LEGISLATIVE COUNCIL

Tuesday 26 November 2002

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

PAPERS TABLED

The following papers were laid on the table:
By the President—

Reports, 2001-2002—
City of Prospect
City of Whyalla
District Council of Alexandrina
District Council of Barossa
District Council of Cleve
District Council of Grant

By the Minister for Agriculture, Food and Fisheries (Hon. P. Holloway)—

Reports, 2001-02—
Capital City Committee—Adelaide
Code Registrar
Dried Fruits Board of South Australia
South Australian Independent Pricing and Access Regulator
Technical Regulator (Electricity)
Technical Regulator (Gas)

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Reports, 2001-02—
Country Arts SA
Local Government Superannuation Board
Outback Areas Community Development Trust
President of the Industrial Relations Commission and Senior Judge of the Industrial Relations Court
Public and Environmental Health Council
South Australian Multicultural and Ethnic Affairs Commission
State Theatre Company of South Australia
The Radiation and Control Act 1982
Regulations under the following Acts—
Food Act 2001—Food Business
Road Traffic Act 1961—Road Closure.

WATER SUPPLY, ERNABELLA

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I seek leave to make a ministerial statement.

Leave granted.

The Hon. T.G. ROBERTS: The issue of water supply to the Ernabella community in the Anangu Pitjantjatjara lands was raised last week by way of a question and reply. I was contacted on the morning of Thursday 21 November 2002 by the office of the member for Giles, which had been contacted by a doctor in the Ernabella community. There was concern that the water supply in the community had been put at risk by a number of pump failures. I immediately contacted the Department of State Aboriginal Affairs (DOSAA) to investigate and take action in relation to this matter. I am informed that on Wednesday 20 November 2002 the Department of State Aboriginal Affairs was made aware of problems being experienced with water pumps in the Ernabella community.

It was not until the next morning, 21 November 2002, when the full details had become available, that it was realised that three of the six bores were out of action as a result of a lightning strike in the area. I was informed that this meant that the capacity for water flow was approximately 130 kilolitres a day. This volume of water is adequate to maintain water for drinking and other essential functions such as running the clinic.

Officers from DOSAA immediately made arrangements for replacement motors to be purchased and moved to Ernabella. The motors were express transported to Alice Springs and then transported by road to Kulgera on the morning of Friday 22 November 2002 where they were picked up by Mr Dudley Dagg, the Essential Services Officer for Ernabella, to be taken to Ernabella for installation. By 9 a.m. Saturday 23 November 2002, the replacement motors had been installed and recommissioned and half a tank of water had been produced.

Officers within DOSAA reacted swiftly to the issue and ensured that replacement motors were operational in less than 48 hours from notification of the extent of the problem. Given the distance and the logistics of organising and transporting materials such as this to remote communities, the department should be commended for its work.

With regard to the issue of the Ernabella power station, it should be noted that a new generator was installed in March 2001. The power station is currently working at maximum capacity and is to be replaced by a new central power station when operational. In the meantime, a new separate generator set is to be installed this weekend to power the main pump at the bore at Ernabella. In 2002-03, a budget of $583 000 was provided for the upgrading of power supplies in the AP lands, in addition to the government's ongoing commitment to the new central power station, which includes the sun farm producer of solar power.

LEGISLATIVE REVIEW COMMITTEE

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That, pursuant to section 21(3) of the Parliamentary Committees Act 1991, the Hon. J.M. Gazzola be appointed to the committee in place of the Hon. C. Zollo, who has resigned.

Motion carried.

QUESTION TIME

GOVERNMENT CONSULTANTS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the minister representing the Minister for Administrative Services a question on the subject of consultancies.

Leave granted.

The Hon. R.I. LUCAS: In the annual report for the Minister for Administrative Services, the administrative services department refers to a consultancy by Lizard Drinking Superior Business Solutions which had undertaken a consultancy on the Information Economy Policy Office. I am advised that very soon after the new government took office this particular consultancy, Lizard Drinking Superior Business Solutions, was appointed to undertake a review of the Information Economy Policy Office. I am also advised that it may well be that, having undertaken the first consultancy, this particular consultancy may be currently being re-employed undertaking a similar task on the Information Economy Policy Office. My questions are:

1. Did the minister and the department follow all required Treasurer's Instructions and other government guidelines as

apply to the appointment of consultants in the original appointment of Lizard Drinking Superior Business Solutions in March this year to undertake a consultancy on the review of the Information Economy Policy Office?

2. Did Lizard Drinking Superior Business Solutions produce a report to the minister? If so, will the minister make available a copy of that report? What were the recommendations of that review, and were they agreed by the minister and implemented?

3. Has Lizard Drinking Superior Business Solutions again been employed to conduct any further work in relation to the operations of the Information Economy Policy Office? If so, what is the nature of the further consultancy? Were all the appropriate guidelines, including Treasurer's instructions, followed by the minister and the department in any subsequent appointment?

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

PRISONS, DRUG USE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about drug use in prisons.

Leave granted.

The Hon. R.D. LAWSON: On 22 November, Leon Byner (5AA presenter) read a letter from Ms Jan McMahon of the Public Service Association as follows:

> A trial was conducted over two years ago at the Adelaide Women's Prison where, if a prisoner was found with or tested positive to cannabis: a penalty of 15 days non-contact visits excluding children in lieu of the original 30 days. There is then a 10-week window period from the first positive test to when another one can be undertaken.

The letter goes on:

> For female prisoners housed at the Living Skills Unit, a low security section of the institution where prisoners partake in the external programs, home visits, etc., if a prisoner is caught with or tested positive to cannabis, they remain at the Living Skills Unit on a basic regimen, which entails remaining in their cottages during evening activities and the loss of evening visits for two nights during the week but retain their weekend visits. Previous penalties would have returned the prisoner to the main higher security section of the prison.
>
> The PSA was informed by the department that this trial was successful. However, information from staff indicates that the reduction of penalties for cannabis during the trial did not indicate a reduction in the use of harder illicit drugs: in fact, during this period of time there was an increase in the use of all drugs and an increase in the use of syringes.

Ms McMahon said to Leon Byner in an earlier interview that the Department of Correctional Services has changed the reporting system in relation to drug use. She stated that, if you have a minor incident and marijuana is used for personal use, they are now saying in prison that it does not count as drug use. This is departmental policy and a significant change. As Ms McMahon says, this is a change to the way in which drug incidents are reported in prison. When asked about this same matter on air, the minister said that he would ask the departmental head for a report on this subject. My questions are:

1. Will the minister confirm that there has been a change in departmental policy?

2. Will he advise the council when that change was made; was his office made aware of the change; and does he support it?

The Hon. T.G. ROBERTS (Minister for Correctional Services): The question of drugs in the community and how we deal with them as a society in trying to prevent supply and minimise exposure, particularly to young people, is an important matter that was addressed by this government in the Drugs Summit. A number of recommendations have been made in relation to how government should deal with many aspects of drug use and abuse. In particular, the question relating—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Many recommendations are coming out of it. There is one response in relation to hydroponically grown cannabis—

Members interjecting:

The PRESIDENT: Order! I am having trouble hearing the minister.

The Hon. T.G. ROBERTS: If the honourable member would listen long enough, he might be educated as to what the government is trying to do. The answers to many of the questions concerning the use and abuse of recreational drugs within the community is not something that—

The Hon. R.I. Lucas: The question is about prisons.

The Hon. T.G. ROBERTS: I am getting to that. The honourable member—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: —interjected by way of a statement. The reason why many people are in prisons is as a result of the problems associated with their use and abuse of drugs within the community at large. Approximately 70 per cent of inmates within prisons have either been affected by drugs while breaking the law or are deemed to have been drug users at some point in their life. It is one of the major concerns we have about the many people entering our prisons. They may be law breakers, they may be criminals, but a high percentage of drug users find their way into the prison system. Many have been abused as children. In fact, child sexual abuse and inter family violence does also make for a predisposition to entry into gaols. Again, lack of education, under achieving and poor literacy are all problems associated with people in prisons—

The Hon. A.J. Redford: Are you trying to tell us something we don't already know?

The Hon. T.G. ROBERTS: The honourable member asked a very important question—I acknowledge that—and it deserves an answer.

The Hon. T.G. Cameron: Yes, but you acknowledge everything as being very important.

The Hon. T.G. ROBERTS: I do, and I treat all my constituents—

The PRESIDENT: Order! If the minister addressed his answer through the chair we would get through much quicker.

The Hon. T.G. ROBERTS: —and members in this place with the respect that they deserve. Drugs are not allowed in prisons, and suggestions to the contrary are untrue: we do not allow drugs to enter prisons. The policy of the Department of Correctional Services is for differential sanctions, depending on the drug that is used and the harm caused by that drug. For instance, a prisoner using heroin is subjected to harsher sanctions than a prisoner using marijuana, as is the case outside prison. This policy of differential sanctions was introduced in 1998 under the previous government. Although drug trafficking to prisoners is a serious problem, last financial year the number of incidents fell by 164. We are managing a policy that has been—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: We have not changed the guidelines. Bipartisanship has been part of the prison management system within South Australia for a long period. Other states have a bipartisan approach to prison management but there is also a way in which each opposition—

The Hon. T.G. Cameron: He has been speaking for 10 minutes and he still hasn't answered the question.

The Hon. R.I. Lucas: He hasn't even addressed it.

The Hon. T.G. ROBERTS: Well, if the interjections stop, Mr President, I might be able to get on with my reply.

The PRESIDENT: Order! I think, minister, if you give me the answer it will be quicker.

Members interjecting:

The Hon. T.G. ROBERTS: Mr President, protect me from all these interjections. All other states have the same problems as South Australia in dealing with drugs in prisons. It is not something that is new or unique in relation to how we deal with our problems in this state. This government is committed to a strategy in accord with the deliberations of the recently held Drugs Summit for the broad community, and prison management is committed to applying community standards to those regimes within the prisons. One of the accusations is that the government is applying a different set of standards within the prisons than outside the prisons within the broader community.

The Hon. T.G. Cameron: Who made that accusation?

The Hon. T.G. ROBERTS: That is the implied position being put by one of the respondents to a request by Leon Byner to a series of interviews.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! This is not a debating club.

The Hon. T.G. ROBERTS: Are they making that accusation too? The DCS maintains an active program of cell searching but does not rely totally on this essential reactive approach. In recent years, the DCS Intelligence Investigations Unit (IIU) has been established under national Tough on Drugs funding. The IIU conducts a range of intelligence operations, many in conjunction with SAPOL. In 2001-02, 385 visitors were banned as a result of IIU operations. Most of those bans resulted from intercepted attempts to introduce drugs into the state's prisons. That does not mean to say that all drugs have been kept out of the prisons, because it is a very difficult job to do that. However, one of the accusations is that attempts being made to keep drugs out of prisons by the current administration or regime in the prison system are not working properly.

DCS has recently concluded a specific intelligence based operation directed at particular aspects of prison security. That included a program of targeted cell searches across the state's prisons. DCS also recently spent considerable time and effort upgrading the skills and effectiveness of the DCS dog squad. The DCS annual report noted that, in 2001-02, the dog squad carried out 3 397 drug searches in 458 areas. DCS has in place sensible drug and alcohol regimes based on sound public health policy, expert clinical advice and extensive experience in correctional practice. Its foundation is based on the commonwealth and state government endorsed principles of harm minimisation. The DCS approach is consistent with that of other Australian correctional jurisdictions—

The Hon. Caroline Schaefer: We asked for the summary, not the whole policy.

The Hon. T.G. ROBERTS: What happens here is that, if you don't answer the question in a detailed way, you end up with five supplementary questions and a whole series of questions asked by other members. As I said, the DCS approach is consistent with that of other Australian correctional jurisdictions, World Health Organisation guidelines and both the commonwealth and South Australian government drug strategies. As to the specific questions about changes to the drug reporting system, that is not something that this government has countenanced and we have a policy that we would expect to be administered within the prison system. My understanding of that regime of enforcement, as I said, is that the tolerance level in prisons is set at the same standard as those in the broader and general community. We all know—

The Hon. A.J. Redford: The policy hasn't changed. You've taken 15 minutes to tell us that.

The Hon. T.G. ROBERTS: If I told you that I would have had 15 supplementaries.

The Hon. A.J. Redford: No you wouldn't.

The Hon. T.G. ROBERTS: I have been here quite a long time and I know how it all works when you are in opposition. When you organise your press releases with Leon Byner on talkback radio—I am not accusing the shadow minister of doing that, but I know of others who are in constant contact with talkback radio announcers—you have to be careful about your information.

You certainly must give a full and detailed report, otherwise you will be answering the questions of journalists who do not do their investigatory work themselves but who rely on those people who talk to them constantly. The issue of security in prisons and trying to make sure that drugs stay out of prisons is very difficult, but we must be vigilant. I suspect that, ultimately, prison management regimes will change as community standards change. Certainly, we must look at policies in relation to the release of prisoners and the entry of prisoners who have drug and alcohol problems.

The Hon. R.D. LAWSON: I have a supplementary question. Since the minister's appointment, has there been a change in the policy relating to the reporting of marijuana use in prisons and the sanctions relating to such use?

The Hon. T.G. ROBERTS: I am unaware of any changes to any policies other than the policies as stated in my reply to the honourable member.

DRUGS

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement on hydroponically grown cannabis made earlier today in another place by the Premier, together with a copy of the National Competition Policy Review Proposal to license hydroponic equipment retailers.

YELLOWTAIL KINGFISH

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about yellowtail kingfish.

Leave granted.

The Hon. CAROLINE SCHAEFER: Over the past few months—and particularly over the past few days—increasing concerns have been voiced by both recreational and professional fishers in Spencer Gulf, and today by divers and those interested in the giant cuttlefish grounds outside Whyalla. As members would know, that is the only giant cuttlefish

spawning ground in the world and, as such, has considerable environmental interest. Concerns have been raised that yellowtail kingfish appear to be in plague proportions in Spencer Gulf. There are two schools of thought: first, that since these fish occur naturally in the gulf they have simply bred up to plague proportions; and, secondly, that they have escaped from a fish farm and are growing naturally in the gulf.

Since these fish appear to swim up to boats expecting to be fed, one would assume that the second theory is, perhaps, more accurate. The concern that has been raised is that there is a bag limit—and a strict bag limit—on the catching of yellowtail kingfish. I have been reliably informed that, because of subspecies, it is possible to test these fish to determine from which farm they escaped. Naturally, I have not been told from which fish farm they came but, certainly, I have been told—very firmly—from which farms they did not come. I believe that the minister's department has, in fact, undertaken these tests. My questions to the minister are:

1. If that is the case, will action be taken against the fish farmer responsible to ensure that such escapes do not occur again?

2. In order to alleviate what is serious environmental stress in Upper Spencer Gulf, will he temporarily lift the bag limit on yellowtail kingfish in order to return the species to viable numbers?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Certainly, this issue was raised earlier this year—some months ago—when there had been reports that yellowtail kingfish had escaped. I understand that a shark ripped through a net and some kingfish had escaped at that time. I remember announcing at the time that I would refer the matter to the Aquaculture Advisory Committee—which is an advisory committee to the government in relation to these matters—to consider this issue of kingfish escapes and, indeed, that has been done.

I believe that Aquaculture SA has taken some preliminary action to ensure that kingfish operators are aware of the need to report should there be any escapes of kingfish from their farms, and the Aquaculture Advisory Committee is currently looking at this issue to see whether there is any way in which practices can be improved to ensure that there are no escapes of kingfish. The honourable member mentioned some reports, which I heard earlier this year, that kingfish are supposedly swimming up to boats and, I assume, expecting to be fed. Some of the concerns expressed by fishers are that these kingfish will actually attack cuttlefish or deplete smaller species such as whiting, garfish and so on in the gulf, but, if they are going up to boats seeking to be fed, the advice that we have is that it is highly unlikely that they would survive for long in the wild because they have been used to being fed artificially.

