passed.

Remaining clauses (7 to 12) and title passed.

Bill reported with amendments.

The Hon. J.W. WEATHERILL (Minister for Administrative Services): I move:

That this bill be now read a third time.

The Hon. D.C. KOTZ (Newland): The opposition will be addressing areas of amendment, which we missed as a result of the passing of the clauses while we were asking questions. I will assist the minister in terms of the areas about which we will have considerable concern when the measure leaves this house. There are areas of grave concern about the substitution of Part 5—which I sought to speak to but I did not seem to get anyone's ear. I am sure the minister is aware that under current provisions an FOI applicant who is dissatisfied after an internal review has the choice of applying for a determination by the Ombudsman or the Police Complaints Authority or, in fact, going directly to the District Court for a merits review of the decision. They may also appeal on the merits to the District Court after first having the matter reviewed and determined by the Ombudsman and the Police Complaints Authority. However, once they have applied to the District Court, no further review is available via the Ombudsman or the Police Complaints Authority.

Currently, a further appeal is also available from the District Court to the Supreme Court under Part 5 of this bill but, under the new provisions, an applicant who is dissatisfied after an internal review may only apply to the Ombudsman or the Police Complaints Authority for review. The concurrent right of appeal on merits to the District Court has, in fact, been eliminated. Appeal to the District Court is now available only after review by the Ombudsman or the Police Complaints Authority. Further, this appeal is now limited to a question of law, which the opposition will not accept under any circumstances. The majority of changes to part 5 significantly diminish the appeal rights available to applicants, and it is suggested that this is a streamlining of the appeal process—although such language, I can assure the minister, typically reflects the interests of agencies rather than those of applicants.

The bill enables a merits review undertaken by the Ombudsman and the Police Complaints Authority to be treated with the same respect by agencies as merits reviews currently undertaken by the District Court. For example, would a determination of a question of law by the relevant review authority rather than the District Court be treated as binding on subsequent occasions? The merits review jurisdiction was previously conferred upon the Administrative Appeals Division of the District Court. The proposed streamlining may be seen as a downgrading of the status of merits reviews. It is also a role inconsistent with the normal dispute resolution process of the Ombudsman and the Police Complaints Authority.

The other aspect that greatly concerns the opposition is whether the new roles to be applied to the Ombudsman will be resourced to the degree required for him to be able to undertake the immense work that the review process would place on his office. It concerns us, also, that specific provision for appeals to the Supreme Court, currently in section 45, has been eliminated. Presumably, judicial review will still be available: however, it would be appropriate to provide a specific statutory avenue of appeal on a question of law from the District Court at least for applicants. This, of course, I am sure the minister would agree, would be simpler and more certain. It would avoid jurisdictional debates as to the availability of a judicial review, which would not be in the interests of either the agencies or the applicants and, on occasion, the authoritative determination of questions of law will obviously be required. The expertise of the Supreme Court will be required for this purpose and the repeal of section 4(5) will not be supported in the other house by the opposition.

Also, the time limit for lodging appeals to the Ombudsman and the Police Complaints Authority has been reduced from the current 60 days to 30 days. It is our belief that this can hardly work to the advantage of applicants, and that will be opposed. On occasions, such time limits will clearly disadvantage applicants with or without legal representation. It should also be noted that FOI applicants will have a range of abilities and levels of familiarity with legal procedure, and this will be particularly the case where there is dispute as to

the exact date upon which a decision was made and communicated to the applicant in question. I would also like to note that the reduction in the time limit, although it brings South Australia into line with many other jurisdictions, remains a reduction in appeal rights with little in the way of what I would class as supporting rationale. There is no reason that this state should not take as best practice a position of best practice rather than simply reflect the norm. Some applicants, as the minister would know, are well informed and some are well represented, but others may find themselves disadvantaged by this proposed change. In short, despite the openness rationale of the amending legislation, this amendment will tend to work against applicants and, again, it appears designed to reflect primarily the interests of agencies.

Section 39(4) allows a review authority the discretion to extend these time limits. However, the opposition suggests that a longer appeal time, as of right, would be far superior. Applicants may well be discouraged from appealing by the knowledge of the short time frame available. A discretionary power to extend the time limit simply provides one more potential point of litigation, and I suggest that that is clearly not in the interests of either the litigants or the agencies.

Sections 39(8) and 39(9) appear to place considerable pressure on an applicant to settle, and section 39(9) empowers a review authority to dismiss an application if an applicant is deemed not to have complied. It is inappropriate that an applicant can be pressured to bargain away the statutory rights to access information which are conferred under this act. It is also notable that the review authority does not appear to be empowered to grant an application on the basis that an agency has not complied with the requirement of cooperation set out in section 39(8). On the contrary, under section 39(6)(c)(ii) it may, in effect, suspend proceedings at the request of the agency—but not of an applicant—to allow an opportunity for a settlement to be negotiated. In short, the pressure to settle—which is not appropriate, in any event—is all one way, and it is not in support of the applicant.

Section 39(16) does not appear to address the possibility of breach of duty or misconduct arising from a minister's office. For the sake of the openness and accountability of this government, that should also be a matter that is addressed.

Under the proposed section 40, time limits for appeal to the District Court have again been shortened, as I mentioned earlier, from 60 days to 30 days and, as I also mentioned, these changes have very little to commend them. Sections 40(4) and 41 allow considerable scope for ministerial intervention and veto in the determination of FOI applications, and it is not good enough for the minister to stand here and say, 'Trust us, because we are talking about enabling legislation; we are talking about individuals having the responsibility that this legislation gives them.' There is nothing in this legislation that qualifies the aspects of the ministerial determinations. Under section 40(4)(b) where the minister makes known the assessment of what the public interest requires in the circumstances of the case, the court must uphold that assessment unless satisfied that there are cogent reasons for not doing so. Section 41 provides for consideration of purportedly restricted documents in the absence of a party and their legal representative.

These provisions reflect the existing procedures under the act. However, the provision in section 40(4)(b) is poorly worded and undercuts what would otherwise be a right to access information under the act, and this act is supposed to be about access to information. It imposes an inappropriate burden upon an applicant, particularly in the context of an application to the District Court, which it is proposed to limit to questions of law. It would not be surprising if an applicant were met with the argument that their challenge to a minister's assessment of the public interest raised no such question. The distinction between questions of law and questions of fact is notoriously difficult to draw. Nonetheless, there will be many occasions where the application of public interest tests (of which there are many and which inevitably vary) are relevant matters, and considerations from exemption to exemption raise what, in essence, are questions of fact only.

