ENVIRONMENTAL PROTECTION AMENDMENT (VALIDATION) BILL 2014

Second Reading

Resumed from 18 September.

HON SALLY TALBOT (South West) [12.48 pm]: I am not the lead speaker on this bill, Hon Stephen Dawson will lead the debate but he unfortunately is away from the house today on urgent parliamentary business. I do not know whether anything is rotten with the state of Denmark but something is surely wrong with the state of Western Australia. The Labor Party has been telling the government this for more than five years. It is clearly on the government's watch that things have unravelled in the area of environmental protection. This Parliament now is being asked—I remind honourable members that it is fair to say, once again—to play the role of heaven. Members who know their *Hamlet* will know that when Marcellus says "Something is rotten in the state of Denmark", Horatio says, "Heaven will direct it". This Parliament is now being asked by the government to play the role of heaven and to fix the mess that the government has created. When the government first brought this piece of legislation into the other place, there was a lot of chatter around the place that projects involved in this mess had been approved under a Labor administration—that is clearly not true. The Minister for Environment made those imputations in the media some hours before the second reading speech was given in the other place. As soon as the second reading speech was made, it became perfectly obvious that, in the minister's words in the second reading speech and repeated in this place again by the minister with carriage of the bill, this is the government's mess. In September 2008, the government changed the culture—it presided over a change of culture in the way that environmental assessments in this state are conducted—and it is now paying the cost of the mess it has created. The government is bearing the cost of the mess it created and coming to this place, asking us to fix it. Of course, we will fix it; it has to be fixed. We cannot continue down this slippery slope that the government put us on in September 2008. We cannot continue because we are a state that relies on industrial development. All industrial development should be subject to rigorous environmental scrutiny, and it is that process that the government has effectively trashed since September 2008.

What are we actually doing here today? What we are doing is embodied in a quote from the second reading speech—so it is not me spinning it, trying to pretend that it is all the government's fault or trying to play politics with this issue. In the second reading speech, the minister says that we will —

> … validate approvals that may be invalid by reason of the failure by the authority to comply with statutory requirements relating to conflicts of interest.

That is not the end of it, because just as serious as the failure to comply with the statutory requirements relating to conflicts of interest is the failure to comply with the statutory requirements regarding delegation of authority. These are very, very serious breaches of the Environmental Protection Act that have taken place here. They have taken place on this government's watch and they relate to projects approved by this government and a whole series of environment ministers. Here we are putting in place amendments to an act in relation to at least 25 projects—we have not had that confirmed; no member of the government has been able to confirm that there are only 25 projects. Indeed, as was pointed out by our colleagues in the other place, lawyers across Australia are now touting for business on the basis of the avenues for legal appeal that are now open. I note that in the other place the government moved to have the bill made an urgent bill, and our Labor colleagues in the other place, although they wanted to have substantial debate on the bill, agreed with that motion. But here we are on the last sitting day before what is virtually a three-week parliamentary recess only just beginning to debate this bill. It will not be finished today, so the process will now meander on for at least another month before anything can be done about it, all because of the way the government has chosen to handle this. As I said at the opening of my remarks, this mess goes back at least five years.

Hon Mark Lewis: It is 2002!

Hon SALLY TALBOT: I am thoroughly looking forward to Hon Mark Lewis standing up and making his contribution to this debate, and I hope that he goes through a time line and shows us exactly how it goes back to 2002. I wonder what sort of briefings the government has given its own backbench. If they are as good as the briefings it has given the National Party and some of their backbenchers on some of the other legislation, it will be riddled with deceptions and beset with a lack of accurate information. It is extraordinary to hear Hon Mark Lewis make an interjection like that. I would have thought, seriously, that the best strategy for members of the government to adopt is to sit there really, really quietly and just let us get on with this, so we can fix it. I would keep very, very quiet, because the government has egg all over its face—every single government member who has sat there for years and years and just let this meander on, presumably with ministers saying, "It is all right; don't worry. We've got all under control." Minister after minister has been doing this. I would keep very quiet and just let this proceed.

Let me put some key dates before the house. Let us go back to 3 September 2009, which is when the Environmental Protection Authority started to realise it had a problem. I could go back further because we know it was in 2008 that an extraordinary decision was made. I cannot find the words to describe what goes on in a statutory authority when a decision is made to act in a way that is prohibited by amendments to legislation that took place some years before. Of course, in 2005 the Labor government put legislation in place so that conflicted members of the EPA could no longer sit in consideration of matters over which they were conflicted. I do not how this happens, but in September 2009 we read the minutes of an EPA meeting in which the following was minuted —

> 1. Agree where a Member has declared a potential conflict of interest in a particular agenda item because they hold shares in the proponent company via a superannuation fund, then the Member shall be invited to participate in discussions and share any relevant knowledge and expertise.