As the honourable member said in her question, there are several schools of thought. It may well be that whilst there have been some escapes—that is undeniable; it was confirmed at the time (some months ago)—it also appears that there may be an increase in the numbers of yellowtail kingfish due to seasonal factors. People have written to me seeking changes in the catch limits for yellowtail kingfish. I will look at that issue and see whether that is warranted, although it is my understanding that these fish are fairly difficult to catch in the wild. What I can say is that the yellowtail kingfish is a very important aquaculture species for this state. Indeed, in many ways this species is one of the fastest growth areas in the aquaculture industry.

It is clear that the matter of the escapes needs to be addressed, and that is why the Aquaculture Advisory Committee is looking into this very subject. It should be appreciated that kingfish are becoming one of the most rapidly growing export earners for this state, and we should be mindful of the great benefit that our community as a whole could derive from this industry. If some of these fishermen can demonstrate to me that they are taking their bag limit of kingfish every day and feel there is a need to catch more, I am prepared to look at the issue but, at this stage, I think it is best that we wait until the Aquaculture Advisory Committee completes its report.

Whilst addressing the subject of yellowtail kingfish, I will also mention that, today, the government announced its decision in relation to dealing with the situation at Sceale Bay where a yellowtail kingfish farm was to be located near a seal colony. The government has come to an arrangement with the applicant for this kingfish farm, Hamachi Pty Ltd, to move to an alternative site, possibly at Ceduna, where there will not be the problem of interaction with seals. So, as well as looking at the problem of sharks attacking these fish and ripping nets, we also need to look at the problem of interaction with other marine animals such as seals. This issue will be looked at by a committee which cabinet yesterday decided to set up. The Aquaculture Advisory Committee, in conjunction with DEH, will also look at how we can minimise interaction with seals.

ACCENT ON AQUACULTURE PROJECT

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the Accent on Aquaculture project.

Leave granted.

The Hon. R.K. SNEATH: I understand the minister recently launched the Accent on Aquaculture project, a joint project initiated by the Wattle Range Council and the Limestone Coast Regional Development Board. The aim of this project is to encourage and facilitate aquaculture industry development and consequent employment growth in Limestone Coast regional areas by ensuring that potential and existing industry participants have access to thoroughly researched information to support their investment decisions. My question to the minister is: how does the information gathered in the Accent on Aquaculture project assist in the process of aquaculture approvals?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for his question. Indeed, a report has been issued about aquaculture on the Limestone Coast. That project has been a partnership not just of the particular council and the state government but also the commonwealth government, which has put significant resources into this program. The government welcomes investment in new enterprises and the expansion of existing businesses, and aquaculture is no exception, as I am sure everyone would be aware. Primary Industries and Resources SA is keen to ensure that development is sustainable and takes into account the social and environmental values. These values are reflected in the Aquaculture Act and other legislation that manages protection of the state's natural resources.

When planning for aquaculture development, a number of aspects must be taken into consideration, and the balance between site selection, species to be farmed and the unique

characteristics of the site or region are all critical elements for a successful aquaculture industry. The government remains committed to an integrated licensing and leasing framework which is the basis for the new Aquaculture Act, providing confidence and certainty for the community and for the industry. To this end, PIRSA Aquaculture has committed significant resources towards researching the environmental, economic and social impacts of aquaculture in various regions across the state and towards developing decision-making tools that will deliver consistency and transparency in that process. A large component of this work has been completed for the South-East region—the Limestone Coast, as that region is now addressing itself in terms of its promotion. However, further investigations are currently taking place which should allow the government to progress development of a zone policy in the New Year.

The information compiled as a result of the Accent on Aquaculture project complements the work being undertaken by my department and provides more detailed information on the infrastructure required for aquaculture businesses, including electricity, water, gas and telecommunications. This is certainly a project that is worth supporting, and I am pleased that PIRSA Aquaculture was able to assist. I believe an amount in the order of $27 000 was provided by the state government and that $30 000 was provided by the commonwealth government.

Although the business turnover generated by aquaculture in the Limestone Coast region was estimated at $3 million in 2000-01, flow-ons to the manufacturing, trade, property and business service sectors added another $3.7 million to the regional economy. Certainly, potential exists for these values to grow as the industry develops further and advances are made in value-adding and technology. It is also important to be aware that, at this stage, my department's zone policies will address marine aquaculture. However, the Accent on Aquaculture project looks at the potential for both marine and land-based aquaculture, and the opportunities for diversification of existing businesses to incorporate aquaculture into their activities.

In conclusion, the findings of the Accent on Aquaculture project, when linked with other recent information, will provide a sound basis from which industry, local government and the state government can plan for the future of aquaculture in the Limestone Coast region of this state.

MINISTERIAL CONFLICT OF INTEREST

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Premier, a question about ministerial conflict of interest.

Leave granted.

The Hon. M.J. ELLIOTT: This morning on the Matthew Abraham and David Bevan program on radio station 5AN, issues of a potential conflict of interest of a former premier were raised. I am in possession of a copy of a memorandum of transfer from the lands titles registration office dated 24 July 2001 which indicates that the former premier, John Wayne Olsen, purchased a property at Holdfast Shores from the Minister for Government Enterprises for $485 000.

I understand that the property may have been sold in the past month for a significantly larger sum—I believe $685 000 is the claimed figure. As the property was purchased after June last year, it does not appear in the MPs' register of interests for 2001 and, since John Olsen left the parliament before June 2002, it does not appear in this year's register of interests, either. Clearly, a number of conflict of interests may occur in these transactions. Was the then premier in a favourable position to know or to be aware of when the properties were coming onto the market?

The Hon. R.I. Lucas: There was an advertisement in the newspaper.

The Hon. M.J. ELLIOTT: Do you want more explained about that? Just wait patiently.

The Hon. R.I. Lucas: There was an advertisement in the newspaper.

The Hon. M.J. ELLIOTT: And who arranged for it to go in there and under what circumstances? As premier, he could have influence over decisions which might impact on the future value of the property in a very significant way. I ask the Leader of the Government:

1. Were cabinet guidelines in place last July to cover the above circumstances?
2. If so, were the guidelines adhered to?
3. Do current guidelines cover such circumstances?
4. Will the government change the register of interests guidelines to ensure that such events in the future are guaranteed to become public knowledge?
5. Will he investigate whether any other members of the former government also—

Members interjecting:

The Hon. M.J. ELLIOTT: —it is no wonder you guys got dumped at the last election: you're a crook bunch—made purchases from the Minister for Government Enterprises in similar circumstances?

6. What price was the property in question sold for this year?
7. Can he report to this place the full circumstances in relation to the sale, particularly with respect to the arrangements for it going up for sale?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to the Premier for his response.

URBAN STORMWATER

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: —the Minister for Environment and Conservation, a question about urban stormwater.

Members interjecting:

The PRESIDENT: Order! The council will come to order. I cannot hear the Hon. Mr Cameron.

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order, the Hon. Mr Elliott!

The Hon. T.G. CAMERON: Thank you for your protection, Mr President. The City of West Torrens has called on the state government to re-examine its attitude on the re-use of urban stormwater in light of the deteriorating nature of our future water situation. In a recent letter to the *Advertiser*, John Trainer, Mayor of the City of West Torrens, said:

> Three years ago, West Torrens council, in partnership with other western suburb councils and government water bodies, developed a professionally prepared report on saving some of the $120 million in waste water in stormwater that is discharged into the sea each year, which is replaced by pumping more water from a dying River Murray at great expense.

John Trainer went on to say:

> The report proposed a pipeline to deliver some of this non potable water back to western suburbs industries, parks, golf courses and recreational areas, including the Adelaide Parklands.

The proposal to re-use treated water from the Glenelg waste water treatment plant was rejected by SA Water and the previous Liberal government. Apparently, SA Water regarded the scheme as uncommercial. It did not want to sell re-used water at 55¢ per kilolitre when it can sell new water at 92¢ per kilolitre. This is a shallow vision and does not reflect sustainable water resource water management for our state, which is, arguably, our greatest problem. The government should immediately re-examine the—

The PRESIDENT: Order! I ask the Hon. Mr Cameron to wait for one minute; I am sorry to interrupt his flow. I am aware that a number of TV cameras are in the gallery. There are specific rules about filming within the chamber: you are not to film people unless they are on their feet or unless they are broad shots. I ask you to respect that; otherwise, the rules will be enforced.

The Hon. T.G. CAMERON: Thank you, Mr President. I do not think they are in here to film me; not about this question anyway. This is a shallow vision and does not reflect sustainable water resource management for our state. The government should immediately re-examine proposals for the re-use of urban stormwater, something which I think the Minister for Environment is currently looking at, although I would recommend a different course of action than the one he is currently considering. My questions are:

1. In light of the current drought and the deteriorating quantity and quality of the water available from the River Murray, will the government now re-examine the re-use of urban stormwater?

2. Is the government preparing a waste water management plan to set out a consistent framework for waste water management and re-use in South Australia? If so, when will this report be released?

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

MUSIC INDUSTRY

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Leader of the Government in the council, representing the Premier and the Minister for the Arts, a question about live music and Music House funding.

Leave granted.

The Hon. DIANA LAIDLAW: On Wednesday 23 October last, the Legislative Council passed Liberal amendments, which Labor alone opposed, to the Gaming Machines (Gaming Tax) Amendment Bill to provide, in part, that there be an extra $500 000 a year, through the Community Development Fund, for programs of benefit to live music in South Australia.

The next day, when the amended bill returned to the other place for consideration, the Treasurer, the Hon. Kevin Foley, did a 180 degree flip. Not only was he uncharacteristically enthusiastic about the extra expenditure and an arts related initiative but he even pre-empted the debate by stating as follows:

> I announce to the house today that it is the government's intention to provide a further $2.5 million of pokies tax revenue to the Sporting Grants Fund, to the Community Recreation Fund, and a half a million dollars to live music.

Three weeks later, however, on 19 November, when a related gaming machine bill, which had also been amended when in the Legislative Council, was in the other place, the Treasurer interjected regarding the extra funding, 'Not for live music, mate: I can tell you that.'

In the meantime, I highlight that the Leader of the Opposition wrote on 30 October to the Premier and Minister for the Arts seeking certain reassurances regarding the administration of the extra $500 000 a year for live music programs. These questions, as posed by the Hon. Mr Kerin, are even more pressing today in the light of the Treasurer's interjection on 19 November, the ministerial statement by the Minister Assisting the Premier in the Arts, John Hill, pulling the pin on Music House last week, and Mr Hill's failure last Friday night, when launching Music Business Adelaide at Music House, to make any reference at all to the extra $500 000 pokies funding for live music. I therefore ask the Premier and Minister for the Arts:

1. Will he guarantee that the government will provide the extra $500 000 per annum from gaming taxes for programs to benefit live music in South Australia in line with the vote of the majority of members of both houses of parliament, and as promised by the Treasurer on 24 October, notwithstanding his interjection in another place on 19 November?

2. Will he guarantee that the government will regard the allocation as new and additional funding for live, local music programs on top of current funding levels, and not as a replacement source of funding for current programs, or for the conduct of the annual WOMAD event?

3. Will he ensure that the extra funding does not remain with Treasury to administer but is transferred to Arts SA on an annual basis and dedicated to live music programs?

4. Will he ensure that representatives of live music in South Australia are engaged by Arts SA to determine the strategy and guidelines for the distribution of the new funding as voted by parliament?

5. With regard to these extra funds for live music—$500 000 per annum—is the Premier and Minister for the Arts prepared to offer Music House Inc. a loan to ensure that this unique facility does not close its doors immediately but can continue to trade and, in turn, realise its business plan objectives to operate as a commercially viable enterprise? If not, why not?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those detailed questions to the Premier, as Minister for the Arts, and bring back a response.

The Hon. A.J. REDFORD: As a supplementary question, will the minister provide us with a copy of the government's pre-election policy on live music and also a copy of its current policy concerning live music?

The Hon. P. HOLLOWAY: I will see what information the Premier will provide in relation to that supplementary question.

REGIONAL COORDINATION

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Regional Affairs a question about regional coordination.

Leave granted.

The Hon. J.S.L. DAWKINS: Regional coordination was a concept developed from a recommendation of the Regional Development Task Force. The task force recommended that coordinators of government agencies should be appointed on a region-by-region basis. In 2001 a trial was conducted in the Riverland region to provide feedback on such an approach. The trial was strongly supported by the Regional Development Council, the council's 'Government Working As One' working group, and the Regional Development Issues Group.

A senior manager with a government agency, who is also a long-term resident of the Riverland and other regional areas, assumed the role of regional coordinator. He chaired monthly meetings of regional managers of the various state government agencies in the Riverland and Murraylands region. The forum, which became known as the Riverland Regional Management Forum, also included representatives from the three local government bodies in the Riverland, as well as the Riverland Development Corporation. As such, the forum's structure was very similar to that of the Regional Development Issues Group but on a region-specific basis.

The length of the trial did not allow some long-term issues to be canvassed fully. However, action was taken in the areas of information technology training, youth employment and training development. Members of the forum were keen to do further work on youth retention and graduate programs, work force accommodation and a range of other issues. An evaluation of the work of the forum by the Regional Development Issues Group concluded that the trial warranted the continuation of the program in the Riverland and an extension to other regions of the state. My questions are: will the minister indicate whether it is the intention of the government to proceed with the establishment of regional coordinators and supporting forums across the regions of South Australia? If so, what is the expected time frame for this project?

The Hon. T.G. ROBERTS (Minister for Regional Affairs): I thank the honourable member for his continuing interest in this matter. In relation to the community arrangements that the government is putting in place, at a bureaucratic level there is a forum for coordinating cross-agency activities. A number of other programs are running at a regional level to increase the information gathering resources at a local level for government. We have the recently nominated Regional Community Council which has been described in this chamber on previous occasions.

A formalised program for the forum to which the honourable member refers has not been set up by this government, but we will certainly be using the contact skills that people have in areas such as the Murray-Mallee or the Murraylands district in any future organising of regional communities to interact between bureaucracies and government. If a region determines that in its opinion the best way for that to function would be through such a program or body I am sure that the incoming minister would give that due consideration.

The other issues we have tried to deal with include putting regional officers into areas that previously have not had coordinating functionaries. In the Spencer Gulf, we will have an office under the Office of Regional Affairs under the office of the minister, which, in part, will be responsible for helping communities to assist in coordinating such activities as have been signified by the honourable member.

The Hon. J.S.L. DAWKINS: I have a supplementary question. Will the minister bring back to the council details of the cross agency work which he mentioned in his answer and which has taken place in the regional development sector since the election?

The Hon. T.G. ROBERTS: I give an undertaking to the honourable member that I will bring back an update on the progress thus far in putting together the new structures that have been developing in the nine months since I have had the portfolio, which would include the progress in the offices both at Murray Bridge and Port Augusta, the naming of and the expected responsibilities of the community council, and the bureaucratic responsibilities that have been designated as agency coordinators within regions. I will include that in one reply to the honourable member.

HIV/AIDS STRATEGY

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about Aids Awareness Week.

Leave granted.