For example, there may be an agreement between parties as to the types of matters to be considered under the relevant head of public interest—a question of statutory interpretation—and thus appealable as to a question of law but substantial disagreement as to the likely practical consequences of the sought-after release. A minister's assessment under section 40(4)(b) is likely to turn upon the latter factual considerations, the combination of, first, the heavy burden imposed on an applicant to show cogent reasons; secondly, the essential factual nature of the empirical issues which arise in determining the likely consequences of release of documents; and, thirdly, the limit of appeal rights to questions of law, which mean that there is little likelihood of an applicant's succeeding in the face of such ministerial assessment.

The matter will be unable to be raised at the review authority level and, for the reasons argued, is unlikely to be properly ventilated at the District Court. In short, the ministerial assessment of public interest will be virtually beyond challenge, regardless of its rational basis. This is inappropriate in a body of legislation under which the ultimate purpose is to provide for a level of government accountability. Ironically, this provision is likely to preserve the practical effect of the now repealed provisions for the issue of ministerial certificates. As with those certificates currently available under section 46, there will be scant possibility of successful applications in the face of ministerial intervention. Indeed, it is arguable that the prospects of a successful challenge are lessened from those existing under the current regime.

Section 41 is also unnecessarily restrictive. Whilst the exclusion of an applicant is understandable in some situations, it can hardly be supposed that it is appropriate to exclude counsel who, as officers of the court, would surely give and uphold undertakings of confidentiality. Moreover, the practicality of this provision is worsened in the situation of an appeal right limited to questions of law where an applicant will bear a significant greater onus of proof than currently applies when seeking merits review in the District Court. I also note that, in some of the public interest immunity cases involving evidential exclusion, a procedure is adopted by the court where documents remain sealed while submissions are entertained from both sides.

Argument could be based on a general statement of the contents of the relevant document supplied by the agency and omitting the specifics, but clarifying the public interest issues to be determined. The actual exclusion of an applicant's counsel seems highly unnecessary. The removal of fee exemption from members of parliament, quite obviously, is not something that this opposition will support. In practice, it would certainly discriminate against opposition members, because, as the minister well knows, government members will frequently be able to access documents informally. I have heard all his comments, but I do not believe that any of them

are substantiated by any reasoned debate in a bill that gives freedom of information not just to the general public but to members of parliament very specifically.

Minister, you do not come into this place in five minutes and decide that you will take away rights which we have fought very hard for over years in this place and which have been established in law. We are quite aware that documents received under FOI can cause embarrassment to governments, and we are the last ones who would deny that. However, for this minister and this government to suggest that we should be punished because we manage to get hold of some of the documents that can cause them embarrassment is totally inappropriate. If the minister considers that we are all paid by the public purse, then all he is doing is asking the taxpayer to double-dip. It is a right that we have.

The minister has stood in this place and talked about open and accountable government. Under that premise, we have certain rights which are already in legislation, but the minister has decided that we will not have the same right of access as we have had in the past. This bill gives rights: it is not meant to take rights away. It will be totally opposed.

The ACTING SPEAKER (Mr Snelling): Order! Member for Newland, third reading speeches are restricted to 20 minutes—

The Hon. D.C. KOTZ: I did not see any time.

The ACTING SPEAKER: They are not normally timed, because it is unusual for members to take the 20 minutes, but I would ask the member if she could—

The Hon. P.F. Conlon interjecting:

The Hon. D.C. KOTZ: We've already heard—

The ACTING SPEAKER: Order! I ask the honourable member to wind up her remarks.

The Hon. D.C. KOTZ: I will take your advice, sir, I will come to a conclusion after these last few comments. Also, the proposal under personal privacy which seeks to extend from 30 years to 80 years the time after which a document is no longer exempt because of potential disclosure of personal affairs will not be supported, on the basis that only documents which genuinely disclose personal information should be exempted on this basis, and that partial disclosure should be made wherever possible without disclosing general personal matters. I think that has already been done with a previous document, and I see no reason why that should not continue considering that at least people will still be alive within the 30 year time frame, whereas, after 80 years, it might be a little difficult for people to have any relevance in documents and information that might be released in this parliament if that length of time was supported.

I will not address the issue of commercial confidentiality again because I have already spoken about that in my second reading contribution and the minister is well aware of how we feel and what our intent is in another place. I suggest to the minister that the opposition will be opposing the restriction of MPs' access to information and documents by imposing a fee. We will be opposing the blanket exemptions sought to be given to working documents. We will oppose the exemption given to documents relating to estimates, the extension from 30 years to 80 years of personal information and the restriction on appeal rights.

Mr Acting Speaker, I finish my comments by informing the minister that each of the areas that I have said we will oppose are areas where this government is seeking to take away rights not just from MPs but from members of the public. That is one of the reasons why it is extremely disappointing to believe that the minister can say that this bill is one of significant reform when it takes us backwards rather than seeking to move us forward.

The Hon. J.W. WEATHERILL (Minister for Administrative Services): I must say that, having spent the last eight years representing applicants, plaintiffs and other litigants, to hear the member for Newland talk about her commitment and her government's commitment to the rights of applicants and plaintiffs in our system of governance is, to say the least, galling. They have presided over one of the most appalling roll backs in the civil rights of citizens as employees or litigants, which, I hope, will never be repeated in the history of this parliament. In any event, many of the points she made seem to bear a striking resemblance to a submission that I received from the Law Society. I must say that I was somewhat disappointed with the standard of that presentation.

A point that she makes some considerable play about is that somehow there was the removal of the right of appeal to the Supreme Court from the District Court. Indeed, this was just simply a functional amendment, because that right of appeal in fact existed in another act. So, it was simply tidying up this legislation. But I would not expect the Law Society to get that right, I suppose—

The Hon. P.F. Conlon interjecting:

The Hon. J.W. WEATHERILL: Or the member for Newland, in reliance upon it. Almost all the other points that were made pertain to the act that her government passed. So, with respect to the criticisms that the member makes of the act in its present form, most of what she said was relevant to the act as it existed when the previous government was in office. It is a little difficult to hear criticisms of a piece of legislation that the previous government presided over. It is disappointing that the member for Newland did not take the opportunity to have an earlier briefing in relation to this series of amendments. She was, indeed, offered a briefing with my office and she cancelled it at late notice. It would have been beneficial if perhaps she could have participated in that briefing—

The Hon. D.C. Kotz: That had nothing to do with it.