I remind members again that this is September 2009. The minutes continue —

> The Member must leave the meeting and not participate in any decision-making on the relevant item.
>
> 2. Agree where a Member has a direct conflict of interest such as direct share holdings the Member will leave the meeting and not participate in any discussion or decision on the relevant item.
>
> 3. Request the EPA Chairman and the EPA Executive Officer to discuss the management of EPA Members' potential and direct conflicts of interest at the EPA meetings with the Office of Public Sector Management, and advise the EPA of the outcome.

Do not tell me that in September 2009 there was not a red flag flying. Do not tell me that there was not the beginning—just a whiff—of the smell of a problem wafting through the corridors of power, because there most certainly was.

We then go to June 2011, when we find in the *Government Gazette* delegation 22. I had already said an enormous amount about this on the public record at the time in 2012 when this really blew up in a dramatic way in the face of the government. Delegation 22 attempts, by notice in the *Government Gazette*—not, members will understand, by bringing a statutory amendment to the Environmental Protection Act into this place—to change the delegated authority. It reads as follows —

> The Environmental Protection Authority … acting pursuant to section 19 of the *Environmental Protection Act 1986* … has resolved to hereby delegate to those members (or member) of the Authority who are present at a meeting of the Authority and who do not have a direct or indirect pecuniary interest in a matter … that is before the meeting of the Authority, all of its powers and duties under Part IV, Division 1 of the Act in respect of the Matter, for the duration of the meeting.
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> This delegation is to have effect only if, at the meeting of the Authority, there is not a quorum of Authority members able to vote on the Matter by reason of the operation of section 12 of the Act, illness, absence, vacancy in the office of an Authority member or other cause.

What does that mean in plain English? It means that from that moment on, the EPA was under the impression, not that conflicted members of the EPA could not continue to deliberate, which they had been doing at that stage for about two years—no, it was not that—but that the meeting of the EPA could actually function as an inquorate meeting. Of course, we all know where that ended up, and this was done by the government with its eyes wide open. I am not accusing individual members of the backbench or even individual members of cabinet of knowing exactly what these details are, but we know, because the minister at the time, the person filling the role as Minister for Environment, the person holding that office—I make that point very carefully, because it must be remembered that the Minister for Environment is not a person, it is an office—knew that the EPA had allowed itself to meet when it was not quorate according the act. We know that at the time the minister had been informed that the decision on James Price Point—that is, the decision on the project that was the most expensive industrial project this state had ever seen—was going to be presided over by one person, one solitary member of the EPA. That is because every other member of the EPA was ruled out because they were conflicted financially and they had given themselves the authority to meet as an EPA consisting of one person—an inquorate meeting could make those decisions.

Sitting suspended from 1.00 to 2.00 pm

Hon SALLY TALBOT: Before lunch I outlined to members what we are doing here: we are trying to fix up a mess that has been created by the government's failure to understand the nature and management of conflicts of interest. Why has this occurred? Because we are dealing with an incompetent, arrogant government that for

five years ignored all the warning signs that something was seriously wrong. I was just going through the time line to demonstrate exactly how this mess can be traced back to September 2009. I got as far as the gazetting in June 2011 of a new delegation power that purported to allow the Environmental Protection Authority to meet in a meeting that we now know was legally an inquorate meeting, and I pointed out that this was the delegation that led to the James Price Point decision being made by a sole member of the EPA because all the other members were conflicted. That one member met, by himself essentially, in an inquorate meeting.

We then move to February 2012. Even if nothing else had resonated before February 2012, for me this is the moment at which the Minister for Environment must have known that something was wrong, because I tell members what: it was at that moment that the EPA knew something was wrong. We know this because in February 2012, the chair of the EPA reported to the minister about the time lines associated with James Price Point, and told the minister that there were potentially some conflict-of-interest problems that had perhaps not been resolved by the delegations that had been put in place.