The Hon. J. GAZZOLA: I understand that on 23 November 2002, the health minister (Hon. Lea Stevens) launched the fourth South Australian HIV strategy 2002-05 at the start of HIV Awareness Week. What are the aims of the South Australian HIV strategy?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question and I would hope that the reply is suitable. The aim of the fourth South Australian strategy for 2002-05 is to eliminate the transmission of HIV—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: —it is a very important issue—and improve the quality of life for people living with HIV. This will link with the world AIDS campaign for 2002-03 to focus on stigma, discrimination and human rights. Freedom from discrimination is a basic human right on which HIV affected people all too often miss out. Over the last 12 months, we have seen a slight rise in the incidence of HIV infection in this state, so it is vital that we continue our coordinated responses to HIV prevention and health promotion strategies. The HIV strategy will address the ongoing challenge of improving treatment and services for those affected with HIV, as well as preventing further infection in groups significantly affected by HIV, including homosexually active men, Aboriginal and Torres Strait Islander people from areas with high HIV prevalence, people who inject drugs, prisoners and sex workers.

This strategy is characterised by a partnership between government, community based organisations and affected communities. The strategy complements and builds on the successes of the previous state strategies and sits well within the theme of the world AIDS campaign 2002-03, 'Stigma and Discrimination'.

PRISONS, CAPACITY

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Correctional Services a question about prison capacity in South Australia.

Leave granted.

The Hon. IAN GILFILLAN: I would like to congratulate the Executive Officer of Correctional Services, John Paget, for an excellent report with a lot of extraordinarily significant information in it. Sadly, it was summarised rather well by the heading 'Prisons packed and it will get worse', an article by

Greg Kelton in last Thursday's *Advertiser*. In the opening paragraph, Mr Paget states:

> The major issues confronting the department during the year were similar to those previously reported: the impact of the growth of the remand population, the increasing numbers of people being imprisoned with mental health problems, the continuing high rate of imprisonment of indigenous people and women—all at a time when the department's resources continue to be recognised as being stretched, qualitatively and quantitatively.

A little further on he states:

> . . . Community Corrections staff are also having difficulty in managing and providing meaningful work for the increasing numbers of offenders presenting with mental health problems. While quantifying this has been difficult, it is believed that the percentage of offenders in the 'high needs' category has doubled since 1995.

The report presents some very interesting statistics on the health conditions of people who are currently held by the Department of Correctional Services, as follows:

> The difficulty in providing adequate rehabilitation services is also exacerbated by the growth of the prison population which has resulted in bedspace management being increasingly influential in prisoner placement, at the expense of individual prisoner therapeutic needs.

It is rare indeed to get such a constructive but critical analysis in a report, and I think it behoves every member of this place to look at it in some detail. It shows that the prison population is predicted to rise dramatically, and the 2003-04 year looks to be heading towards a record number, just under 1 500. The statistics for sentence length show that at 30 June 1996 the average was 43.2 months and at 30 June 2002 it had increased to 58.7 months. My questions are:

1. As the current policies of the government, as I have indicated in previous questions, are absolutely on target to increase the prison population and the length of sentences, in other words, the pressure on present prisons, was the crisis in correctional services discussed in cabinet yesterday? If not, why not?

2. Does the minister agree that the pressure in prison capacity is rising and will soon reach, if it has not already reached, over capacity?

3. What steps to relieve the situation are in place—not in the future, not being discussed but what is being acted on now? We have the crisis now, we have anticipated the crisis for some time, and I ask the minister what steps are being taken now?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his question and I acknowledge his long-term interest in prison reform in this state. Over the years that I have been in parliament he has asked very constructive questions, and this question is in the same mould. I have expressed my concern about prison capacity and the prison population in South Australia. The honourable member would also know and understand that the way to fix the numbers in the prison system is to spend large amounts of money on facilities—that is the only way to correct the situation in South Australia. The prison system in this state is far more expensive to run than in other comparative states, in relation to numbers incarcerated, because our prisons are located in regional areas. The prison at Yatala is also an ageing prison and it has gone past its use-by date by 20 to 30 years. When we took office the prison system was at or just under capacity. As the honourable member indicated, the prison population will grow from here on in.

The Hon. T.G. Cameron: Why is that?

The Hon. T.G. ROBERTS: The increased sentences and the number of people facing our courts are one part of the problem. The other problem that we are trying to deal with is the number of people in remand. If we can deal with the number of remandees in this state, which is much higher in percentage terms than in other states, we might be able to alleviate some of the pressures in the system at this time. In the long term, we need to spend money, not just on refurbishment, although that might be an option for existing prisons, but we also need to have a plan on the drawing board for new prisons.

We are certainly looking at that in relation to the women's prison; and we are looking at all options in relation to a new and larger prison to replace Yatala. Those are long-term solutions. In the medium term, we have extended the allocation of funding for the bed capacity at Mobilong, although that decision has not yet been made. I expect that decision to be made very shortly. We expect to increase the bed numbers at Mobilong by between 50 and 55. The women's prison has recently increased its bed numbers by, I think, 11, but in the foreseeable future that probably will not be enough.

Last week I was asked a question about the capacity of Yatala Labour Prison. I have that information with me, but I understand that there will be a formal reply. At capacity, the state's prisons hold 1 540 male and 86 female prisoners. Inclusive of 'doubling up', the holding capacity of each of the state's prisons is as follows: Adelaide Women's Prison, 86; Cadell Training Centre, 140; Adelaide Remand Centre, 247 (which is at capacity); Yatala Labour Prison, 405; Port Augusta Prison 280; Port Lincoln Prison, 68; Mount Gambier Prison, 110; Mobilong Prison, 240; and Adelaide Pre-Release Centre, 60. That makes a total of 1 636.

Of this accommodation, 275 of the cells are doubled up, which, as the honourable member would know, is not a situation that we should tolerate for too long if we can help it. As at 12 November 2002, 1 472 prisoners were in the prison system (13 in James Nash House). Of this number, 500 (9 in James Nash House) or 33.97 per cent of the prisons' populations were on remand. Also, we know that a number of people with mental health problems are finding their way into prisons and should not be there. There should be community-based programs that are able to filter out those people who do have problems associated with mental illness and who should be treated in another fashion.

Those are not matters that have been created by this current government. We are trying to deal with these problems in the current budget. Budget bids are now being put forward. Included in those bids will be options for the challenges that face us in dealing with the problems associated with correctional services and people with mental incapacity who are unable to live normal lives in our society today.

The Hon. J.F. STEFANI: I have a supplementary question. Given that the minister has acknowledged that the prison population is almost at crisis point and his answer that the present government has inherited the problem, does he acknowledge that the new policies of the Labor government will only put further pressure on the system in relation to the population in prisons?

The Hon. T.G. ROBERTS: At this point, I pay tribute to the people working in the correctional system under very difficult circumstances, and that includes those working in community corrections with people on release. In conjunction with this—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: The honourable member might be pleased with the solutions that we develop from this point. In conjunction with the accommodation that I outlined earlier, the department is working closely with the Justice Department to determine the reasons for the increased number of remand prisoners, and generally—

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. ROBERTS: Many do not have homes, and that is part of the problem in South Australia.

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. ROBERTS: If we had places, such as bail hostels, which is an option the government is looking at, we may be—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Well, if you hadn't left us with such a mess! The then shadow minister for correctional services was looking for options, and I am sure there were a lot of budget bids that were knocked off by the previous government. We are trying to work with the budget strategies that we have to get the outcomes we require. We are working with the justice system to try to find out why there is an increased number of remand prisoners, whether there are alternatives to remand in Yatala and whether or not the state can afford to sustain such a high number of remand prisoners. My position is that we cannot, that we need to find alternatives to remand. If we have problems associated with homelessness in South Australia—

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. ROBERTS: I am aware that the Treasurer has visited the prisons recently, and there have been a number of meetings in relation to looking at alternative prison structures.

The Hon. A.J. Redford: He doesn't trust you to report to him, Terry; he has to go out there himself.

The Hon. T.G. ROBERTS: Well, I have asked the—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I have asked—

The Hon. A.J. Redford: It just proves that this is a three-man circus.

The Hon. T.G. ROBERTS: —and the Treasurer has responded with visits.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Well, I am happy that the Treasurer has visited the prisons to make a personal assessment. The government is committed to a law and order policy, and it is intended that the most violent and notorious in the prison population will be made to serve the majority of their sentences in prisons, but we also need to separate out those people who are not incorrigible offenders including law-breakers such as fine defaulters. We certainly need the mix of prison accommodation that allows management the tools to skilfully separate the law-breakers from the criminals.

REPLY TO QUESTION

ADELAIDE FESTIVAL

In reply to **Hon. DIANA LAIDLAW** (21 October).

The Hon. P. HOLLOWAY: The Premier and Minister for the Arts has provided the following information:

1. It is correct that the state government normally provides $4.5 million over two years for each Adelaide Festival. This consists of a $3.5 operating grant plus $1 million earmarked for international commissions and collaborations.

However, due to a direction by the Hon Diana Laidlaw in her former capacity as Minister for the Arts, the next two festivals will receive considerably less, due to repayments of a $1 million grant in advance for the 2002 festival. Consequently, only $4 million has been made available for the 2004 and 2006 festivals.

The report in the *Advertiser* on 15 October 2002 that an additional $3 to $4 million is available for the 2004 festival was purely speculative. While the Chair of the Festival has discussed with me issues concerning both the scope and funding options for the festival, the government has made no decision or provision at this time for additional funding for the 2004 festival.

2. (No answer required, since the answer to question 1 was negative.)

3. The amount allocated for the 2004 festival currently remains at $4 million spread over two years—i.e., the normal $4.5 million grant less $500 000 in repayment of the grant in advance.

Additional answers:

1. The new Chair of the Festival has met with the Premier and will continue to do so on a regular basis. The matters discussed at these meetings are necessarily confidential.

2. If the board requested additional funding, this would be considered within the normal course of the state budget process, and the outcome would be announced as part of the 2003-04 state budget. The Festival Board and artistic director are continuing to work on the program for the 2004 festival within the parameters of the current budget allocation.

3. The minister will not pre-empt any possible cabinet deliberations or decisions.

CONSTITUTION (MINISTERIAL OFFICES) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): 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 Government recently announced that it is moving to deliver further stability and certainty to South Australians following the decision by the Member for Mount Gambier to join the Government as a Minister of the Crown. This will increase the size of the Ministry from 13 to 14. The details of the changes to administrative arrangements were outlined in a Ministerial Statement of the Premier made on Tuesday, 19 November 2002. The amendments proposed to the *Constitution Act 1934* by this Bill are required to allow all Ministers of the Crown to be members of the Executive Council.

I commend the bill to the house.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 66—Ministerial offices

This clause proposes an amendment to subsection (2) of section 66 as a result of which that subsection would simply provide that every Minister of the Crown is, *ex officio*, a member of the Executive Council. The amendment proposed restores subsection (2) to its original form (as it was before it was amended by Part 2 of the *Statutes Amendment (Ministers of the Crown) Act 1997*). The 1997 amendment added to the subsection the limitation that if the number of Ministers exceeds 13, not more than 10 Ministers may be appointed to the Executive Council by the Governor.

The Hon. IAN GILFILLAN secured the adjournment of the debate.

FLINDERS CHASE NATIONAL PARK

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That this council requests Her Excellency the Governor to make a proclamation under section 43(4) of the National Parks and Wildlife Act 1972 to vary the proclamation made under part 3 of that act on 14 August 1997 so as to remove the ability to acquire or exercise pursuant to that proclamation pipeline rights under the Petroleum Act 1940 (or its successor) over the portion of the Flinders Chase National Park described as section 53, Hundred of Borda, County of Carnarvon.

There are 25 national parks and wildlife acts in place. Under the Wilderness Protection Act 1992, parks cover 32 per cent of Kangaroo Island. Parks such as Flinders Chase National Park and Seal Bay Conservation Park have outstanding natural value and are key state tourism destinations. The three existing parks—Flinders Chase National Park, Seal Bay Conservation Park and Vivonne Bay Conservation Park—have had subsequent land additions proclaimed, subject to mining rights, under the Mining Act 1971 and/or the Petroleum Act 2000.

The member for Davenport, the Hon. Iain Evans MP, tabled a notice of motion to vary the proclamation of the Flinders Chase National Park to remove the rights to build a pipeline under the Petroleum Act 2000 over a portion of the park in July this year. The motion was carried on 17 October 2002 and was supported by the government, which moved an identical motion as part of a package of four motions to remove future rights for mining and exploration in Kangaroo Island parks and reserves. So, the notices of motion were tabled for Monday, 2 December 2002. We have identical motions, I understand, so I do not expect that there will be too much debate or argument between the major parties, and I trust that this motion will receive the same support that the other motions had in another place.

The Hon. A.J. REDFORD secured the adjournment of the debate.

STATUTES AMENDMENT (ENVIRONMENT PROTECTION) BILL

Adjourned debate on second reading.
(Continued from 21 November. Page 1444.)

The Hon. J. GAZZOLA: This is an important bill, and it is pleasing to see that the government is honouring another election promise by giving the Environment Protection Authority more power and authority to tackle environmental issues.

Before I discuss the aims and merits of this bill, I think that the following information is of relevance and interest. In a Newspoll survey published in the *Australian* of 24 October this year, concern for the environment rated as the fourth most important issue, behind education, health and Medicare. The proportion of respondents who were concerned with the environment was 69 per cent—the top issue being education, which rated 80 per cent. Clearly, the environment is an issue of utmost concern to people.

Commercial interest in the environment is one of the growth sectors in developed economies. Business in Australia has recognised the importance of the environment industry and, according to the Department for Environment and Heritage, it contributes some $11 billion annually to the national economy in management, products and services, which is only slightly behind the contribution made by the IT industry. The Australian Bureau of Statistics estimated that expenditure on environment protection was $8.6 billion for 1996-97, which was around 1.6 per cent of GDP.

According to the report, overseas experience shows that in countries such as Germany, Japan and the United States, the environment industry grew strongly because of strong environmental laws on pollution. Once these overseas companies had addressed the home markets, they were well placed to begin exporting to countries which were facing similar problems but had not developed the required technologies. Because our environmental laws lagged behind other developed countries, we initially looked to these countries for solutions, and we have now addressed, or are in the process of addressing, this issue. In 2000, commercial interest in environment technologies and management in South Australia was recognised with the formation of the South Australian Environment Industry Cluster by South Australian Business Vision 2010.

As strongly outlined by Environment Business Australia in its paper released in October this year, businesses in Australia are keen to realise the profitable opportunities in cleaning up the environment, and this is the business case for ratification of the Kyoto Protocol.

The EBA is the peak industry body that acts on behalf of its members, the broader environment and the sustainability industry. It comprises some 5 600 businesses, employs about 146 000 people and has a turnover of around $16.7 billion. According to a footnote to the paper, this turnover is expected to grow to $40 billion by the end of the decade. The paper also points out that Canada rates its environment industry as the fourth or fifth largest industry.

Environment Business Australia is very concerned that the federal government has failed to ratify the Kyoto Protocol. Given that the Kyoto marketplace is already operating and that Australian businesses are not situated to benefit from the economic momentum generated by the World Summit on Sustainable Development, this failure is costing us dearly and will cost us more dearly in the future. The report says that we need to go beyond Kyoto. With regard to leadership, it states:

Australia has a great opportunity to display a leadership role in climate change negotiations by ratifying the Kyoto Protocol and being seen as part of the global solution rather than as a nonconforming party criticising the international process from the sidelines.

The picture painted by business shows the economic gain to be had through environmental reform. However, it is a pity to realise that business is acting in its own interests, when one would like to think that the prime motive is the greater wellbeing of the environment. This is what we have governments for: to lead.