The Hon. J.W. WEATHERILL: It may not have had anything to do with the bill. I just hope that the member for Newland was not seeking a briefing so that she could seek to make a similar point that she made in respect of the Minister for Government Enterprises.

The Hon. D.C. Kotz interjecting:

The ACTING SPEAKER: Order!

Bill read a third time and passed.

The Hon. D.C. KOTZ: Mr Acting Speaker, I draw your attention the state of the house.

A quorum having been formed:

GAMING MACHINES (GAMING TAX) AMENDMENT BILL

The Legislative Council agreed to the bill with the suggested amendments indicated by the following schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly:

No. 1. Page 10 (clause 18)—After line 9 insert the following:

(ba) by striking out from subsection (4)(a) '$2.5 million' and substituting '$3.5 million';

(bb) by striking out from subsection (4)(b) '3 million' and substituting '$4 million';

(bc) by striking out from subsection (4)(c) '$19.5 million' and substituting '$20 million';

No. 2. Page 10—After line 10 insert new clause as follows:

Amendment of s.73C—Community Development Fund

18A. Section 73C is the principal act is amended by inserting after subsection (3) the following subsection:

(4) Despite subsection (3), at least $500 000 must be applied from the Fund in each financial year towards programs that will be of benefit to the live music industry.

STATUTES AMENDMENT (BUSHFIRES) BILL

The Legislative Council agreed to the bill without any amendment.

HEALTH AND COMMUNITY SERVICES COMPLAINTS BILL

Adjourned debate on second reading.

(Continued from 15 July. Page 772.)

The Hon. DEAN BROWN (Deputy Leader of the Opposition): This is, indeed, a very broad and complex piece of legislation. Whilst the opposition supports the measure in principle, and certainly will support it through the second reading stage, there is a myriad of very complex amendments, and I want to make an offer from the outset that the opposition is willing to sit down with the minister outside this chamber, together with Independent members of parliament, and try to work through some of the complex issues, because I believe that we can reach a fair degree of consensus on what we are trying to achieve in terms of those amendments. I make that offer now to the government. Otherwise, I can see that the debate on the amendments will be very protracted and difficult, indeed, because they are complex issues.

As minister, I had dealt with these issues in the last 18 months, or perhaps two years, and I know that the present minister has been dealing with them both in opposition and in government. I make that offer to the minister from the outset. I have had discussions with some of the Independents, and they have indicated that they would be very supportive of that sort of process. But it will take some time, and I think we would need legal counsel there as well—the parliamentary draftsperson—to help work through some of the ramifications of what we are all trying to agree to.

I first want to touch on some of the history as far as a complaints mechanism bill is concerned. After considerable consultation in, I think, the 2000-01 year (in fact, I think the consultation went back even before 2000; it was probably in about 1999), at the beginning of 2001 I introduced a bill to set up a health complaints commission. That procedure was very comprehensive, and the bill was debated and discussed with a lot of organisations. I realise that certain groups within the community were unhappy with the scope of that bill. The now minister and the Labor Party have introduced their own legislation, but I highlight the fact that this legislation has been considered by members of this parliament for at least two or three years. A lot of work has been done by both sides of the house as well as by the Independents.

The bill that I brought before the parliament last year I prepared after considerable further consultation with a few further amendments to broaden the scope of the bill and change some of the processes in an attempt to work through some of the concerns expressed by different groups in the community. I had an extensive series of amendments ready. The parliament was due to sit for another week in December and the legislation would have gone through the lower house during that week, but that did not happen. I do not wish to go back over that.

The minister has now brought in this bill. I would like to touch on the Liberal Party's position on this bill in some broad areas. I talk about broad areas. I am not sure whether my voice will stand up to getting through all the fine detail, but I will deal with the broad issues because there will be plenty of opportunity in committee to go through all the amendments and all the fine detail.

I say, first, that there is no complaint about the health investigation mechanism; I am very supportive of that. The second issue is whether it should cover specifically aged care. I discussed this issue last year with a number of different groups. As far as the Liberal Party is concerned, we are willing for it to cover aged care.

The Hon. L. Stevens: That's a change.

The Hon. DEAN BROWN: It is a change, but in covering aged care I also note the federal Aged Care Act 1997 which contains a complaints resolution mechanism in division 56 of part 4(2). I argue that, where that provision applies or could apply, it should have sole and absolute right and that, where that provision does not apply, this bill should apply. The Liberal Party does not support the right of a person to have two bites at the cherry: to go to the federal legislation and then, if that fails or if they get a less than satisfactory response in their eyes, to come back to the state provision.

The Hon. L. Stevens: We agree with that.

The Hon. DEAN BROWN: I am glad to hear that the government agrees. Although we are not going into the detail of the amendments now, I say that I do not believe that the government's amendment achieves that, but I accept that that is its intention. This is one area where I believe we need to sit down and make sure that there is clarity. In other words, this provision can apply to aged care accommodation where paid aged care services are being provided—or state government services for that matter—but, where it is covered by the federal act, it must be dealt with under that act.

This means that it extends the scope of the coverage of the bill that I introduced last year into other areas of aged care accommodation and services. The legislation that I introduced last year covered most areas of aged care (even though it did not specifically say so) because it covered a very broad definition of health, and that is mostly what you are looking at. The one area that it perhaps did not cover would be specific accommodation and some other paid community services for aged care.

The second issue with which the bill deals is community services. The legislation contains a very broad definition. Page 5 of the legislation provides that 'community service' means a service for the relief of poverty, social disadvantage, social distress or hardship. It covers areas where services are provided for emergency relief or support, a service for the social advancement of disadvantaged groups, and a whole range of other areas. It specifically excludes employment search or placement services, and I have no argument with that. It then cites some examples of community services, such as a service that provides community support or care; a service for the provision of emergency accommodation or relief; a counselling service or a community information or awareness service; or a community advocacy, self-help or mutual aid service. So, the definition of 'community service' is extremely broad.

On page 6, 'community service provider' is defined as a person, a government agency—it should be a government agency—or a body of persons (whether corporate or unincorporated). Again, effectively, that is casting the net to cover

absolutely everyone who provides a community service or who holds himself, herself or itself out to be able to provide a community service. I cite the example of our delightful 82-year-old neighbour who is a widow. We cut the lawn for her periodically just to help her out.

Ms Ciccarello: Who's 'we'?