How do we know that is true? We know it is true because we have read all the documentation around that time, but we also know it is true because at the precise moment the minister was informed by the chair of the EPA that there was a problem, the meeting procedure changed. We know that because we have been back through the minutes which, as all honourable members will know, are made public. Reams and reams of documents tabled in this place in response to questions asked by this side of the house, documents obtained under freedom of information provisions, documents made freely available on the public record for people to go out and sift through, and also the minutes from that time, all show that after a point probably around the last quarter of 2011, members of the EPA were going into meetings and reporting as they had before that they had pecuniary conflicts of interest, and were then being asked to step aside from the deliberations of the EPA; until then, they were allowed to continue in the deliberations. There was an actual change of practice somewhere between October 2011 and February 2012, when the minister was informed by the EPA of this problem.

We also know it is true because in September 2012 there was a matter of public interest in the other place, and during that MPI the then minister, who at that time was the member for Nedlands, gave the following explanation —

> The potential for EPA members to have conflicts of interest in relation to this project —

That is, James Price Point —

> was first raised by the EPA chairman to me as Minister for Environment in February 2012.

Just in case any of the cynics opposite thought I was making it up or spinning it, there it is, out of the mouth of their own minister, on the public record in this Parliament. The minister knew from February 2012 that there was a problem. He then went on to talk about delegation 22, which went back to June 2011. That is the smoking gun.

We then fast forward to August 2012, which was when the chair of the EPA made the recommendation on James Price Point as the sole sitting member. As the sole sitting member, he was entitled to rule on the matter and gave James Price Point official approval on 16 August 2012. We need to remember that when the minister received that recommendation, he had already received a briefing that there was, potentially, a whole series of problems around the delegation authorities and the registrations of conflicts of interest.

We are now at August 2012, and a year later, almost to the day, Chief Justice Wayne Martin of the Supreme Court brought down his judgement on James Price Point, which totally invalidated the environmental assessment procedure because of exactly those issues that the government was well aware of months, if not years, before that judgement was brought down.

We now come to the key point, over the last 12 months or so, and this is where things become very, very muddy; members will need to bear with me here. The approval for James Price Point was made in September 2012. In August 2013, the Supreme Court ruling rendered that approval invalid. On 3 September 2014, just over a year later, the Minister for Environment finally received a briefing on the implications of that Supreme Court ruling. Here we have the minister springing into action! He had 80-odd pages of Chief Justice Wayne Martin's rulings on his desk, so he sprang into action, using all the authority within his power, to summon people in to get a full briefing on what happened—one year later! What a year of action that must have been!

Do other ministers in this place think that that is okay? Just going along the rank of ministers in this place, I think, sadly, they probably do. I will go to each one of them in turn. Hon Peter Collier is on the public record as saying that schools that have had their funding cut only got what they deserved; clearly, that is the way that Hon Peter Collier works. Hon Helen Morton, as Minister for Mental Health, tells us that the Stokes report was the fulfilling of a Liberal Party election promise to review the mental health system. They have all read the same handbook, have they not? They are all reading the same book of instructions about how to be a Liberal minister. Then there is Hon Michael Mischin who I heard saying on the radio the other day that Aboriginal people who are locked up for non-payment of fines, who are actually incarcerated —

Point of Order

Hon HELEN MORTON: I cannot remember exactly what standing order it is, but could the Acting President ask the member to get back to what is relevant to the bill, please?

Several members interjected.

The ACTING PRESIDENT (Hon Brian Ellis): Order, members! There is no point of order. Hon Sally Talbot has been in the house long enough to know what the standing orders state, which is to comment on the subject at hand.

Debate Resumed

Hon Helen Morton interjected.

Withdrawal of Remark

Hon SUE ELLERY: I distinctly heard the Minister for Mental Health interject and refer to Hon Ljiljanna Ravlich as "Labor's Jacqui Lambie". I find that highly offensive and I object to it.

The ACTING PRESIDENT: It depends on how a person reads the comment as to whether they find it offensive. The Leader of the Opposition has asked that the comment be ruled out of order. I ask the Minister for Mental Health to consider withdrawing her remark.

Hon HELEN MORTON: I do.

Debate Resumed

Hon SALLY TALBOT: Quite clearly, I was talking about—I thank you, Mr Acting President, for your comments—the decision-making protocol that is going on, which is more than dubious. I referred to the point that when the Minister for Environment decided to leap into action, it took him a whole year to get a briefing on Chief Justice Wayne Martin's finding that the Environmental Protection Authority had been acting illegitimately. I also referred to the point that Hon Peter Collier, Hon Helen Morton, Hon Michael Mischin and Hon Ken Baston have all clearly read the same handbook.