One lesson to be learned is that, far from being a disadvantage, strict and enforceable environmental laws are a tonic for business. According to this report, business is not harmed by tough reform. As the bill recognises, our health and the health of the environment demand that governments act, but it is heartening to see that the philosophy of business can be guided profitably to our mutual benefit by sound, firm environmental measures. These broad, strong views need to be borne in mind when we reflect upon the intentions and the perceived consequences of this bill. It seems to me that long-term benefits are a win-win situation for all, as the cliche goes.

Returning to the bill, argument has been focused on several aspects of the statutes amendment bill, and most concerns have been on 'degree of knowledge' in the section 79(1) and 80(1) categories and the new fine structure. With regard to the former category, the amendment provides:

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

The qualification of 'serious' is removed from the second reference to environmental harm, thereby making the catching of offenders a broader measure. This simplification seems a sensible move, given that it dilutes the mens rea element in favour of a slightly more sensible test of the damage caused by the particular intention or recklessness.

Given that the emphasis is on the objective serious environmental harm, the test reflects and reinforces the intentions of the amendment. It should be further reinforced that the bill refers to 'serious environmental harm', which is the central concern of the revamping of the EPA. In fact, the second inclusion of the word 'serious' in the act in regard to the degree of knowledge, which will be removed in the simplification, has been a concern for some.

The strictness of the existing definition improving the burden of guilt has seen many cases of serious environmental damage escape penalty. The change to the degree of knowledge will rectify this, and rightly so, given that the health of the environment is the priority and that we are its custodians.

A related concern that has been raised is that the simplification of the test, in conjunction with the proposed fine structure, is the 'double whammy', as the member for Davenport in the other place described it. There is no doubt that the increases are sizeable, but past fines for offences under the act seem to have had less than the desired effect in remedying continuing irresponsible practices. A clear example of this is BRL Hardy's admission of illegally dumping effluent in Renmark, as reported in the *Advertiser* on Wednesday of last week.

The Hon. Caroline Schaefer talks of the bill's failure to recognise the need for education. We pose the question: how much education do we need? Companies are not ignorant of the law and the need for good environmental practice. Clearly, some companies are prepared to flout the law.

To return to the member for Davenport's concern, according to his argument in the other place and his listing of the completed prosecutions thus far, in querying the need for any fine increases he lists six examples of prosecutions, and these mostly involve big companies. The total number of successful prosecutions listed by him and recognised by the courts as serious infringements was six. For the period April 1999 to October 2002, there were eight prosecutions for the general offences under the act, of which seven were successful. A further five prosecutions were also successfully completed for breaches of conditions of licence. But what of the figures for serious or material environmental harm, where offenders escaped higher offences, that is, sections 79(1) and (80)(1), in lieu of lesser offences, being sections 79(2) and (80)(2) because, in part, of the excessive difficulties in proving the higher degree of knowledge in the current act?

According to the figures, the proposed amendment may have resulted in one of four prosecutions being successful for the higher offence. All these prosecutions resulted in guilty pleas to the lesser offences under sections 79 and 80. We are talking about corporate and company responsibility in these cases. We are talking about being stewards for the environment and preventing serious environmental damage and it seems, unfortunately, that the message has not got through. It is not as if companies have no control or choice in this. The care of the environment as successfully practised by some companies, for example, the recent internationally acclaimed BRL Hardy Banrock Station, in a more positive light than its Renmark operations, is and must be the priority.

The member for Davenport raised the interesting issue of day-to-day business issues, accidents and the prospect of heavy fines for environmental damage. Using the example of the oil industry, where the storage of petrol in underground tanks has the potential for environmental harm, and consequently incurring a heavy fine, the member for Davenport raises a query about whether companies would be liable under section 79. We also know that the EPA is working with the oil industry, as with other industries, about managing such potential risk.

The concern, as I see it, as raised by the member for Davenport, is not just about the change in the definition as to the possibility of a large fine under the section 79(1) category. But where no aspect of recklessness or intent is evident or provable, it will not be prosecutable under the new and simplified definition for these higher offences. It could well be an act of environmental harm but not one that would necessarily carry the maximum fine. From information that I gathered from the EPA regarding accidental environmental damage, that is the case. It should be pointed out that, while the net may be cast more broadly with regard to catching offenders under sections 79 and 80 changes, both of these sections will still offer the equivalent level of protection to the defendant as exists under the current act.

The member for Davenport also mentions that the bill offers no incentive or benefit to business to follow environmental best practice. I have discussed this earlier. I would have thought, however, that the disincentive of the fine structure would be the best incentive of all. It is like expecting virtue to justify itself on every occasion. In our everyday lives we are guided by our interest in truth and decency because they reinforce and reflect human worth. Surely, our attitude toward our stewardship of the environment demands that it is not forced to present itself before court to claim our protection and help.

I know this is a problem of attitude but our relationship with the environment must be likened to a symbiosis and not one of species or environmental chauvinism. I personally hope and look forward to the day when the consistent care of our environment sees the issue of prosecution disappear. Having said this though, I would draw to your attention, Mr President, that the act has in it a number of proactive regulatory tools that are directly aimed at managing and promoting the prevention of environmental incidents that have the potential to cause environmental harm. These tools include licences issued under the act, environment protection orders issued to any person for the purposes of seeking compliance with the act and environment improvement programs, which include voluntary EIPs and environment performance agreements.

The next concern raised by the member for Davenport, and I use his queries as the opposition spokesperson on environmental matters, is the illegally accrued benefit, or what he calls a 'super tax'. This, if a person is convicted, seems a sensible move and parallels the penalties faced by those convicted of fishery and drug offences. Why should a person or a company be allowed to profit from an illegal activity where doing so would be an absurdity and, in effect, vitiate the objects of the bill?

To be fair to the opposition spokesman in the other place, his concern is with the implementation of this section. The fact that the courts will need to determine this, while an important matter, should in no way deflect from the rightful

purpose of this section. Frankly, any businesses or individuals who seek to profit at the expense of the environment deserve prosecution. It appears, though, that the minister is sensitive to the issues of lengthy court procedures and is prepared to look at alternative ways of tackling fines and of possible ways for the EPA in the future to work more cooperatively with businesses as incentives to better environmental practice.

The independence of the board has also been an interesting issue with many divided opinions as to how to structure its authority and independence. The Speaker, in the other place, is keen to put it under the dominion of parliamentary authority through a committee process, while the member for Stuart has concerns about the board being hijacked by greenies—his words, Mr President. In relation to the composition of the board, it seems that representation will be balanced in knowledge and practical experience in regard to law, the environment and all necessary skills. I think the minister has adequately canvassed these queries as raised by the member for Stuart.

The issue of the independence of the board and chair has also been the substance of some concern in regard to its accountability, given that it will not be subject to a review by a committee of parliament. Firstly, I want to stress that the government wants to create both the perception and the reality that the EPA is at arm's length from government interference and that decisions are based on the best interests of the community and the environment. It will have an independent chair and an independent board, but there are other checks and balances, like the Ombudsman and the ERD Committee, as the minister has pointed out, and which he is willing to review at some future point. The issue of a balance between bureaucracy and independence is an interesting argument, but the government has, I believe, made the correct decision given that it wants to construct a credible authority.

In closing, there has been some discussion over the issue that business has not been adequately consulted over the bill. The previous government issued a discussion paper in 2000, but I think that the issue of further consultation is a bit of a furphy. The business world, like the general public, has not been living in a vacuum in the last few years in regard to environmental issues and our responsibilities to improve our act. The care of the environment is, one could argue, the dominant issue for this and future generations and we need to get serious about it.

The Hon. T.G. CAMERON: I rise in support of this bill. It was introduced by the government to revamp the EPA and ensure it has the powers to enforce tough environmental standards. It contains two main measures: changes to the structure of the EPA and changes to environmental laws. The bill establishes the board of the Environment Protection Authority and the office of the chief executive of the Environment Protection Authority. The chief executive is the chair of the board which, under the legislation, must meet at least 12 times per year. My understanding is that it must meet 12 times a year, not necessarily once a month.

The requirement for ministerial approval to establish committees and subcommittees is removed, making the board's actions politically independent. Ministers will not be able to direct the staff of the authority, who will now be considered public servants. This will help free up the authority from workplace relation duties but will keep it as independent from the government as possible, something which the previous speaker indicated was, in fact, an objective of the government.

The offence of causing serious environmental harm has changed so that it is sufficient to be guilty of the offence if the offender knew their actions could cause any degree of environmental harm, not just a serious degree of it. Likewise the knowledge elements of the offence of causing material environmental harm have changed similarly. Penalties are doubled for these offences under this bill and for the offence of 'failing to notify the authority when serious or material environmental harm is threatened or is occurring.'

I understand that the penalty regime which the Hon. John Hill is proposing to implement here in South Australia is not as great as the penalty regime in some of the other states; and according to Graham Gunn, I think, it is twice what is in many of the other states. As the previous speaker and others have outlined, it is not the practice of judges or magistrates to impose the maximum fine. In fact, there is often quite a lot of confusion caused in the electorate. People see the bill and see the maximum penalty is $2 million; they look up to see what the last person was prosecuted for and find out they were fined $10 000. Obviously, as we are well aware, the parliament allows the courts a fairly wide discretion, and I have no doubt that that is what will happen in this case.

Whilst there has been some criticism from the opposition in relation to the significant increase in penalties, I agree with the minister that we ought to have fairly heavy penalties for environmental destruction, and we ought to allow the courts some discretion to impose an appropriate penalty. In my opinion, these changes are long overdue.

One of the matters that I have had to deal with over the past two and a bit years has been the situation concerning Hensley Industries. I think it is appropriate that I now outline a brief case study of this issue. Ten years ago in 1992 the then City of Woodville approved zoning changes which permitted a new 420 resident housing development called River Park Estate to be built on the old Hallett Brick work site in Allenby Gardens. This was downwind to the Mason and Cox foundry, now known as Hensley Industries. I have had some previous experience with that part of the world, having lived in Croydon West for a number of years in my early 20s, and I am well aware of some of the pollution and filth which spews out of some of the factories in that area.

Guidelines under the Development Act 1993 suggest that 500 metres is an appropriate buffer zone between foundries and residences, but 200 metres is the suggested World Health Organisation standard. Mason and Cox stated at the time that, if the housing development at River Park Estate went ahead, the pressure from residents to cease production would increase. That is exactly what has happened. A number of housing developments have been built in and around that area, and of course inevitably there has been conflict between some of the existing dirty factory stack-type industries and the residents in their new subdivision, sitting in their brand new houses and having difficulty coming to grips with the environmental pollution from which they were suffering.

Despite the objections by Mason and Cox, the development went forward with the lesser 200 metres standard applied rather than the 500 metres as suggested in the act. However, the experience of residents has shown that the standard was not enough and the 500 metres rule should have been applied. Meetings of over 200 residents in late 2001 and early 2002 were held, and I attended one of those meetings. Complaints from residents have seen different environmental orders placed on the foundry, some of which I have mentioned in this place before.

I can recall the Hon. Ian Gilfillan's asking a number of questions about this factory. In fact, orders to limit the odour pollution of the foundry, to end processes, to upgrade equipment and to close doors during pours to apply from 1 December 2001 were extended to 1 July 2002. The orders were extended again giving Hensley Industries another six weeks to prepare a noise and odour plan.

Hensley Industries also has a history of breaching occupational health and safety laws. In relation to questions I placed on notice earlier, I found that Hensley Industries has been convicted of a number of offences going back to 1989, and one can only wonder what the union was doing in relation to those matters at that particular establishment. It has recently been prosecuted again for a number of occupational health and safety offences. However, Hensley Industries recently bowed to public pressure and said that it would relocate by 31 March 2004. I suspect that the change of government may have led to a change of heart by Hensley Industries.

Whilst I recognise that the former government's environmental credentials may have been sound, its environmental priorities were not. A whole of government approach to environmental management and industrial growth is necessary. This must be a balanced approach. The independence of the EPA is necessary to provide for health and environmental protection from rapid and short-term development.

It is important that the community believes that the EPA is independent, and it is important that the EPA believes it has the necessary power and regulations, and of course the willpower, to carry out often what are controversial decisions. In my opinion, had the EPA been truly independent and properly concerned with environmental and health protection, Hensley Industries would have been shut down a long time ago.

I think it is appropriate at this point to congratulate the EPA for eventually closing down Hensley Industries, and I also believe that personal congratulations should go to the minister, the Hon. John Hill. I thank him personally for whatever involvement he had in shutting down this filthy factory and, on behalf of the residents who lived around that factory, I simply say 'thank you'. In conclusion, this bill is an important first step. It makes the EPA as independent as practicable. It changes some environmental laws and paves the way for the government's next few bills on reforming the environmental laws and regulations in this state.

I received some correspondence in relation to this matter from the Engineering Employers Association, which did express concern on a couple of points: first, in relation to the substantial increase in fines, and secondly in relation to the change in the terminology used to describe an offence. Whilst I do not have a great deal of sympathy with its views in relation to the doubling of the penalties, that is what the intention of the government is: to send a very clear signal to industry that the South Australian government is not prepared to put up with the polluting of its environment. At the end of the day, people have to come before profits.

One point the Engineering Employers Association raised was in relation to the watering down of the threshold in the area of knowledge as it relates to serious and material environmental harm, particularly as it now encompasses a mere knowledge of environmental harm, which includes harm or potential harm. As is often the case, we pass legislation here and at times I scratch my head and wonder exactly what it means. At the end of the day, it is up to solicitors and judges to sort that out.

I express some concern about the terminology that has been used, and I think the Engineering Employers Association has a point, and it is something that the judiciary, if it has to deal with these matters at a later date, can deal with. However, it is interesting to note that, under the current definitions—and the previous speaker went into more detail than I intend to on this matter—the altering of the threshold is about making it easier to obtain a conviction.

When one has a look at the prosecutions that we have had in this area and their degree of success, we can see that not one in 10 prosecutions was successful when it was required to show that the person knew of or was reckless as to the amount of environmental harm caused. Briefings that I have received from the government indicate that the changing of these laws to simplify the degree of harm should result in an increase in prosecutions. When industry can look at existing legislation and its track record and say 'No-one has ever been prosecuted under this and they are unlikely to be,' then it hardly serves as a deterrent or a disincentive for them to lift their game.

I support the government's bill. I congratulate the minister on the bill and, in particular, place on record my appreciation for the briefings that he has given both me and my office. It is a salutary lesson in how to get people's cooperation, I suggest.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank members for their contributions and certainly take note of the message sent by the honourable member in relation to briefings and time responses for consultations. I do know that some ministers have more time to brief than others. Sometimes the business—

The Hon. T.G. Cameron: Some are more willing to.

The Hon. T.G. ROBERTS: The honourable member says, 'Some are more willing to'. I am not in his position; he is in a better position to judge than I. However, I note what the honourable member says and the kind words that have been said about the minister's staff and their cooperation in relation to this important bill. I also thank the Hon. Andrew Evans for his support for this bill and his care and concern for the environment and environmental protection. I appreciate the Hon. Mike Elliott's support and the vision he has for the EPA and advise that we will be addressing many of his suggestions and comments next year in further amendments to the bill. I was sitting on the committee which looked at the EPA in detail, so I understand the Hon. Mike Elliott's responses.

I will address some issues raised by other members. I am unable to address the issue of the terminology raised by the Engineering Employers Association. I will try to address them as the bill progresses. I do not think it will hold up the bill and I do not think the honourable member wants me to do that. I will obtain an explanation, if required, or address it in some way. The Hon. Caroline Schaefer raised concerns that the EPA has become a regulator and its educative and advisory roles have diminished considerably. The regulator status of the EPA is acknowledged and, although the EPA's functions have not changed substantially, the EPA's functions have been more clearly defined and focused. It is my understanding that education is a part of the EPA's role in working with people to work out better ways of achieving the results that it requires.