The Hon. DEAN BROWN: I do sometimes; sometimes my son does—it's probably fifty-fifty. Technically, under this very broad definition, if she felt that I was not cutting the lawn frequently enough or that I cut it too closely, she could complain. I know that she would not, but she could complain about the nature of the service. I am providing a service, I am an individual—

An honourable member: That's scaremongering and it's nonsense.

The Hon. DEAN BROWN: No, it's not scaremongering. The legislation covers that. I have taken legal advice on this. I do not believe that this is what the government is trying to catch, but this is what the legislation can catch at present because of the way in which it has been drafted. I think I have seen enough legislation in this place to understand the scope of it. I have taken legal advice from parliamentary draftspersons on this matter, and I would have to say that the bill is that broad. It covers everything. It covers all volunteer groups, churches, the scouts and service clubs such as Rotary, Lions International, Apex, Meals on Wheels—all those groups—whether or not the service is paid for.

Therefore, the Liberal Party has serious doubts about the way the bill is drafted at present and its all-embracing scope. We support the bill in so far as it covers a community service. Again, that is a change from where we were with our legislation last year. It should cover community services provided by state government and local government. It should provide community services where a state or local government contracts to an outside private body to provide a service on their behalf, a classic example of which would involve Anglicare in terms of the management of foster child care under a contract: that should be covered.

Other areas should also be covered, where the service is provided by a community provider or an individual, and where it is paid for on a normal commercial basis. I stress the fact that I recognise that there are government services, delivered either by government or by private organisations on behalf of government through contracts, where no fee is paid, but the bill should cover those cases. However, if a community service is being delivered by a non-government agency and not on behalf of a government agency under a contract, it should be covered only if it is paid for on a normal commercial basis. For example, a classic case is the Baptist community service that each day in the city provides about 200 meals. It charges $1 for people to come through the door, and it provides them with a two or three-course meal. I have seen this service, and it is run by volunteers. However, that service would be excluded under the proposals that the Liberal Party supports very strongly.

After all, this is not a paid-for service: it is a volunteer type of service; it is a community service that is being provided by people who are trying to help others in the community. The last thing we want this legislation to do is to start to destroy the genuine and I think highly successful community spirit that we have built up within Australia, and particularly South Australia, to help the less fortunate in our community. However, that is what I believe this bill would do in its present form.

Supported by the Liberal Party, I propose to move amendments to scale back not on the scope of a community service but on a definition of a community service in terms of it being a government agency or an organisation contracted by a government agency (and I obviously include local government, because that is covered by the existing state Ombudsman), or where the service is provided by a private or community provider, or by an individual, but is paid for on a normal commercial basis.

The third issue I wish to raise is the area of volunteers. The Liberal Party will move an amendment to provide that where a volunteer provides a service there is no scope for investigation by the Ombudsman. There is a very good reason for this: the volunteer is providing a service as a volunteer, and if we want to kill off volunteer work within South Australia the easiest way would be to have someone complain about the service delivered by that volunteer. With all the good intent in the world, word would get around pretty quickly, and the volunteers will evaporate. It is already difficult to get volunteers into organisations, and I know that Meals on Wheels is struggling for volunteers, even though it has about 10 000 at the moment. The CFS is struggling, although I stress that the CFS would be covered because it is a paid-for government service that would be providing emergency services.

I do not object to excluding a community service provider that has volunteers working for it. For example, the Arthritis Association employs physiotherapists on a commercial basis, and its services should be caught by this legislation. However, volunteers are also used, helping on the switchboard and raising funds, etc. The services of those volunteers should not be able to be the grounds of a complaint. So, we will move a proposed amendment to exclude from the bill all volunteers and the services they provide. But, where the community service provider employs people on a commercial basis and delivers services on a commercial basis, even though volunteers may be involved, that community service provider could be caught, but not for the service of the volunteer. We are being very precise in that respect, but we are maintaining the very broad approach in terms of what we are capturing under 'community service'.

I have some concern about the definition of 'community service', which states:

> 'Community service' means a service for the provision of emergency relief or support.

Just some months ago, this parliament introduced so-called good Samaritan legislation. It provided that if someone stopped to aid someone involved in a car accident, for example, that person would be excluded from public liability insurance. However, under this legislation those same people could suddenly find themselves being investigated by the Ombudsman for the nature of the service. That was not the spirit of the legislation. The way in which the legislation is drafted at present provides for that: it is caught under the definition of 'community service', under paragraph (b), and under the examples given; and it is caught under the definition of 'community service provider'. No area specifically guarantees to exclude that.

I know that a power exists to exclude certain things by way of regulation, but I have been around government long enough to know that this parliament does not leave it up to regulation: that relies on the hope and the promise of future governments. This government may give a guarantee by way of regulation, but that does not stop another government

rescinding that regulation. It has to be written into the legislation in black and white so that it does not effectively countermand the good Samaritan legislation we have already passed. Volunteer groups, service clubs and others in the community are concerned about the very broad scope of this legislation, particularly as it applies to volunteers.

The Hon. P.F. CONLON (Minister for Government Enterprises): I move:

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

Motion carried.

The Hon. DEAN BROWN: The fourth area that I have a concern about and wish to raise is the definition of 'health service'. The definition of 'health service' is very broad indeed. The definition of 'health service' that I introduced into the legislation last year was equally very broad indeed. So, I have no real complaints about the broad nature of that definition. I have a complaint, though, about section (i) which refers to recreational and leisure services. In terms of the definition that is the only area that I have a complaint with. That means that every recreational club in South Australia—it does not matter whether they are related to health or not—will be caught. Your football clubs will be caught; your crochet clubs will be caught; your tapestry groups will be caught, because they are recreational or leisure services. I see the member opposite shaking his head. I appreciate the fact he has been this parliament only a few months. However, if we look at the legislation it says:

'health service' means—
(i). . . a recreational or leisure service is provided as part of the service referred to in the preceding paragraph.

I am prepared to simply exclude those. Let me give an example. If, in fact, there was a paid nutritionist providing a service at a recreation club or leisure centre, or if there is a physiotherapist they will be caught under other parts of this legislation. They will be caught under the provision relating to service provided by a health professional. So, there are plenty of other areas where anyone trying to provide health services, or pseudo-health services, will be caught. Therefore, I believe the words 'recreational' and 'leisure' should be excluded from the legislation, because it will capture a group of sporting clubs that I do not believe this legislation was ever intended to capture, and other recreational and leisure clubs as well.