That brings us to 3 September this year, which is when the new Minister for Environment received a briefing and, of course, it was only one week later that the Environmental Protection Amendment (Validation) Bill was introduced into this place. One has to ask—I hope the minister with carriage of the bill in this place will give us a full explanation in her second reading reply or when, because Hon Stephen Dawson will be moving amendments to the bill, we go into the committee stage—why it took one year and one week to get this legislation into this place. It is completely extraordinary.

That is the time line going back five years. Has the government had an opportunity before now to do something about this? Clearly it has. At any point during that process it could have taken action. I remembered that I had stood here in the last couple of months and talked about the fact that we were fixing some part of an environmental act because of the government's mishandling and constant mis-stepping in the handling of this portfolio. Last night I looked up the record and found that it was the Waste Avoidance and Resource Recovery Amendment (Validation) Bill, which we considered in this place in June this year. What did that bill do? It fixed the mess that the government created for itself because of its complete confusion about elements of the bill and how —

Hon Donna Faragher interjected.

Hon SALLY TALBOT: I am not interested in taking interjections from the mob opposite. They simply do not know what they are talking about. They have proven their incompetence; indeed, we are here because they are incompetent. They sit here and show us that as well as being incompetent, they are also arrogant. I am not interested in taking any interjections.

The Waste Avoidance and Resource Recovery Amendment (Validation) Bill was introduced to fix a mess that was caused by the fact that the government had no idea what to do with the whole concept of sequential landfill. I stood here at that time and said that it was a pity that we were not debating how to fix the conflict of interest mess within the EPA; I did that as recently as June. The government should have introduced the bill that is under consideration then but, of course, it has no idea how to handle these things. This is far from over because, as I said earlier, law firms all over the country are currently touting for business on the basis that invalid and illegal provisions were operating during the course of environmental approvals in this state since this government presided over a change in culture in September 2008. If any member of the government dares to stand up and say that this problem happened on Labor's watch, they are absolutely wrong and once more they will be deceiving the community of Western Australia.

I have talked about what we are doing and why we are doing it. Let me be clear about what we on this side of the house at least are not doing. We are not having a go at anybody's personal integrity. I have tried to make that

point before when we have talked about conflict-of-interest issues in this chamber. Hon Donna Faragher will remember very well the lively debates we had about how to manage conflicts of interest when she was handling the environment portfolio. We have never suggested in relation to the myriad issues of conflict of interest that come into this place because of the way members in this place have handled themselves—I refer to Hon Donna Faragher, and Hon Norman Moore, the former Leader of the House, who had a series of problems to which he was totally blind —

Several members interjected.

The ACTING PRESIDENT: Order, members! The honourable member has indicated that she does not wish to take interjections. It may help if she directs her comments through the Chair.

Hon SALLY TALBOT: There has never been a suggestion that anyone's personal integrity is being questioned. That certainly goes to all five members of the EPA who are in question. They are all very eminent people in their own right. I know that a couple of them are currently not members. Dr Paul Vogel has a very fine reputation across the country for environmental management. Mr Denis Glennon was appointed to the EPA in 1998. He is very experienced and has provided very valuable input to the environmental assessment process over many years. The same goes for Dr Chris Whitaker and Dr Rod Lukatelich. Elizabeth Carr is in a different category because her association with the Department of State Development, which was the proponent of James Price Point, is well documented. She used to run the section of the department that was dealing with the James Price Point project. She, of course, was never involved in any of those negotiations. I know that our colleagues in the other place have made comments about the way people are appointed to the EPA; indeed, that is a question with which we all ought to concern ourselves. There is an important point to be addressed in terms of who we appoint to these very important and influential positions. It is an open question about whether people who are so clearly connected to aspects of industrial development or companies involved in industrial development are appropriate candidates for a position on the EPA. Again, I am not talking about anybody's personal competence or integrity, but I think there is an open and ongoing discussion about how to constitute the EPA so that it gives the best service it possibly can in terms of its responsibility under the act to the community of Western Australia. I am not satisfied that that is being done under the Liberal–National government. Nevertheless, I return to my original point, which is that no-one is having a go at anybody's personal integrity, nor have we—now or in the past—identified conflicts of interest per se as a major problem.