It is not just a regulatory body. Although this bill has more clearly defined than focused effect, the effect of the proposed

changes to the EPA's functions will mean that the EPA will not be solely responsible for public awareness raising and developing environmental management. This role will also fall to the Office of Sustainability and the DEH. The honourable member also raised concerns that the bill seeks to strengthen the powers of the EPA and to lessen the powers of the former board. As part of the government's election commitment to strengthen environmental protection in South Australia, the bill seeks to give the EPA a stronger regulatory position. The board will also have stronger regulatory functions under the proposal. The Hon. Caroline Schaefer argued that the increases in fines to $2 million are excessive, and it is argued that these fines are in line with Queensland at $1.5 million, the Northern Territory at $1.25 million and New South Wales at $10 million. However, these fines are all specific to corporate, chemical or oil spills and not to general environmental breaches or to individual breaches.

This is not correct. In New South Wales, a polluter is liable for a fine of $10 million in relation to oil and chemical spills under the Marine Pollution Act 1987. Fines mentioned from Queensland, the Northern Territory and Victoria are in relation to equivalent offences of serious environmental harm. The honourable member also argued that fines under the National Parks and Wildlife Act do not compare with fines under the Environment Protection Act. The two acts do not compare. The level of environmental harm that the Environment Protection Act attempts to capture is of a far higher scale and significance than that under the National Parks and Wildlife Act. The objects and purposes of the act are different. Arguably, there is a far great impact on the environment if a company intentionally pollutes the environment with a chemical spill causing serious environmental harm than if someone is caught breaching section 45 of the National Parks and Wildlife (Protection of Animals, Plants and Sanctuary) Act. Accordingly, the fines attempt to reflect the seriousness of the offences.

The Hon. Caroline Schaefer argued that a person can incur a maximum fine of $500 000 (or $2 million for a body corporate) even though they did not know serious damage would occur. As mentioned previously, the elements for this type of offence are the most onerous in Australia. In all other jurisdictions, except Tasmania, the prosecution has only to prove that a person intended to pollute the environment causing serious environmental harm. There is no knowledge requirement in that case. In addition, $500 000 is the maximum penalty that can be imposed on a natural person under the act. I am advised that the highest penalty imposed on a natural person under section 80(2) of the act was in the case Harvey v Rulla 2001 SAERDC 83 (that is, the South Australian ERD Court 83). The ERD Court imposed a penalty of $10 500. The maximum penalty for this offence was $60 000, division one fine under the act.

The honourable member also raised concerns that, where an offence is committed under the act for a body corporate, each member of the corporation, plus the manager, is separately liable for the same penalty. Section 129 of the act sets out provisions in relation to the criminal liability of officers of a body corporate. This bill does not change section 129. Under section 129, if each officer of a company is found guilty of an offence, then they could be liable to pay a penalty. The EPA would still have to make out the elements of the offence under the act and the defendants would continue to have a defence under section 124 of the act. However, I am advised that, although it is possible that each officer of a company could be liable, in a practical sense, it is unlikely that the EPA would attempt to prosecute each officer.

The Hon. Caroline Schaefer also raised concerns that the ERD Court has more powers than a civil court. There is no change to the powers of the ERD Court under the proposed amendments. The ERD Court has the power to hear both civil and criminal proceedings, as does the Magistrates Court. Both the ERD Court and the Magistrates Court have concurrent jurisdiction in relation to the prosecution of offences under the act. The Hon. Mike Elliott raised a number of issues. The first relates to his question on the results of monitoring. He asked: 'If testing and monitoring are required, is it mandatory that the results be made publicly available and, if not, for what reasons are they withheld?' I am advised that the EPA resolved in May 1998 that all information relating to monitoring reports which were required by conditions of licence are to be made available through the public register. I know that the Hon. Mike Elliott did have a beef with the register. He has described that in this chamber on a number of occasions and they were genuine reasons for care and concern, I suspect.

There are provisions in the EPA's resolution that require relevant information to be placed on the register. Discretion is required in relation to the following information: non-essential or additional information; any information subject to the provisions of any other indenture or any other legislation which imposes conditions on the release of such information; commercially sensitive information in relation to the process being monitored; and information requiring extensive, specialised technical input to analyse, collate and interpret.

The example used by the Hon. Mike Elliott relating to monitoring data from the Hensley Foundry is not strictly correct. Contrary to the statement made, the results from the Hensley Foundry are publicly available and can be found on the EPA web site. Any delay in providing that information was due to the need to have the EPA collect and analyse numerous data, then subsequently have the information considered and analysed by public health experts. The results of the monitoring show compliance with all known air quality standards including toxic air emissions. The full 35 page report can be found at www.environment.sa.gov.au/epa/pdfs/hensleyaqreport.pdf. Currently the public may obtain public register monitoring information by contacting the EPA on 8204 2004 or by writing to the EPA.

The Hon. Mike Elliott also asked for an indication as to the time frame within which the EPA web site will be completed and what is proposed for the content on the web site. I am advised that the approximate time frame for the implementation is three years, but it is subject to future funding priorities. It is envisaged that all public registry information will be made available through this medium. Thirdly, the Hon. Mike Elliott asked whether there is a clear instruction as to what is expected to happen when licence conditions are breached. Under section 45 of the act, it is an offence for the holder of an environmental authorisation to contravene a condition in the authorisation (maximum penalty $120 000 for a body corporate and $60 000 for a natural person).

The EPA determines the appropriate course of action for any breach of an environmental authorisation, which includes licences, in accordance with its compliance and enforcement guidelines. Very briefly, these guidelines articulate four broad choices for enforcement, starting with issuing a warning, undertaking civil action, prosecuting, or a combination of

both civil action and prosecution. In the case of breaches of licence, the EPA has the option to issue a warning or to prosecute.

Finally, the Hon. Mike Elliott asked how many occasions criminal proceedings have been issued in South Australia in relation to a breach of EPOs and a breach of licence conditions. I am advised that there have been 14 successful prosecutions since April 1999, of which seven were for breach of the conditions of a licence. I note that some of the 14 prosecutions involve companies or persons who were not licensed under the act, and other prosecutions involved both breaches of conditions of licence as well as of the general offences, for example, serious environmental harm, material environmental harm or environmental nuisance.

The EPA issued 79 environmental protection orders in the last financial year. Some of these were appealed by the person receiving the EPO. None of these matters required further action through prosecution or the like, although some involved serving expiation notices. I am advised that the South Australian police also issued over 250 EPOs, predominantly to control domestic noise issues, and they are generally of a more technically simple nature compared with those issued by the EPA.

This bill is the primary legislative response to the government's election commitment to the development of a more independent EPA with a stronger regulatory position. The strategy that the government has adopted is threefold: we want to make the EPA independent; we want to give it stronger powers; and we want to provide it with more resources. We want the public to recognise that the EPA is an independent body that will make decisions based on the best interests of the community when it comes to environmental protection. Under the proposed changes to the structure of the EPA, we will have an independent board with a range of skills and an independent chair who will run the bureaucracy on a day-to-day basis. This arrangement establishes a substantial degree of independence for the authority.

The bill increases the maximum penalty for causing serious environmental harm to $2 million for a body corporate. Other penalties have been increased in line with this, that is, approximately doubled, to maintain consistency throughout the legislation. The bill reduces the level of knowledge that is required to prove serious or material environmental harm. It will simplify the degree of knowledge that a person is required to have about the level of environmental harm that would or might result from their actions. This will facilitate the prosecution of offences of intentionally or recklessly causing serious or material environmental harm.

As to the extension of the act to circumstances to which it previously did not apply, the Environment Protection Act 1993 will apply to circumstances where the Protection of Marine Waters (Prevention of Pollution from Ships) Act 1987 or the Radiation Protection and Control Act 1982 apply. This will give the EPA the power to prosecute a spill such as that which occurred from the Mobil oil refinery in 2001. The EPA will be able to impose broader conditions for a licence. Amendments to the confidentiality provisions in the Radiation Protection and Control Act will broaden the circumstances in which information can be released to make this government more accountable on issues concerning radioactivity. With these words, I commend the bill to the council.

Bill read a second time.

In committee.

Clauses 1 to 16 passed.

Clause 17.

The Hon. CAROLINE SCHAEFER: I move:

Page 7, line 27—Leave out paragraph (a).

There has been considerable discussion, and I outlined in my second reading speech the reasons for my party's opposing the deletion of the words 'serious' and 'material' from this bill. As I said, this matter is not in isolation but is tied in with the approximate doubling of penalties, to such an extent that, if my amendment is not successful (and I understand that I do not have the numbers), it will mean that a person may feel that they might cause some environmental damage, and it does not need to be serious. If they are a member of a corporate body, they could be fined up to $2 million if environmental harm occurs. The argument is that, so far, the court has never prosecuted to that extent and is unlikely to impose separate fines on each director of a corporate body. However, we endeavour to make the best laws we can and, although it might be unlikely, under this legislation that is what could happen.

There is no requirement for a person under this bill to have prior knowledge that serious environmental harm may occur, only that any sort of environmental harm may occur, no matter how minor, and, further to that, there is no need for them to realise that serious or even material environmental harm may occur.

This is a considerable watering down of the requirement of prior knowledge, together with a doubling of penalties. Indeed, as has been described in this place, this is a double whammy, which our party opposes. I, too, have the letter from the Engineering Employers' Association, which has raised exactly these concerns with us. In part, its letter states:

> Specifically, the amendments to delete the word 'serious' as it relates to 'knowledge that serious environmental harm will or might result' do, as the government acknowledges in the debate, make it easier to prosecute persons for serious environmental harm—

but, in fact, they make it easier for them to prosecute simply with prior knowledge of any environmental knowledge. The letter continues:

> The association believes that offences of serious environmental harm—for which the maximum penalty is proposed to double to $2 million, should contain criteria that maintain an appropriate level of knowledge. We do not support the deletion of 'serious'. We understand section 79(1) and section 80(1) are largely South Australian legislative clauses with virtually no comparisons interstate—

and I stand by my research previously that such heavy penalties interstate are specific to specific serious environmental charges rather than general environmental charges. The letter further states:

> Furthermore, a doubling of fines is proposed in these areas. Hence the government will have achieved, if these amendments are passed, an increased deterrent factor and increased fines for offenders under the strict liability provisions. We are concerned about the 'watering down' of the threshold in the area of knowledge as it relates to 'serious' and 'material' environmental harm, particularly as it now encompasses a mere knowledge of environmental harm, which includes 'harm or potential harm'.

As I said, we support most of this bill. We simply believe that a combination of the removal of those two small words, 'serious' and 'material', with the doubling of penalties, makes this law draconian in the extreme.

The Hon. M.J. ELLIOTT: I indicate that the Democrats will not be supporting this amendment. We believe that the reasons for the changes were made quite clear by the government, and we support those reasons.

Amendment negatived.

The Hon. CAROLINE SCHAEFER: I move:

Page 7, lines 28 to 36—Leave out paragraphs (b) and (c).

I have previously given the reasons for this amendment. In fact, this is probably a consequential amendment.

Amendment negatived; clause passed.

Clause 18.

The Hon. CAROLINE SCHAEFER: This amendment is consequential. I have an indication, as a result of the vote on my first two amendments, that the committee does not wish to maintain the words 'serious' and 'material', or to change the doubling of fines in this bill. I therefore will not proceed with the amendment.

Clause passed.

Clause 19.

The Hon. CAROLINE SCHAEFER: The opposition opposes this clause for the reasons that I have outlined previously. This clause places an additional obligation for notification of incidents causing or threatening serious or material environmental harm and doubles the fines for those who, either of their own volition or through innocence, may not notify. The opposition opposes this clause.

The Hon. M.J. ELLIOTT: The Democrats support the clause. Again, the government's reasons are quite clear and we support them.

Clause passed.

Remaining clauses (20 to 23) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

UPPER SOUTH EAST DRYLAND SALINITY AND FLOOD MANAGEMENT BILL

Adjourned debate on second reading.

(Continued from 21 November. Page 1451.)

The Hon. CAROLINE SCHAEFER: This bill seeks to amend the South Eastern Water Conservation and Drainage Act 1992. It provides for the compulsory temporary acquisition of a corridor of land to a distance of 100 metres on either side of the proposed South-East drain. The main object is to ensure certainty for the program. I indicate that 250 000 hectares (40 per cent) of productive farmland in the Upper South-East have been degraded by salinisation caused by high ground water levels and flooding; and a further 200 000 hectares, including approximately 40 000 hectares of high value wetlands and native vegetation, are at risk.

The area affected by this bill is 476 kilometres of drains with 100 metres either side, equalling 9 530 hectares of land, which is approximately 2 per cent of the salt affected land that needs to be restored urgently. The Upper South-East Dryland Salinity and Flood Management Program was initiated with four main elements: drainage; vegetation protection and enhancement; salt land agronomy; and wetland enhancement and management. The funding proportion is 37 per cent from the commonwealth government committed to environmental management and restoration, 37 per cent from the state government and 26 per cent collected by a levy system from landowners, many of whom have been paying the levy for four years or more but who are continuing to watch their land increasingly affected by rising salinity.

The commonwealth component of the legislation is dependent upon an offset in environmental assets such as revegetation. Progress on the Upper South-East drain is under threat due to the need for a new funding package and the perception that too little progress has been made for the amount of money already expended. Additionally, because of the lack of specific legislation and difficulties in applying the existing legislation, landholders have been able to construct and control drainage works and refuse access across their land.

I hasten to add that no one person is at fault: the causes for delay have been numerous. Just as some landholders have been at fault and less than cooperative, there seems to me to have been a lack of desire—or perhaps a lack of ability—to negotiate by some government officers. Certainly, the causes of delay cannot all be attributed to a single person or in a single direction. For whatever reason, only 25 per cent of the total area to be drained has been completed and these inordinate delays are costing the environment, the landholder and the taxpayer dearly.

The acquisition of a number of alignments has already been negotiated with existing landholders but, under this legislation, the minister will have the power compulsorily to acquire the remaining alignments and must identify them in plans lodged with the Surveyor-General. The powers vested in the minister also provide for no compensation to be paid for this compulsory acquisition.

I will move a somewhat novel amendment which will allow for compensation to be paid if, at the end of the project, a net loss has been incurred by the landowner. However, it is envisaged that virtually all land owners will have substantially value added to their property, and I am informed that those in the area which has been successfully completed have increased their viability and stocking rates by up to 57 per cent. However, the notion of compulsory acquisition without compensation has caused a great deal of anxiety in the Upper South-East and does not sit easily with Liberal Party principles.

Prior to this time the land owners have, with few exceptions, freely donated their land in recognition of the environmental and productivity benefits that the drains will provide. It is therefore necessary to take those people into account whilst allaying the fears of those who may be in the path of compulsory acquisition. Levies raised from landholders under the 1992 act for the purpose of the Upper South-East program will now be raised by the minister under this new legislation.

The bill is only applicable in the Upper South-East of the state and applies only to the corridors of land that have been assessed as being required to implement the drainage aspects of the program. When the project works are complete, any excess land within the 200 metre corridors acquired by this bill will be transferred back to the appropriate party. Although I have been assured of this, I seek further confirmation in committee from the minister that this is the case.

I will move a further amendment to assure land owners that they will have access to and management of any land compulsorily acquired until drainage work begins on their property and immediately following completion of drainage work on their property rather than having to wait until the completion of the entire project.