I move on to the next point, and that is the powers and the functions of the Ombudsman. This is clause 8 of the bill and again, the legislation is very broad in terms of the powers and functions given under this clause. However, under clause 8(l), there is a provision which I would have to describe as one of the most scary provisions that I have ever seen in any legislation before this parliament, and that is:

The Health and Community Services Ombudsman has the following functions—
(l) to perform other functions conferred on the Health and Community Services Ombudsman by the Minister or by or under this or other acts.

That is an outrageous provision to put in any legislation. We do not know. There could be new legislation introduced that we have not yet thought of, where the minister could use the ombudsman, or the ombudsman could use the powers that he or she would have under this provision, to go off and do all sorts of things and investigations, not even conceived of at present because that act of parliament may not have even been passed yet by this parliament. And yet, this would give that power and, I might add, would give power under existing acts.

That is an outrageous provision. Any person who has any democratic principles would fight violently against that form of legislation. That is the sort of stuff dictators use. That is the time you find dictators use the power under one act to try to exert enormous power, influence and investigation, seizure of documents and various other things, under some other hidden clause, and, in this case, act. So, I will move, on behalf of the Liberal Party, for that to be excluded. There are plenty of other powers there. Those other powers are extremely broad indeed and that power should not remain under this bill.

The next issue I want to deal with is the one of time for complaint. This is clause 24. The bill, as it stands, allows a complaint to be entertained if it is made after two years, but then has other provisions which allow the Ombudsman to take it beyond a two-year period. I was delighted to see that the minister, I think, has introduced amendments to that clause which would alter those powers beyond the two-year period. I applaud the fact because I think it is fair to say that those provisions are very similar to provisions I had in the bill last year—that is, the amended provisions are similar to what I had in the bill.

However, I object to the two years. I do not object to the ombudsman having a power, under exceptional circumstances, of going beyond a specific period but I believe, and the Liberal Party believes, that the specific period should be one year. There is a reason for that and it is the reason that is starting to emerge increasingly with public liability insurance. For instance, in the medical area, we are finding increasingly that medical practitioners are finding a significant tail, or lag-time, when it comes to public liability insurance issues. They have raised that increasingly with me, and I know of medical practitioners who have quit or are about to quit because of that so-called tail in terms of public liability.

Another issue, and a very important issue, is that the sooner the complaint is dealt with, invariably—and I say this with four years experience—the better the outcome. The quicker that it is dealt with, the more effectively it is dealt with, the better the outcome. To allow someone to carry a complaint for more than a year, without seriously trying to do something about that complaint is, I think, a bad outcome in itself. Therefore, I believe that clause 24 should be amended to one year, but there should still be provisions, similar to the proposed amendments moved, I think, by the minister. I may have picked up slightly different amendments but I think they have basically the same outcome, and would allow, under exceptional circumstances, the ombudsman still to look at issues beyond one year. There are some valid cases where that might be the case and I would be the first to stand up and defend that.

In fact, I would argue that there are certain provisions which are not in here, and which should be picked up, and that is that the immediate family or friends ought to be able to take up the complaint where someone has died. I do not believe this bill has satisfactorily dealt with that issue. I know, as minister, that many of the complaints that came in came from the next-of-kin after someone had deceased, due to potentially unsatisfactory medical treatment. After all, that is the sort of area where complaints are likely to arise. So, I am proposing an amendment which will, in fact, give very specific rights to relatives or immediate friends to pick up complaints on behalf of those people, and to follow those

complaints through. I will be moving on behalf of the Liberal Party to bring the time for making a complaint back to one year but with an amended proposal, compared to the act, which would allow an extension of the period of complaint, but also to allow the extension of the nature of the person who could make the complaint to include other deceased people.

The next point I wish to take up with the chair is the scope of the charter under clause 19. In my bill I called it a code: the minister has called it a charter. I think they are similar, so I am happy to accept the word 'charter'. However, I am concerned by clause 19(c). Clause 19 provides:

> In developing or reviewing the charter, the HCS Ombudsman may have regard to any matter considered relevant to the provision or use of health or community services and must have regard to the following principles:

Paragraph (c) provides:

> that a person should be entitled to be provided with health or community services in a considerate way that takes into account his or her background, needs and wishes;

In general, I support that principle. In fact, under the previous paragraph (a) a person should be entitled to participate effectively in decisions about his or her health, wellbeing and welfare, and I am a very strong supporter of that proposal. In fact, I was the one who brought the initiative back from Harvard in 1989 and made sure that our Department of Human Services adopted it as a growing practice across the health system. I am very concerned about the words 'wishes' and 'needs' in paragraph (c). I believe that the word 'needs' should be reviewed so that you look at that need in terms of the clinical need of the person. A wish is just far too broad indeed.

Let me be quite specific here. If I were a patient with a drug problem and I wanted pethidine, I could say to my GP, 'I want pethidine today, tomorrow and the next day.' Under this charter I believe the case to stop that being done is watered down considerably. I have discussed this with the Medical Board in detail. As minister, I saw a case where we had been pursuing abuse of pethidine for a number of years through the Medical Board, where a number of medical practitioners of varying degrees of guilt had been overprescribing pethidine and therefore establishing a significant drug trade or drug problem within the community but trying to do it in the name of the health system.

Putting the word 'wishes' there will water that down. There would have to be a significant doubt as to whether we could have achieved some of the outcomes if that remains. So, I would like to see the word 'wishes' removed and a qualification put around 'needs' so that it relates to the clinical needs of the person involved. I do that from the experience of having seen various cases raised. I believe that this parliament can work through that issue, because I am sure that the minister would not want to be out there encouraging something like pethidine to be overprescribed by general practitioners.

Another classic case that would concern me in this is that a patient could come in and legitimately say to their GP, 'I have a stomach ache: my wish is that I have an MRI scan, a CT scan and a few other things, and if you don't do that then, under this charter, I will lodge a complaint against you.' Obviously, the Ombudsman would say that that is a frivolous case, but there is still the encouragement and the expectation of the person saying 'My wishes were not met.' I am open to argument, but I see no useful purpose for putting the word 'wishes' in there in such a broad, open sense as currently expressed in the content of the charter. So, we will move to remove the word 'wishes' and to qualify the word 'needs'.