The bill also provides control over the drainage works of private individuals to ensure that the government's drainage scheme has priority and that private works cannot conflict with the government's scheme. However, complementary beneficial works may be conducted under licence from the minister. Further, my understanding of this bill is that agreements for environmentally beneficial projects, such as revegetation or voluntary commitment to wetlands, will be negotiated with the minister as an offset against payment of

levies. In recognition of the potential harm that can be caused by inappropriate activities to the regional environment (including the RAMSAR designated Coorong, as well as other native wetlands and native vegetation) the bill enables the minister to issue a range of orders relating to land management, water management and other activities in the defined project region.

As a principle, I believe that any person should have the right of appeal as far as is possible. In this case, threats have already been made by the press to take this legislation to the High Court. Such an action would be most unfortunate and could tie up the progress of the drainage works for many months (if not years).

If there is one message that is coming consistently from the Upper South-East at this stage it is that everyone wants the drain to be completed as expediently as possible. I will therefore move for a right of appeal to the ERD Court because I believe that, in this case, that would be a much more expedient and appropriate action than a drawn out court case in the High Court. The bill also proposes significant penalties for offences within the defined project area to ensure that the goals of the project are not subverted.

The bill has a scheduled review date of four years from the date of proclamation. I will move that this review date becomes a sunset clause, at which time, if the project has not been completed, the minister of the day will have to return to both houses of parliament to seek an extension. My hope is that this will be a sufficient spur for the project to be finished expediently. It will also severely limit the minister's power to this unique bill only rather than set a precedent for such powers to be implemented as a matter of course.

I am sufficiently concerned about the minister's powers that I will move for a joint house committee to be implemented specifically to consider this project. The minister will have to report on progress, management, and successes or failures on a regular basis thus, I hope, opening the project to both parliamentary and public scrutiny.

The decision by the Liberal Party to support this bill has not been reached without major reservations. As I have said, it does not sit easily with me or my colleagues to allow any minister such unfettered powers. However, I am sure that, from time to time, we have all been forced, with reluctance, to take a decision for the greater good. In my view, this is one of those occasions. In my view also the need to complete this scheme is urgent and, in the end, the responsibility of the government of the day. I seek an assurance (in committee) that there is no aspect of retrospectivity to this bill so that any prior breaches or works are not part of any government action or litigation or, indeed, compensation.

The aim of my amendments is to allow the drainage scheme to move forward as swiftly as possible whilst allaying the fears of land owners and making the minister open and accountable to both the public and the parliament. However, I give notice to the government that if my amendments cannot be accommodated my colleagues in the lower house may seek to defeat this legislation. I thank the minister for the open and cooperative way in which he has conducted briefings on this matter. I support the second reading.

The Hon. G.E. GAGO: I rise to support this important bill. Increasing soil salinity is one of the most critical environmental problems that we face. Dryland salinity—or the 'white death' as many know it—is a major environmental concern for Australia and South Australia. It is currently estimated to affect about 2.5 million hectares of land (mostly in southern Australia where medium to low rainfall occurs) and cause damage of about $270 million each year. The Australian Conservation Foundation estimates that the cost of lost agricultural production and damage to the environment and built infrastructure is likely to reach more than $1 billion per year Australia-wide. It also says that scientists estimate that 1 000 Australian native plants and animals will become extinct as a result of salinity problems.

Salinity occurs when too much water is added to the groundwater. Dryland salinity is generally a result of farming practices which have replaced large areas of native vegetation (including trees) with shallow rooted crops and pastures. This results in a rising watertable which brings with it the salt which is generally stored within the deeper levels of the soil. Salt has been accumulating in our deep soil structures for millions of years, deposited in areas which were once part of the sea and also that which is blown in from ocean spray, wind and rain.

The watertable rises and, as the ground water near the top of the soil evaporates, salt is left behind in the top soil. As a consequence, salt is transported into the root zones of remnant vegetation, crops and pastures and deposited directly into our wetlands, streams and river systems. High salt levels in the soil usually cause plants and soil organisms to die, or their productivity is severely limited. The rising watertables also affect our rural infrastructure, including buildings, roads, pipes and underground cables. Rising watertables and increasing salinity produce significant and costly impacts on our community.

The Australian and New Zealand Environment and Conservation Council (ANZECC) established a task force to examine linkages between biodiversity and salinity in its report of June 2001. It confirmed the following:

> . . . the loss of biodiversity as a result of salinity is a highly significant issue of national importance. . . Salinity is a serious threat to biodiversity as it has impacts on our native species, ecological communities and ecosystem functions.

It found that in South Australia there has been a dramatic increase in the area of land affected by salinity, with the Upper South-East one of the areas identified as being most affected. The current estimation is that 250 000 hectares have been degraded because of salinisation. This problem is expected to increase further as a result of past and present practices. The task force went on to estimate that, by 2020, 324 000 hectares are likely to be at risk, and 409 500 hectares will be at risk by 2050. They are appalling statistics.

Several significant conservation parks and reservoirs in the Upper South-East were identified in the same report as having 'high potential for biodiversity degradation from rising saline ground water'. These include Messent, Bunbury, Tilley Swamp and Gum Lagoon. The report goes on to highlight the need for urgent action by governments, industry and the community to prevent further salinity problems. It has been estimated that approximately 40 per cent of fertile farmland in the Upper South-East has already been degraded by salinisation. A further 40 000 hectares currently at risk is identified as containing high value wetlands and native vegetation.

State and federal funding to overcome this problem in the form of the USE program was allocated in 1995 and 1996, and construction commenced in October 1997. The program aimed to protect and enhance vegetation, saltland agronomy, wetland enhancement and management, and drainage. The program promised to deliver significant beneficial outcomes for the region in terms of environmental, economic and social

outcomes. However, recent progress has been slowed by a number of factors, including the need to put a new funding package in place and, further, to ensure program access and the management of drains and wetlands.

As part of the national plan for salinity and water quality arrangements with the commonwealth government and regional communities, a new funding package is being negotiated for the South-East. The bill before the council has been developed to enable the government to effectively deliver the USE program by ensuring that there is access to the relevant land. This ensures that the program is carried out to the extent required to deal most effectively with the problem at hand: hence, the major impact and benefit of the program will be achieved by local landowners and the broader south-eastern community.

The provisions of this bill are applicable only to the Upper South-East of the state, the main feature of the bill being the identification and attainment of corridors of land, at no cost, which are required to implement drainage access of the USE program. Much of this land has already been obtained via negotiations with the current landowners and landholders. The intention of the government is to hand back any excess land within the 200 metre corridor at the completion of the project works. The land attained so far by the government has been freely donated, with very few exceptions, by the respective landowners, who have recognised the environmental and economic benefits of the drainage program to themselves individually and, also, to the wider region.

The bill also provides that the government drainage project has priority over any private drainage works and that the private works cannot conflict with the government project. The minister can, however, issue a licence for private works to be carried out that are of benefit and are complementary to government works programs.

Provisions within the bill also enable the minister to issue a range of orders, and they are outlined in the bill in relation to the management of both land and water within the area, as well as other activities in the defined region of the project. Significant penalties are proposed for offences within the project area in an attempt to ensure that the objectives of the project are not threatened.

The bill also deals with levies raised under the South Eastern Water Conservation Act 1992 for the purposes of the USE program. These levies will now be raised by the minister under this new legislation, and they will provide the minister with the flexibility to negotiate a reduction or removal of the levy for individual landholders in exchange for biodiversity trade-offs such as protection of native vegetation under management agreements. The existing provisions of this water conservation act will not apply to the defined project area.

The bill has a review date set for four years from the date of proclamation. Finally, this bill aims to guarantee the certainty of the USE program in completing the work of protecting the land and, hence, the communities of the Upper South-East. I urge all members to lend their support to the farmers and communities of the Upper South-East, and I commend the bill to the council.

The Hon. J. GAZZOLA secured the adjournment of the debate.

TRAINING AND SKILLS DEVELOPMENT BILL

Adjourned debate on second reading.

(Continued from 20 November. Page 1434.)

The Hon. R.I. LUCAS (Leader of the Opposition): I had not realised that I was to speak on the second reading of this bill, but I will certainly make some brief comments. The Liberal Party has flagged one issue in another place which we will pursue at greater length and in greater detail, and perhaps that can be done at the committee stage.

The Liberal Party broadly supports the legislation before the parliament. As my colleague the Hon. Mark Brindal in another place adequately explained, the vast bulk of the legislation had been prepared under the former government and certainly, on my recollection, it had passed through, or had been debated in, the other place prior to the last state election. So, for all intents and purposes, most of the major features of the legislation are supported not only by the government but also by the Liberal Party. For those reasons, during the second reading I do not intend to go through all the areas on which we agree.

The one significant area where there is some disagreement between the government and the Liberal Party is that of the role, if any, of Australian workplace agreements (AWAs) within the training system. When the Liberal Party went to the last election, its policy was quite clear—that it would pursue the use of AWAs in South Australia through the parliamentary process wherever possible. On behalf of the Liberal Party, I have on file (if it is not there yet, it soon will be) an amendment in the same form that my colleague the Hon. Mark Brindal moved in the other place in relation to Australian workplace agreements.

Again, as outlined by the member for Unley, the Liberal Party's position is that AWAs provide flexibility in the choice of employment relationships, a choice which has been taken up in approximately 5 per cent to 6 per cent of the state's current training contracts. Removing the use of AWAs will reduce the employment of some trainees here in South Australia.

It is also the Liberal Party's view that not allowing AWAs, which is the government's proposal, is inconsistent with federal law. In support of that, I place on the record a letter on this important issue from the Hon. Tony Abbott MP, Minister for Employment and Workplace Relations, which I have been advised has been provided to the Premier only this afternoon. I have the permission of the federal minister's office to put on the public record the very strong views of the federal government about this attempt by the state government to outlaw the use of AWAs in training contracts. The letter from Tony Abbott states:

> I am writing to express my very grave concerns about some of the provisions of the Training and Skills Development Bill 2002—

The Hon. T.G. Roberts: It might introduce some of them to their rights.

The Hon. R.I. LUCAS: If the Hon. Terry Roberts is suggesting that trainees under AWAs are in some way being denied their rights, as he seems to indicate by way of interjection, we would be happy to receive evidence of that during the committee stage of the debate when he can defend his government's position in relation to this issue. I return to the letter, which continues:

> . . . which I understand passed the South Australian House of Assembly earlier this week. There are provisions in the bill which would restrict the right of employers and apprentices or trainees to regulate their employment relationships by Australian Workplace Agreements (AWAs) under the Workplace Relations Act 1996.

I have legal advice that these provisions are directly inconsistent with the Workplace Relations Act and therefore invalid to the extent of that inconsistency.

I repeat that the federal government has legal advice that indicates that this attempt by the state government in this legislation is invalid to the extent of its inconsistency with the federal Workplace Relations Act. Before the committee can vote finally on the legislation and on the amendment which I will move on behalf of the Liberal Party, I trust that the government will provide the committee with the legal advice that the state government has received to validate or support its position. The letter continues:

Apart from the doubtful validity of those provisions of the bill, you should be aware that by seeking to restrict the availability of AWAs in such employment relationships, your government is putting at risk the training and employment of the over 1 700 South Australian trainees and apprentices who have entered into AWAs with their employers since January 2001 to the end of October this year. This is 6 per cent of all those South Australians who commenced their training or apprenticeship in that period.

I urge your government to reconsider this ill-advised proposal as soon as possible. You should be aware that the commonwealth government is committed to freedom of choice in employment relationships, as provided by the Workplace Relations Act, and will not stand by while that choice is undermined by anyone (including state governments) or while important and worthwhile jobs and training are needlessly jeopardised.

I will be informing other SA parties of my concerns about this bill with the objective of ensuring that the objectionable provisions are not passed by the SA parliament.

I would be glad to receive your response on this important issue as soon as possible.

I have sent a copy of this letter to the Attorney-General, the Hon. Daryl Williams AM, QC, MP.

Yours sincerely,
Tony Abbott.

Clearly, the state government needs to respond to all the claims and statements made by the federal government in this letter, and I ask the minister to provide a copy of Premier Rann's response to the claim from the federal government that this legislation is invalid to the extent of its inconsistency with the federal Workplace Relations Act. As I indicated before, the state government would need to indicate to the committee the nature of the legal advice that it has taken to support this issue.

In conclusion, we see this as a further example of this state government's being beholden to the powerbrokers within the union movement in South Australia. One only has to look at the members assembled before us in all their magnificence this afternoon—

The Hon. T.G. Cameron: All five of us.

The Hon. R.I. LUCAS: —all four of them. I do not count you amongst them, the Hon. Mr Cameron.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Yes, but you are not amongst them at the moment. All four of them—from the Hon. Gail Gago to the Hon. Bob Sneath, with all his most unfortunate dealings with the AWU; the Hon. Mr Gazzola and some of his unfortunate experiences with the ASU, I think; the Hon. Terry Roberts, as one of the old metallies from way back—

The Hon. R.D. Lawson: A bit rusty now.

The Hon. R.I. LUCAS: Rusting now, certainly. Of course, the Hon. Gail Gago's union connections are renowned and have been a highlight on many occasions. When those connections were highlighted in any lower house elections, it did not do the Hon. Gail Gago much good.

The Hon. G.E. Gago: I'm sitting on this side. Where are you sitting?

The Hon. R.I. LUCAS: That's only because they put you in a seat that you could not lose.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order!

The Hon. R.I. LUCAS: They had to find a seat that you could not lose, so they put you at number one on the Legislative Council ticket. Anything else, within about 10 per cent, they knew you would lose.

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: I point out to the Hon. Mr Sneath that I have never lost a lower house seat. However, I will not be diverted. The point I am trying to make is that the members who represent the Labor Party in the chamber this afternoon are beholden to the power brokers in the union movement in South Australia. When people such as Janet Giles click their fingers, we see the assembled members of the Labor Party across the chamber jump. So, when the state government was told by the trade union movement and its representatives within caucus to put in this provision to ban Australian workplace agreements, even though it is inconsistent with federal legislation and invalid to the extent of that inconsistency, it nevertheless proceeded to try to ram this invalid legislation through the parliament, in so far as it relates to Australian workplace agreements being banned from training contracts. So, just as a warm-up to the committee stage, I assure members of the Labor Party, those who are sworn to represent the union movement in the Labor Party and the Labor government caucus, that we will have this debate when I move the amendment on behalf of the Liberal Party.

The Hon. T.G. CAMERON: Mr Acting President—

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. T.G. CAMERON: It is all right, Mr Acting President. I am happy to wait for the Hon. Mr Sneath to finish.

The ACTING PRESIDENT: The Hon. Mr Cameron has the call.

The Hon. T.G. CAMERON: This bill was previously passed in the House of Assembly and lapsed when the parliament was prorogued for the 2002 state election. This bill intends to foster a learning culture of training and skills development in South Australia to make our work force mobile and world-class. It establishes the training and skills commission which will be the focal point of community efforts and policy planning, funding and quality education and vocational training. It will be the peak government advisory body on vocational education and training, apprenticeships, adult community education and university higher education.

The bill provides for the establishment of expert reference groups to assist the commission. The commission may delegate its functions with the permission of the minister. The commission will prepare an annual plan for vocational education and training, and this will be the basis of negotiation between the state and the national training authority. The bill also introduces national standards for registration and accreditation of training and education. It intends to enable the community to distinguish between training and education that meets national quality standards and those which do not by having those that meet the standards declared a university.

It establishes a grievances and disputes mediation committee to deal with complaints from consumers and disputes between employers and apprentices. It disallows

Australian workplace agreements for the employment of apprentices and trainees in South Australia. This has been a point of contention between the government and the opposition. The previous government's bill removed references to AWAs being used to employ apprentices. Now it has backflipped and wants to include them in the bill. The government opposes this because it could be used to the detriment of young apprentices. In my briefing, the government made it clear that this bill does not directly affect TAFE, and I would be seeking assurances that that is the case. The government wants to have this bill passed so that it can appoint the new Training and Skills Development Board when the current one expires in February 2003.

There was only limited debate on this bill the last time it came through, but I indicate that it is my intention to support the government on this bill. I understand that there is a possible amendment in relation to Australian workplace agreements as a basis of apprenticeship, but I indicate to the opposition that I am not attracted to that kind of proposal and, at this stage, I indicate that I will be supporting the government bill.

The Hon. G.E. GAGO secured the adjournment of the debate.

CRIMINAL LAW (SENTENCING) (SENTENCING GUIDELINES) AMENDMENT BILL

In committee.

(Continued from 20 November. Page 1420.)

Clause 4.

The Hon. R.D. LAWSON: This is a preliminary amendment of a definitional kind to lead to the establishment of a sentencing advisory council, which is the subject of the next amendments standing in my name. However, I am happy to treat this as a test clause for the proposal relating to the sentencing advisory council.

The reason for a sentencing advisory council is that the bill, as it stands, does not contain any mechanism for community involvement in the sentencing process. The very reason for having sentencing guidelines was to ensure that there would be better community understanding, appreciation and confidence in the sentencing process. I submit that without community involvement in that process we will not improve community understanding or confidence. The establishment of a sentencing advisory council is not novel. I indicate to the committee that only last week in New South Wales, on 21 November, the Crimes (Sentencing Procedure) Amendment Standard Minimum Sentencing Bill 2002 was passed.

The bill was originally introduced earlier in November by the New South Wales Labor government. That bill includes provisions for the establishment of a New South Wales sentencing council which is to have functions very similar to those given to the proposed sentencing advisory council in this state.

In the United Kingdom, a Sentencing Advisory Panel has been established now for some four years. It has made a valuable contribution to the process of improving community acceptance of sentences in that country. In the United Kingdom, the sentencing panel comprises not only persons associated with the judiciary, the legal system and the police but also community representatives. The achievements of the Sentencing Advisory Panel in the United Kingdom are considerable. When one considers the research they have undertaken, the surveys they have undertaken of community attitudes, as well as the quality of the research and the general education programs they have undertaken, one would conclude that it is a very impressive record.

I do not for a moment suggest that the sentencing advisory council in the state of South Australia would be a body with the resources of the Sentencing Advisory Panel in the United Kingdom which has responsibility for the entire United Kingdom. I would not pretend that the sentencing advisory council here would need to have those resources to be effective.

In Victoria, the Bracks Labor government introduced the Sentencing (Further Amendment) Bill. It was passed in the Legislative Assembly last month and was introduced by the Hon. Justin Maddern in the Legislative Council on 18 October. That bill will establish a sentencing advisory council to properly ascertain that informed public opinion is taken into account in the criminal justice system on a permanent and formal basis.

The functions of the council are very similar to the functions proposed in my amendment. It will include providing written views to the court of appeal in that state (the full court in our state) in relation to guideline judgments, providing statistical information on sentencing to members of the judiciary and others, conducting research and disseminating information on sentencing. The council will also gauge public opinion on sentencing, consult on sentencing matters with members of the general public and advise the Attorney-General on sentencing issues.

I appreciate the fact that the Attorney-General in this state apparently does not wish to be advised by a body such as the sentencing advisory council. He is content, apparently, to take his advice from less formal structures, which is fine, but there ought be a mechanism through which the community can communicate its views to the courts in South Australia. It is for that reason that I have moved this amendment.

The sentencing advisory council will not be a resource-intensive body. It will be one that is advisory in nature. It will be composed of members all of whom will be appointed by the Governor on the recommendation of the Attorney-General, so we are not seeking to inject into this process some political advantage because we accept that this is a body which must be established by the government. Two of the members must have broad experience of community issues arising from the administration of justice in criminal matters; one must have experience in issues affecting victims of crime; one must be a legal practitioner with broad experience in the defence of accused persons; and one must be a legal practitioner with experience in the prosecution of accused persons.

The remainder of the members of the council will be experienced in the operation of the criminal justice system, and I would envisage that they would possibly be community members, police, correctional services officers, or perhaps representatives of unions, who will have a valuable contribution to make. Bearing in mind the outstanding record of the Sentencing Advisory Panel in the United Kingdom, and bearing in mind the fact that the Carr government has introduced this only very recently, and that the Bracks government in Victoria seeks to do so, it is our contention that the introduction of this guideline legislation is the appropriate time to introduce the measure here. I commend the amendment and seek from the minister agreement that the

first clause in my amendment will be the test clause for the establishment of the council.

The Hon. T.G. ROBERTS: This is a drafting amendment to facilitate the opposition's amendment which follows. It is not opposed on its own merit. However, if what follows is successfully opposed, this amendment must also fall. The amendment to insert section 29BA is opposed. It is the first in a series which seeks to set up a sentencing advisory council. It is, in a sense, a test amendment, as the honourable member says.

The government opposes the uncosted, unconsulted and untested setting-up of such a council by an off the cuff amendment. The position of the government is that a sentencing advisory council may well be a good thing. The UK Sentencing Advisory Panel, for example, is a very sophisticated operation. It is well thought out, and honourable members might find a visit to its web site (at http.//www.sentencingadvisory/panel.gov.uk/) very interesting. The establishment of a significant body such as this must be well thought out, be properly resourced by budget allocation and be subject to general consultation by the government of the day. That is not true of this proposal by way of a belated amendment. The amendment should be opposed.

The government opposes the creation of a sentencing advisory council at the present time for the following reasons:

- The setting up of such an important body should be the subject of extensive consultation amongst stakeholders and the general public, especially as to matters of important detail such as representation. No such consultation has taken place.
- The setting up of a body requires, as the amendment recognises, a sufficient budgetary allocation. No such allocation has been made because this was not in the government's contemplation at budget time. The issue should be the subject of a normal budget process in competition with other priorities of government.
- This important bill, implementing as it does the government's election policy, should not be held up for that time and on a contingency.

The Hon. R.D. LAWSON: I reject the suggestion that this is an off the cuff or ill-considered amendment. This is an amendment that is well considered by the opposition. It has been discussed in the community. A number of persons associated with the correctional system and the criminal justice system have indicated their support for this measure. To describe it as an uncosted proposal and to seek to belittle it on the basis of the resources available misunderstands the point of the council.

This is an advisory council. It will not require the resources of, for example, the Sentencing Advisory Panel in the United Kingdom. It will be well able to rely upon the extensive research which has been and is being conducted elsewhere.

This is a timely and appropriate amendment at this time when Labor governments in other states are doing precisely this in relation to their sentencing guidelines. It is not a belated amendment: it is one which I have canvassed publicly for some time. It is unfortunate that the Attorney-General seeks to belittle this proposal by suggesting that it is off the cuff: it is well considered. The pathway we seek to follow is a well trodden one.

The Hon. IAN GILFILLAN: The Democrats oppose the amendment, but, as members will remember, we are opposing the bill. If anything, I think this amendment is worse than the bill. Both of them are motivated towards the blood lust for heavier penalties—the charge led by that wonderful duo, the Attorney-General and Bob Francis. Certainly I would not use intemperate language in describing the contribution by the Hon. Robert Lawson. I do believe that this is far from off the cuff and has been quite deeply considered, as was most of his contribution. He also has this wonderful attribute that, even if he is speaking off the cuff, he makes it sound as if it is something which has had many hours of deep deliberations, the skill of a QC. Even so, the implication that by having guidelines we will have better or more appropriate sentences is a misguided judgment.

We have a system which I believe is adequate. There will be aberrations, in any case, and I think that by including the number of people that the shadow attorney-general has recommended for this particular advisory council increases the range of variation and idiosyncrasy, and I would have less faith in it than the government's proposal. With those comments, I indicate Democrat opposition for the amendment. We are taking this as the test case for the whole of the issue. We oppose it.

The Hon. R.D. LAWSON: I should also indicate that the establishment of the Victorian council was supported by a very thorough examination that Professor Arie Freiberg of the University of Melbourne conducted with a discussion paper circulated, I think in the year 2000, and a very comprehensive report 'Pathways to Justice Sentencing Review 2002', which contains a detailed and reasoned argument for the establishment of a sentencing advisory council. Professor Freiberg is no friend of the redneck brigade in relation to law and order issues, and his very careful and considered report provides further justification for the establishment of this council.

The Hon. T.G. ROBERTS: It may be that in other states the groundwork has been laid by reports, reviews and consultation, but there is no evidence in this state that key stakeholders have been taken into account when discussions have taken place. My understanding is that some of the key stakeholders such as the chief justice, for example, have not been contacted. Is there evidence that that broad consultation process has been considered or is it just the view of the honourable member?

The Hon. R.D. LAWSON: This bill, which was the subject of ALP election policy, as I understood it, was not run past the judiciary; and I do not believe the present Attorney-General has adopted the practice of believing that he has to have his political policies run past the judiciary. I think it is entirely inappropriate to seek to elicit support from the judiciary and, if the judiciary is indicating support for particular political policies, I would be most surprised. I think it is most inappropriate for political parties to seek the endorsement of the judiciary.

The Hon. T.G. ROBERTS: I am told that it was run past the judiciary and that comment was sought rather than—

The Hon. R.D. Lawson interjecting:

The Hon. T.G. ROBERTS: It was a process where comment was invited.

The committee divided on the amendment:

AYES (11)

Cameron, T. G.	Dawkins, J. S. L.
Evans, A. L.	Laidlaw, D. V.
Lawson, R. D. (teller)	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Schaefer, C. V.	Stefani, J. F.
Stephens, T. J.	

NOES (8)

Elliott, M. J.	Gago, G. E.
Gazzola, J.	Gilfillan, I.
Holloway, P.	Roberts, T. G. (teller)
Sneath, R. K.	Zollo, C.

Majority of 3 for the ayes.

Amendment thus carried.

The Hon. R.D. LAWSON: I move:

Page 4, lines 5 to 18—Leave out proposed new section 29B and insert:

Initiation of proceedings for guideline judgment

29B. (1) Proceedings for a guideline judgment may be commenced—
- (a) on the Full Court's own initiative; or
- (b) on application by the Director of Public Prosecutions; or
- (c) on application by the Attorney-General; or
- (d) on application by the Legal Services Commission.

(2) An application for a guideline judgment must be accompanied by the applicant's proposal as to the terms in which the judgment should be given.

(3) The Full Court may, if it thinks appropriate, give a guideline judgment in the course of determining an appeal against sentence.

(4) However, if the Attorney-General has applied for a guideline judgment, the proceedings must be separate from other proceedings in the Full Court.

Sentencing Advisory Council to be given opportunity to make written report on proposal for guideline judgment

29BA. (1) If proceedings for a guideline judgment are commenced by application to the Full Court, or the Full Court itself initiates such proceedings, the Registrar must—
- (a) notify the Sentencing Advisory Council of the Court's intention to hear and determine the proceedings; and
- (b) request the Council to make a written report to the Court, within a reasonable time stated in the request, on the questions to be considered by the Court in the proceedings.

(2) If the proceedings have been initiated by an application, the notification and request must be accompanied by a copy of the applicant's proposal as to the terms in which the judgment should (in the applicant's opinion) be given.

Representation at proceedings

29BB. (1) Each of the following is entitled to appear and be heard in proceedings for a guideline judgment:
- (a) the Director of Public Prosecutions;
- (b) the Attorney-General;
- (c) the Legal Services Commission;
- (d) an organisation representing the interests of offenders or victims of crime that has, in the opinion of the Full Court, a proper interest in the proceedings.

(2) The Sentencing Advisory Council may appear in the proceedings and, if the Full Court requires assistance from the Council (beyond its written report), must appear in the proceedings.

(3) If the Sentencing Advisory Council appears in the proceedings, it is to be represented by one of its members who is a legal practitioner or by independent counsel instructed by the Council to represent it.

This amendment is consequential upon the establishment of the sentencing advisory council and, for the same reasons given previously in relation to the earlier amendment, I urge support for this amendment.

The Hon. T.G. ROBERTS: I am advised that this is not consequential and that the addition of proposed new subsection (2) is not opposed. However, the addition of proposed new subsections (3) and (4) is opposed. Proposed new subsection (3) allows the full court to give guideline judgments as it does now in the course of an appeal without notice to anyone. That is completely in opposition to one of the major policy measures advanced in this bill. That measure is that the bill should provide a code for guideline judgments and that the organisations dealt with in the bill should have a voice in the formulation of sentencing guidelines.

If proposed new subsection (3) is passed, that would no longer be the case in an indeterminate number of decisions. The voices of ALRM, the Legal Services Commission and the Attorney-General, at least, would no longer be guaranteed a hearing, and that would be contrary to the whole point of the bill. Proposed new subsection (4) is consequential upon the amendment proposed to new subsection (3). It is opposed for the same reason.

The Hon. IAN GILFILLAN: I oppose the amendment.

Progress reported; committee to sit again.

HOLIDAYS (ADELAIDE CUP AND VOLUNTEERS DAY) AMENDMENT BILL

The House of Assembly agreed to the Legislative Council's amendment without any amendment.

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 19 November. Page 1344.)

Clause 3.

The Hon. CAROLINE SCHAEFER: I move:

Page 4—

Line 14—Leave out 'following definition' and insert 'following definitions'

After line 15—Insert:

'District Court' means the Administrative and Disciplinary Division of the District Court of South Australia;

This amendment brings into the definition the words 'District Court' instead of the government's suggestion, which is the Environment, Resources and Development Court. The opposition has a long-held view that the right place for administrative appeals, which are given to the landowner under both the previous government's bill and this bill, should go to the specialist division of the court that deals with administrative appeals, rather than a specialist environment court.

Our view is that the administrative and disciplinary division of the District Court of South Australia is a division that is set up specifically to deal with administrative appeals. The government argues that the specialist court is the Environment, Resources and Development Court. We argue that the administrative process is not strictly an environmental matter: it is really an administrative matter. An appeal on an administrative matter should go to the specialist administrative area and, similarly, environmental matters should go to the environment court, which is the specialist area for that part of the bill. I indicate to the committee that a series of amendments are consequential to this amendment and this will be, therefore, a test clause.

The Hon. T.G. ROBERTS: The government opposes the amendments.

The committee divided on the amendments:

AYES (9)

Dawkins, J. S. L.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Schaefer, C. V. (teller)	Stefani, J. F.
Stephens, T. J.	

NOES (11)

Cameron, T. G.	Elliott, M. J.
Evans, A. L.	Gago, G. E.
Gazzola, J.	Gilfillan, I.

NOES (cont.)

Holloway, P.	Kanck, S. M.
Roberts, T. G. (teller)	Sneath, R. K.
Zollo, C.	

Majority of 2 for the noes.

Amendments thus negatived; clause passed.

Clauses 4 to 19 passed.

New clause 19A.

The Hon. CAROLINE SCHAEFER: I move:

New clause page 12, after line 8—Insert:

Insertion of Part 4A

19A. The following Part is inserted after Part, 4 of the principal Act:

PART 4A
ENVIRONMENTAL CREDITS

Environmental credits

25A. (1) Subject to this section, the owner of land that is subject to a heritage agreement under this Act that was entered into after the commencement of this Part is entitled to environmental credits in accordance with a provision (if any) to that effect in the agreement.

(2) Subject to this section, the owner of land that is subject to a heritage agreement entered into under this Act or the South Australian Heritage Act 1978 that was in force immediately before the commencement of this Part is entitled, on application to the Council, to be issued with environmental credits that, in the opinion of the Council, reflect the environmental benefits arising from the agreement.