The next point I raise relates to the conclusion of a complaint, and here I am referring specifically to division 4, clause 31. A complaint may be withdrawn and, if the complaint is withdrawn, the Ombudsman must notify the health or community service provider within 14 days. That is a good move, and I applaud that strongly. There may be some occasions on which a complaint has been withdrawn but where it is in the public interest that the investigation should still proceed. I think the conditions for that are partly covered under clause 40. A classic example is that a provider might actually pay someone to pay off a complaint, an overuse of a prescribed drug or something like that, where both parties are benefiting.

Where it is in the public interest, the Ombudsman should be allowed to continue the investigation, but if the Ombudsman continues the investigation the provider, having been notified that the complaint has been withdrawn, should equally be notified within the 14-day period that the investigation is going to continue. I propose amendments that allow the investigation to continue in the broad public interest as covered under clause 40, and part of clause 40 would also be brought into this clause. However, there would be a requirement—and I think a fair and reasonable one—that the provider must be notified that the Ombudsman is continuing to investigate this complaint.

The next issue I want to deal with is that of the powers of the Ombudsman under clause 52. I realise that this is an extremely difficult issue to deal with. It is one that I have discussed, argued and considered with lawyers and others, and a balance has to be achieved. First, we want to try to mediate these issues if we possibly can, and the quicker they are mediated the better. I am all in favour of the extent to which the legislation puts an emphasis on mediation. As a minister, I always encouraged that. A quick apology can save an enormous cost in terms of ongoing grief for the parties involved. A clearer explanation at the beginning can save enormous health problems and distress for people who otherwise feel as if they have been given unsatisfactory responses by the health provider or other people.

I do not believe that clause 52 as currently drafted reaches the right balance, and I would refer the minister to clause 50 in the bill that was prepared last year, which I believe gives a fair and reasonable balance to all the parties involved. There are two issues here: one is that the Ombudsman must have the power of investigation and be able to write a report. However, the minister has at this stage fundamentally denied, with some qualification later in the bill (and I acknowledge that), the provider what we call the rules of evidence and natural justice.

I sat at the Executive Council table with Dame Roma Mitchell on a number of occasions. I had numerous discussions with her at the dinner table, or at Government House, and I can hear her saying in the loudest and most indignant way, 'Natural justice has not been applied in this particular case.' Specific issues came before Executive Council and I can say, without identifying the issues, that Her Excellency sat there and said, 'Are you sure that natural justice is applied in this particular case?' In discussions that either I or the Attorney-General had with her, it is fair to say that she was not satisfied that it had been applied.

I think she would be horrified to see the extent to which natural justice and the laws of evidence are not applying in clause 52, particularly as any report written by the Ombuds-

man then has absolute protection in terms of taking any action against the Ombudsman. Clause 52(5) provides:

> No action lies against the HCS Ombudsman in respect of the contents of any document published by the HCS Ombudsman under this section.

In other words, no-one may challenge in a satisfactory manner the evidence given by a complainant if an adverse report has been written. At the same time—and I appreciate this is part of the dilemma—this cannot be written in a way that takes the pressure off the provider, who shrugs their shoulders and says, 'I couldn't care less.' There is a balance, and I refer the minister to the amendment to clause 50 of our bill last year, which will be put in and which will be supported by the Liberal Party this time. It will still give protection to the Ombudsman's report, but provide extra procedures to ensure that there is satisfactory protection for the provider, as well as for the complainant.

I draw the attention of the house to some of the issues under clause 50 of the South Australian Health Complaints Bill 2001, which provides:

> The commissioner may prepare his or her report or findings or conclusions at any time during an investigation. If, at the conclusion of the investigation, the commissioner decides that a complaint against a health service provider is justified, but appears to be incapable of being resolved—

which is exactly what is dealt with here in clause 52—

> the commissioner may provide to the health service provider a notice of recommended action.

That is exactly what is covered under clause 52. I am not trying to water that down. It then states what the notice must set out, including the particulars of the complaint; the reasons for making the decision referred to in subclause (2); and any action the commissioner considers the health service provider ought to take. The clause continues:

> If the provider is a registered health service provider, the commissioner must provide a copy of the notice to the relevant registration authority. The commissioner must then allow the health service provider and the relevant registration authority at least 28 days to make representation in relation to that matter.

The important issue is that the commissioner must, before publishing a report under subclause (7), furnish a draft of the report to the health service provider and the minister is provided with that—I acknowledge that, and I want to be absolutely fair here—under clause 52(3). In fact, a longer period is allowed than I allowed in the bill last year. I think the longer period of 45 days should be 45 working days, in case someone is away on holiday. I would urge the minister to consider including 'working days' in the light of that.

I have no complaints about the process in terms of clause 52, subsections (1), (2) and (3), although I think the wording is more comprehensive in the bill that we introduced last year. However, I am concerned that, if there is something in the report that is based on evidence given by a complainant, and the provider has had no right whatsoever to cross-examine and challenge the evidence given by the complainant, natural justice has not been done, and the late Dame Roma Mitchell would be the first to argue that case very strongly.

In fact, I can recall that something went before Dame Roma and that right of reply had not been given: there were no, what one would describe as, rules of evidence. I therefore included an extra clause, which provided that a private health provider named in a report of the commissioner may appeal to the Administrative and Disciplinary Division of the District Court against any part of the contents of the report that relates to the provider. That then gives legitimate protection in terms of natural justice and rules of evidence and, on behalf of the Liberal Party, I will be moving an amendment to ensure that that provision is included.

I stress that we are not trying to water down the right of a commissioner legitimately to make a report: we want to ensure that the commissioner, if he has made a report, has got it right and that there is natural justice for both parties involved, and I see that as a very significant issue. If that is not right, I believe there is a fundamental injustice in other parts of the bill. I know that, as she is a lawyer, the member for Heysen will take up this issue in more detail, but under clause 43, if one party has the right to have a lawyer, or to be represented, then both parties have a right to be represented. At present that equal right is not there. Clause 43(1) provides:

> Subject to subsection (2), a person required to appear or to produce documents under this part may be assisted or represented by another person.

Subclause (2) provides:

> The HCS Ombudsman may determine whether a person to whom an investigation relates [that is a provider] may have legal or other representation during the conduct of an investigation or proceedings relating to an investigation.

If it is good enough for one party to have representation, it is good enough for the other party to have representation. Again, that is what I would describe as natural justice to both parties involved, and therefore we will be moving an amendment. There are also other provisions in terms of clause 45, and I will leave it to the member for Heysen, who has worked very closely with me on this bill (as have some of the other members of the party), to cover that in more detail, but it is a very important and fundamental issue.