(3) An owner of land is not entitled to environmental credits under subsection (2)—

(a) in respect of a heritage agreement under the South Australian Heritage Act 1978 in respect of land in relation to which payment was made by the Minister under section 27(1) of the repealed Act; or

(b) if the heritage agreement was—

(i) entered into under this Act in compliance with a condition imposed by the Council under this Act on consent to clear native vegetation; or

(ii) entered into under the South Australian Heritage Act 1978 in compliance with a condition imposed by the Native Vegetation Authority under the repealed Act on consent to clear native vegetation.

(4) An owner of land is not entitled to environmental credits under this section in respect of—

(a) Crown land; or

(b) local government land.

(5) In subsection (4)—

'Crown land' means—

(a) land that has not been granted in fee simple, but not including land held under a Crown lease under the Crown Lands Act 1929 or the Pastoral Land Management and Conservation Act 1989; or

(b) land that has been granted in fee simple that is vested in the Crown or an agency or instrumentality of the Crown;

'local government land' means local government land within the meaning of the Local Government Act 1999.

Register of environmental credits

25B. The Council must maintain a register of environmental credits provided by a heritage agreement or issued by the Council which—

(a) includes the name and address of the owner for the time being of the credits; and

(b) identifies the heritage agreement by which the credits were provided or in relation to which the credits were issued.

Transfer of environmental credits

25C. (1) Subject to this section, the owner of environmental credits may transfer them to another person.

(2) A transfer of environmental credits is not effective until registered by the Council.

(3) If a person to whom environmental credits have been issued under section 25A(2) transfers them to another person the following provisions apply:

(a) the consideration (if any) payable for the transfer must be in the form of money and must be paid to the Council; and

(b) if no consideration is paid for the transfer or the consideration paid is, in the opinion of the Council, less than the market value of the credits, the person transferring the credits must pay to the Council an amount that, in the opinion of the Council, is the market value of the credits or the market value less the amount paid as consideration for the transfer; and

(c) the Council must determine the amount of money that, in its opinion, will be required—

(i) to manage the land in relation to which the credits were issued; and

(ii) to manage the native vegetation on that land and the animals on or visiting that land; and

(iii) to preserve and enhance the native, vegetation on that land; and

(iv) to provide appropriate and sufficient protection to biodiversity: in the circumstances of the particular case,

in accordance with the heritage agreement in force in relation to the land during the period of 20 years immediately following the determination; and

(d) the money paid to the Council under paragraph (a) or (b) must be paid by the Council into the Fund to the extent of the amount determined under paragraph (c) and the balance (if any) must be paid to the person to whom the credits were issued; and

(e) if the person to whom the credits were issued or a subsequent owner of the land in relation to which the credits were issued, applies for assistance under section 24(1)(a) or (b) in respect of the land, the Council must grant the application (subject to such conditions as it thinks fit under section 24(4)) to the extent of the amount paid into the Fund under paragraph (d) that has not previously been granted as assistance under this paragraph.

(4) Subsection (3) does not affect—

(a) the transfer of environmental credits by will or on intestacy or any other transfer of the credits by operation of law; or

(b) the transfer of environmental credits by a subsequent owner of the credits.

Cancellation of environmental credits

25D. (1) The Council may, by notice in writing to the owner of environmental credits, cancel them if, in the opinion of the Council, there has been a breach of the heritage agreement by which the credits were provided or in relation to which the credits were issued that has significantly reduced the environmental benefits arising from the heritage agreement.

(2) The Council may cancel environmental credits under subsection (1) despite the fact that the owner of the credits is not responsible for the breach of the heritage agreement.

(3) No compensation is payable by the Council in respect of environmental credits cancelled under subsection (1).

Surrender of environmental credits

25E. The owner of environmental credits may surrender them to the Council at any time.

This relates to a system of environmental credits. In this case, I think the end aim of the government and the opposition is the same: that is, to provide a fund or a system of environmental credits. As I have said, the end aim in both cases is the same; this merely adds to the payment into a fund a system of environmental credits.

This is an innovative move. It passed the lower house under the previous government. If someone wishes to clear some remnant vegetation and has the permission of the Native Vegetation Council, for some time now the practice has been that it is almost always offset by some planting or some sort of an environmental advantage. For example, if someone wanted to remove some remnant vegetation in order to put in a centre pivot, they would be expected to plant something like 10 trees for each tree removed, probably into

the corners of the paddock where the centre pivot is established.

On the odd occasion when that is not possible, under this legislation it will be possible to pay into a fund to provide greater environmental advantage. The opposition does not oppose the fund, but we would like to see an additional provision added whereby, within a 50 kilometre radius, the person who seeks to remove the vegetation may do a deal with someone else who perhaps has a piece of heritage vegetation which could be listed for the first time in that district, or they may have a piece of degraded land which they would be prepared to set aside as an environmental advantage, and they could then trade that against some environmental credit offsets for the person who is clearing the land.

This would need to be implemented on a trial basis because it is a new and, I think, innovative system. It would create an environmental advantage because the revegetated remnant would remain in the district where the clearance takes place and it would bring a commercial element into this provision. As I say, I think the aim of both the government and the opposition is the same. We simply seek to make this legislation more incentive based—more of a carrot and less of a stick. Some time was spent on this scheme under the last government, particularly by the member for MacKillop and the Hon. Angus Redford. I think this scheme would be readily embraced in farming communities, and I commend it to the committee.

The Hon. T.G. ROBERTS: The government's scheme is seen to be adequate. The opposition's amendment has been discussed and considered. It is pleasing to see that parties of all persuasions are now looking at alternative, lateral methods of protecting the environment, but on balance we support the fund and do not support the opposition's amendment.

The Hon. CAROLINE SCHAEFER: It puzzles me that a government which continues to claim that it takes the high moral ground when it comes to environmental issues will settle for a system of compensating the environment based solely on money when I would have thought that keeping environmental assets within the district where clearance takes place would be a much more practical system of actual environmental advantage.

Having read Minister Hill's comments in another place, it seems to me that the government opposes this not because it necessarily sees it as a bad thing but purely perhaps because it sees itself as incapable of implementing it. As has been said in another place, we would be very happy if this was introduced on a trial basis in one district or for a small amount of time. We have heard much of Kyoto and environmental credits on a worldwide and a nationwide basis, but it has not happened. This seems to me to be a form of practical environmentalism, so why not have South Australia set the lead?

The Hon. M.J. ELLIOTT: The proposal for environmental credits has some attraction for the Democrats, but I would like to see fleshed out much more precisely how it would work in practice, probably integrating it into a much grander scheme in terms of significant revegetation projects and how they might mesh with it. This idea has merit but it deserves to be fleshed out a little further. I do not think the current opposition can complain (after being in government for eight years) that it is being denied the opportunity to do something.

The Hon. Caroline Schaefer interjecting:

The Hon. M.J. ELLIOTT: What do you think about things that come up just prior to elections? It is amazing what things happen just before elections sometimes. I am not dismissing it out of hand. I suggest that the Democrats may support this scheme at a later time but, if the government is not prepared to implement it, it is not going to go anywhere anyway. I suggest to the opposition that this proposal has some merit but that perhaps it should be fleshed out into a grander scheme. Why not take a particular region of the state, put some more flesh on it, work out exactly how it would work within that region, and then come back with a private member's bill? The Democrats may well support it if it can be demonstrated how it would apply within a certain region.

The Hon. T.G. ROBERTS: From the advice that we have been given, there is a certain amount of flexibility in the government's position. Outside of legislating for the opposition's suggestion, I think there is some sympathy for a trial, as the Hon. Mike Elliott suggests. The Hon. Caroline Schaefer has put forward a case where communities might be able (without legislative direction) to trial such a program, but the government will insist on its current legislative position. If future discussions bring forward a trial as an innovative way to supplement the legislation, there might be a double benefit, but those discussions can go on through the minister's office over time.

The Hon. M.J. ELLIOTT: I was not indicating that, should we decide to try this out, we could do it without legislation, because I do not think that is possible. What I am saying is that perhaps we should take a particular region and that the Native Vegetation Council and possibly catchment management boards and even soil boards in some cases could work together collaboratively to say, 'This is what we think this area could look like. We would like to revegetate along streams and do various other things and work towards those things, and we think we can use an environmental credit scheme to do that.'

If you plot what you want to achieve and have the end point clearly in mind, you can pass legislation that is capable of delivering it. This legislation may do that, but we may set about it and find that we run into barriers all over the place. I think it would be ideal—and there is nothing to stop the opposition doing it, and I have been involved in such procedures from time to time—to sit down with interested members of the community and say, 'Let's go about this and set up a model. The model may need legislation, and let's be certain what the legislation needs to do to make it work.' I think, then, you have done something very bold and shown a great deal of initiative.

The Hon. T.G. ROBERTS: There are indications that the government will assist a similar program, but outside the legislative process.

The committee divided on the new clause:

AYES (8)

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

NOES (10)

Cameron, T. G.	Elliott, M. J.
Evans, A. L.	Gazzola, J.
Gilfillan, I.	Holloway, P.
Kanck, S. M.	Roberts, T. G. (teller)
Sneath, R. K.	Zollo, C.

PAIR(S)

Stephens, T. J.	Gago, G. E.

Majority of 2 for the noes.

New clause thus negatived.

Clause 20.

The Hon. CAROLINE SCHAEFER: I move:

Page 12, line 15—Leave out '$100 000' and insert:
$50 000

As I indicated in debate on one of the previous amendments, this is a test clause. The system of fines was increased by 25 per cent less than 12 months ago. A 25 per cent rise is well beyond the CPI increase, and to double the fines in such a short time is inappropriate. This amendment is a test clause.

The Hon. M.J. ELLIOTT: The Democrats support the increase in fines and, as such, will not support the amendment.

The Hon. T.G. CAMERON: I have already indicated my intention in relation to this clause during my second reading contribution. I support the government's move to increase penalties.

Amendment negatived; clause passed.

Clause 21 passed.

Clause 22.

The Hon. CAROLINE SCHAEFER: This amendment is consequential, and I will not move it.

Clause passed.

Clause 23.

The Hon. CAROLINE SCHAEFER: This is also a consequential amendment and I will not move it.

Clause passed.

Clause 24.

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

Page 16, line 7—Leave out 'section is' and insert:
sections are

This amendment anticipates the insertion of new section 30A in the act, so I invite members, when looking at this amendment, to look at the proposed amendment to clause 24, page 17, 'after line 6—Insert: Marking or tagging of cleared vegetation'. I am seeking to tackle an area where there appear to be some problems with regard to illegal clearance relating to brush cutting. A great deal of brush is being traded, and it is hard to know where it has come from and whether a permit existed for the brush, etc. I am seeking to look at a system which is similar to that used in fisheries today whereby some species, basically from the moment they are caught, have a tag that follows them through the system.

That has worked highly successfully in fisheries, and I am seeking to devise a system somewhat akin to that in relation to brush. As I see it, a person who had been granted permission to clear would usually be granted permission to clear a certain amount, and they would be given tags which would be taken to the site of removal. The cleared vegetation would be followed right through until the brush found its way into the fence; hence, a trail could be followed. When people are given permission to clear, how do you know that they are not clearing two or three times the amount? This system allows a way of keeping track of the brush. Some finetuning is still required, but that is the basic idea. This amendment allows regulations to be put in place, and parliament would have the opportunity to look at those to ensure that it is satisfied that what I have described will be achieved.

The Hon. T.G. ROBERTS: The government will be supporting the Democrats' amendment.

The Hon. CAROLINE SCHAEFER: The opposition will be opposing the amendment—not with any great vigour but simply because the inquiries we have made do not indicate that a large amount of illegal brush clearing is occurring. The suggested system of tagging would alleviate those suspicions. However, as with the Hon. Mr Elliott's suggestion with regard to environmental credits, although tagging may be a good idea, we do not believe that we have looked at it in sufficient depth. This bill was handled by my colleague the shadow minister for environment in another place. Our party has not had sufficient time to look at this measure, so we will be opposing it.

The Hon. T.G. CAMERON: I indicate that I, too, will be opposing the amendment standing in the Hon. Michael Elliott's name, not so much because I am opposed to the intent of the amendment but because it is very broad: it states that 'a scheme established may', and so on. Whilst I think that the intent is honourable, and I support the intent, I would like to see a lot more information before I would be prepared to support an amendment that would take us down this path. I think it is appropriate that we all consider this amendment further.

The Hon. M.J. ELLIOTT: I do not think that much more detail in the legislation can be expected. To be fair, the finer detail of such a system would not be included in such legislation, and the fact that it is a regulation means that parliament has not lost control. If parliament believes that the proposal is too broad or is unworkable in the form that the regulation takes, either house can remove it.

If one acknowledges that there is a problem (I am told by a few experts that there is a significant problem of illegal clearance, particularly in relation to brush) we need a scheme to tackle this issue and, by following the trail from the point of clearance to the brush finding its way into the fence, we will be able to do so. I have certainly not heard any alternative suggestions put forward in terms of tackling this problem. In fact, if we fail to do so, there could be increasing pressure to cut out brushcutting altogether, and that is a possibility. If it cannot be controlled, and there are no adequate controls at this stage, that could be the unfortunate consequence, and the legitimate industry would not benefit from that measure. I ask members to think very carefully before voting down an amendment which produces the ability to have regulations. It does not contain the detail of the scheme, which, of course, would not be expected in legislation.

The committee divided on the amendment:

AYES (9)

Elliott, M. J. (teller)	Evans, A. L.
Gago, G. E.	Gazzola, J.
Gilfillan, I.	Holloway, P.
Kanck, S. M.	Roberts, T. G.
Zollo, C.	

NOES (9)

Cameron, T.G.	Dawkins, J. S. L.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Schaefer, C. V. (teller)
Stefani, J. F.	

PAIR(S)

Sneath, R. K.	Stephens, T. J.

The CHAIRMAN: There being an equality of votes, I give my casting vote to the ayes.

Amendment thus carried.

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

Page 16, after line 26—Insert:

(f) a condition requiring that a copy of the consent issued by the council be kept in such a manner, and in any place, specified by the council.

As an example of where this amendment will apply, it might be a requirement of the council that, when the clearance is being carried out, the consent shall be held by the person actually carrying out the clearance. I know of many cases of illegal clearance where there is a dispute about what the person doing the clearing should have known, rather than what is known by the person who owns the land. Ultimately, I think we will have to provide some protection for the people who are carrying out the clearance by ensuring that a copy of the consent be held, for instance, by that person.

I suppose that after the clearance has taken place the consent should also be held by somebody so that when a complaint is lodged officers are in a position to check whether or not the clearance has been carried out in the appropriate manner. This could also link in with the clearance of brush, to which I referred earlier. One other alternative I have considered—I will put it on the record now, even though I do not have an amendment along these lines—is that I believe that people who actually carry out clearance, as opposed to the landowner, should perhaps be subject to negative licensing. Basically, if they carry out an illegal clearance and have not checked whether the consent actually exists, they could be denied the right to clear again or be constrained in some other way.

I have known a number of occasions where, after illegal clearance occurs, the person who carried it out just shrugs their shoulders and says, 'I was told it was okay.' They are not, in fact, subject to any restrictions whatsoever. I am not proposing negative licensing at this stage, but I do think that, for example, one of the requirements that could emerge from this amendment is that the person carrying out the clearance should be in possession of the consent while the clearance is being carried out. It makes checking a much easier process.

Progress reported; committee to sit again.

ADJOURNMENT

At 6.29 p.m. the council adjourned until Wednesday 27 November at 2.15 p.m.