The next point I wish to pick up relates to the level of immunity of the Ombudsman. Immunity should be there if in fact that right of natural justice is there. I think the immunity clause should be strengthened to ensure that the Ombudsman is acting with due care. I know that some of those words are covered at present, but I believe that area can and should be strengthened and I will be moving amendments to achieve that.

The next issue with which I wish to deal is not covered in the bill at all, that is, section 64D of the South Australian Health Commission Act 1976. The bill is silent on this issue. Section 64D allows some very confidential information to be collected about health providers within South Australia, and I think I am right in saying that not even registration boards are allowed access to that information. Having been minister, I can say that if the government does not protect section 64D, it will start to break down the reporting system that has otherwise been honoured to the highest extent possible within the medical profession. Under section 64D, relevant information about health providers should not be subject to scrutiny except by the Health Commission itself, the minister and the appropriate authorities under the aegis of the Health Commission.

I am happy to discuss that further with the minister, but it is a serious issue indeed. I am one of those people who would fight to the nth degree to ensure that we never have another Bristol style case in South Australia. That places enormous obligations on the boards of public hospitals, private hospitals and any body corporate that is providing services, particularly in the health area. It is the health area in which this becomes most important, because there you are looking at peer judgments and peer performance. My view

is that, if you do not give protection to section 64D under the Health Commission Act, you will break down that peer review and peer reporting system that has existed and worked very effectively indeed, I can tell you, in South Australia.

I will not give examples, but I know of specific cases where specialists who are well established in their careers, because of information collected under that section, have been forced to carry out procedures only under the supervision of another qualified specialist for a period of two years. I think that highlights the extent to which we have maintained the highest possible standards here in South Australia.

I am happy to have even a private discussion with the minister about why I put so much importance on that section, which is not protected under this legislation. It would give the Ombudsman access to it, and I believe that giving the Ombudsman access to that information will water down the effectiveness of the provision under the Health Commission Act and, ultimately, you will end up with the Bristol style cases, because there will not be the true peer review that has applied and should continue to apply in South Australia. In saying that, I want to maintain high standards of governance in terms of our health services. Unless someone has been through it and seen examples of cases, I think it is very hard to comprehend exactly why that protection should be there.

I move to another very substantial area, and that is clause 72. To a certain extent, I guess we are looking at setting up powers of an ombudsman which relate to, and use as an example, many of the powers of the state Ombudsman. First, I think that clause 72 is poorly written, because it requires any designated health provider to keep a complete record of any complaints received and to lodge those complaints on an annual basis with the Ombudsman. The way it is drafted at present, a designated health or community service provider means 'a health or community service provider'—in other words, absolutely everyone, down to the boy scouts and all—'or a health or community service provider of a class designated by the Ombudsman from time to time by notice in the *Gazette* for the purpose of this section'. That is throwing a net over every single organisation and every single complaint they receive, and there is no disputing that. I am glad to hear that the minister has interjected across the house that amendments are coming.

The Hon. L. Stevens: They're tabled.

The Hon. DEAN BROWN: I realise they are tabled and that we will be dealing with them. I believe that we should go back to the basic principle of how the Ombudsman works. When state government departments put in annual reports they are not required to report to parliament on every single complaint lodged against that department, but the Ombudsman puts in an annual report to the parliament and in that report he lists by agency the number of complaints received, the nature of those complaints and, if they are serious enough, details about the complaints, and that is how it should be. The obligation should be back on the Ombudsman to report on the providers about which complaints have been received and, where it is serious enough, even to detail that. To turn that obligation around and put it on to the providers is an outrageous provision, and the Liberal Party will oppose it very strongly indeed.

I will give an example. For instance, as would probably happen on a regular basis, say that someone goes into a GP's clinic and says, 'Look; I'm sure my appointment was for 10 o'clock today and you tell me that it's for 10 o'clock tomorrow.' Somehow there has been a mix-up between the two. That is a potential complaint under this bill, and that would have to be recorded. It may be that the person who lodged the complaint just has a very bad memory or may not have properly recorded the appointment. I guess it has happened to all of us, but that sort of complaint should not have to be recorded. This measure covers all complaints of which the Ombudsman notifies the health complaints provider under this action or complaints received by the health or community service provider during the financial year. If you go into a large doctor's surgery, you will find that they receive several complaints varying in nature every day.

This covers not just complaints about medical treatment: do not forget that by definition the bill covers any administrative action, so therefore a foul-up on an appointment or a doctor being half an hour late because they have been in a hospital treating someone would be grounds for a complaint which would have to be recorded and which then would have to be notified to the Ombudsman. You would end up with volumes and volumes of recording. You would find that additional staff would have to record it. The trouble is that no-one will bother to record anything; it is such a ludicrous provision.

I am not opposed to the Ombudsman's reporting to the parliament in terms of what complaints have been received and from which classes of providers and, where they are serious cases indeed, the Ombudsman has the power to report that publicly. I have no complaint about that at all, but the obligation must be back on the Ombudsman; it should not be on the provider. We will be moving to delete clause 72, as it is a very unfair provision indeed. There are a number of issues and I will not go through all of them but, for instance, I think there needs to be a review of this legislation after a two year period, simply so we can do the fine tuning and adjustment

I know that this legislation has been developed and enlarged as it has gone around Australia. New South Wales has a health complaints area. I think the most recent legislation is the Northern Territory's, and that has gone from Health to Aged Community Services. We now have this legislation which throws the net at least as wide as the Northern Territory's provisions and, in some areas, it may be wider. Therefore, I think that, quite naturally, there ought to be a provision for a review after a two year period. I believe that review is absolutely essential.

My colleagues and I also feel strongly about a couple of other issues. The first is whether the name 'Ombudsman' should be devalued to the extent that it is used as widely as it is within our community. The legislation I brought in last year referred to a commissioner. I will be moving amendments on behalf of the Liberal Party to change 'Health and Community Services Ombudsman' to 'Health and Community Services Commissioner'. I highlight a provision in another act to the minister because it shows how inconsistent the government is. The Ombudsman (Honesty and Accountability in Government) Amendment Bill 2002, introduced by this government on 8 May, states:

> Use of word 'Ombudsman' by agencies to which the act applies in describing internal reviews is prohibited. An agency to which this act applies must not use the word 'Ombudsman' in describing a process or procedure by which the agency investigates and resolves complaints against the agency, or in describing a person responsible for carrying out such a process or procedure.

This is the government's so-called honesty and accountability bill which puts down one standard, yet legislation introduced a few months later (which we are now debating) cuts right across that principle. I stress the words 'investigates and

resolves complaints against the agency'. I believe that the case for the Liberal Party's amendment of turning it from an ombudsman's act back to a commissioner's is established by the government's own legislation introduced earlier this year. The other issue I wish to deal with is the broad administrative issue of where and how this commissioner (or ombudsman) is established. At this stage, I will continue to use the expression 'ombudsman' because that is how it is used in the bill but, as I have said, we will be moving to change 'Health and Community Services Ombudsman' to 'Health and Community Services Commissioner'.

I had numerous discussions with the Ombudsman and cabinet over this issue. When I was minister I developed a number of different models, and I am firmly of the view that, considering that the bulk of the work that would be carried out would be work previously carried out by the Ombudsman, it should sit within the Ombudsman's office and the Ombudsman would take on the role of commissioner. That will save the government very significant costs indeed. I can say that, because we did some modelling on it in terms of what those savings would be. You do not have to duplicate so many of the various services that you would otherwise have to do if you tried to establish a separate office. I say this because, in terms of this legislation, it is absolutely fundamental that we minimise the cost and maximise the experience and the standing of the Ombudsman in this state, and that we bring this role under the Ombudsman by having the Health and Community Services Ombudsman sit within the office of the state Ombudsman.

The state Ombudsman would take on the role of the Health and Community Services Ombudsman, obviously with a significant increase in staff to deal with that specialist section. It would substantially reduce the budget, and I can say that from my knowledge of the various budgets that were worked through by the former government in preparing the previous legislation.

That is important, because it then comes down to the issue of who should pay for this. I stress the fact that, although my bill of last year had a specific provision that would allow a levy to be imposed on a registered provider, it horrifies me that the minister has put in the bill a provision to impose a differential fee (that is under clause 80). We have now broadened the whole scope of the legislation to include not only health, which was previously going to relate to the health professions, but also to cover aged care, aged accommodation and community services in a very broad sense.

Although clause 80 refers to registered service providers, we know exactly that the only registered service providers who can have a fee or levy imposed upon them are those under the specific acts already established. That includes chiropractors, chiropodists, dentists, medical practitioners, nurses, occupational therapists, optometrists, pharmacists, physiotherapists and psychologists. They are the only ones who can have a fee imposed upon them, and it is quite unfair to take what was previously a much narrower area and suddenly widen it to cover a whole lot of areas and expect those same people to pay for it. I had already come to the conclusion when I was minister that I would not impose a levy.

The Hon. L. Stevens: Why didn't you say so at the time?

The Hon. DEAN BROWN: We didn't get around to debating the legislation in the parliament. Our modelling allowed us to use the money that is paid by the Department of Human Services to the Ombudsman's office to cover existing complaints and we would put an additional amount into the budget from the department. As a result, it would have been fully covered by government, and I believe it should be. Therefore, on behalf of the Liberal Party I intend to move to delete any right to impose a fee, which is effectively another levy, and that is counter to election promises made by the Labor Party. Here is yet another new levy that it wants to impose on people, and a differential levy at that. Nothing has been said about how or on what basis it will be differentiated between the professions, but one's imagination would not have to run too wild to understand the basis on which it may be done. So, I will oppose that very strongly.

Overall, I want to make sure that we get legislation through. The minister has about four pages of amendments, and they are very detailed. I have been through those amendments and I would say that I will support a majority of them. We have at least nine pages of amendments, some of which have just now been finalised, because they were raised by parties with which we had discussions this afternoon. One has to appreciate that the government amendments were officially laid on the table on Monday night—

The Hon. L. Stevens interjecting:

The Hon. DEAN BROWN: Yes—Monday night, and I promised that I would try to get a copy of our amendments to the minister on Tuesday but, in fact, I could not even sit down and speak to some of the groups involved until Tuesday night. I think the minister understands the circumstances of Monday. I met with groups on Monday night, Tuesday night and this afternoon, and here we are on Wednesday night debating the legislation. I think the fact that we have got to within 99 per cent of finalising the amendments highlights the extent to which every effort has been made to ensure that we meet the undertaking to provide them. I have asked, in fact, for the minister to be given a copy of the amendments so far drafted and, as I said, I think it covers at least 99 per cent of where we are heading.

I support the legislation in principle. I will support it through the second reading. Extensive amendments will be moved. I have suggested a process in terms of how I am willing to have this matter handled so that we can try to resolve it as quickly and efficiently as possible. I think that we can save this parliament an enormous amount of time if we sit around a table and deal with this matter in the way in which I have seen various amendments dealt with in deadlock conferences between the two houses. I think it would be a mark of the maturity of this house if, in fact, we could sit down and do that, and include the Independents, the government and the opposition.

The Hon. L. Stevens interjecting:

The Hon. DEAN BROWN: I was getting very close to being able to do that last year, because we had got within one week of debating the bill. I indicate that we are willing to go through that process. I have discussed this matter with the Liberal leader, and he supports that process. So, I make an offer to the minister that, rather than go through a very detailed debate—which will be very complex, because there will be amendments to amendments to amendments—in the committee stage, if we sit down and do that, perhaps in the three weeks after the recess, we can come back to the house and probably eliminate at least 60 or 70 per cent of the amendments and have agreement. I think that, if we can do that, it will indeed be an outstanding achievement.

A number of organisations have been in touch with me. I will not name them all but, for instance, the Health Rights and Community Action group has written to me and asked us to support the legislation. When I considered most of the

issues that it raised, I thought they were, indeed, appropriate issues. I fully respect what it is trying to achieve. Equally, the Consumer Association wants to achieve certain things, and I respect and appreciate the support that it has given. I have talked to the registration boards, the health providers and the aged care providers. They have considerable concerns about certain areas. For instance, the bill before the house refers to nursing homes. We know darn well that nursing homes no longer exist: they are now aged care facilities, low care and high care. I note that there is an amendment relating to that issue. I am delighted to see that, because otherwise I would have moved it. There are many issues such as that where I think there has been considerable community input into the legislation. I think it is, therefore, to the benefit of all of us that we sit down now and make sure that we resolve it as well as we can, with all the parties having the right, obviously, when we come back to the parliament, to argue their individual cases. I support the second reading of this bill.

Mr O'BRIEN secured the adjournment of the debate.

ADJOURNMENT

At 10.46 p.m. the house adjourned until Thursday 24 October at 10.30 a.m.