In the past I have drawn the attention of members to a very comprehensive document. I had a rather amusing moment yesterday when I went looking for a copy of it. I am sure that I have about 19 copies of it at the bottom of my filing cabinet but I could not find one. I went to the place where I originally found it, which was on the Corruption and Crime Commission website. It used to be on the home page of the CCC website with a link. If members go to the Corruption and Crime Commission website and search for "conflict of interest", they will be directed to a page that refers to a conflict-of-interest package. For further information and resources about conflict of interest, there is a website address starting with "publicsector.wa.gov.au". If we click on the link, we get an error message 404, with the words "page not found" and a note saying, "Sorry but the page you are looking for has either been moved or it has just ceased to exist." I had to go about it another way. I eventually got there and I am very glad I did because it means that if we are persistent enough, we can get information from a government website about how to handle conflicts of interest. It is only a short document but every page has information on it that will be a revelation to every single government member, whether from the Liberal Party or the National Party, sitting opposite. Every page will have their jaws dropping at this new information from this document about handling conflicts of interest. On the very first page, they will read —

> What is a conflict of interest?

It states —

> Perception of a conflict of interest is important to consider because public confidence in the integrity of an organisation is vital.

I am not being sarcastic but this has never occurred to the government. If it had, the government would have acted on the mess that it has created with the Environmental Protection Authority and environmental assessment in this state five whole years ago and we would not have been in the position that we are in now.

There is another reason I wanted to refer specifically to this document. Under the guidelines, which it calls the six Rs—the major options for officers and supervisors to manage conflicts of interest—the first three are of particular interest. The government gets the first of the six steps right but when it gets to the second step, it starts to falter and by the time it gets to the third step, it has fallen flat on its face. The first step—recording and registering conflicts of interests—states —

> Recording the disclosure of a conflict of interest in a register is an important first step, however this does not necessarily resolve the conflict. It may be necessary to assess the situation and determine whether one or more of the following strategies is also required:

We know from the EPA minutes that conflicts of interest were recorded and registered. The second of the six Rs is "restrict". This is where the government starts to teeter. It states —

> It may be appropriate to restrict your involvement in the matter, for example, refrain from taking part in debate about a specific issue, abstain from voting on decisions, and/or restrict access to information relating to the conflict of interest. If this situation occurs frequently, and an ongoing conflict of interest is likely, other options may need to be considered.

This is why I wanted to make the point very strongly that the integrity of individual members of the EPA is not in question because they all did exactly that; they attempted to not only register and record their pecuniary interests, but also restrict their involvement. They were told specifically and they were sanctioned by a successive series of environment ministers that they could continue to participate, right up to that crucial moment somewhere around the end of 2011 and the beginning of 2012 when the balloon went up and all of a sudden they were left with just one man standing. By the time we get to the third R, which is "recruit", the government fell flat on its face. It states —

> If it is not practical to restrict your involvement, an independent third party may need to be engaged to participate in, oversee, or review the integrity of the decision-making process.

When I was making public comments about what happened with the James Price Point decision being made by only one person, the chair of the EPA, Dr Paul Vogel, I said that the minister—knowing as he did that this was the situation with the EPA—should have stepped in to appoint other people to undertake that assessment, which is clearly within his authority. This comes under the third heading "recruit", which states —

> … an independent third party may need to be engaged to participate in, oversee or review the integrity of the decision-making process.

I made comments on ABC radio one day and the Premier responded. Guess what he said? He said, "I know that Labor is saying that we should not have allowed this decision to be made by one person." Incidentally, I remind members that a comment was ratified by the Supreme Court of Western Australia only six months later that we were right. The Premier said he knew that was what Labor was calling for but we have to remember that we are a small state and the talent pool is not that deep. He said it is hard enough to find qualified people to serve on the EPA and now Labor is asking the government to substitute those people when their self-disclosed pecuniary interests are getting in the way of them being able to make decisions that they can account for. That is what the Premier said. He said that we are a small gene pool and we do not have the depth of talent that will enable us to find these people. Even if that was true, which I hotly dispute, the government could have got people from next door because South Australia does not have any problem. It does not take that much effort to fly people in from the other side of the country. In fact, Ms Carr did not live in Western Australia when she was appointed to the EPA; she lived in Sydney. She was flown over here. The EPA used to meet weekly until Ms Carr was appointed to the EPA, and then it started to meet fortnightly. That is a very strange coincidence, is it not? We have flown people in before because we could not find local people, yet the Premier went on the public record saying, "The gene pool is a bit shallow. There is not that much talent around. Suck it up, guys. Get on with it." That is not good enough.

In the time that remains to me in the second reading debate, I want to talk about a couple of things that are on the list that the minister in the other place eventually tabled—that is, the list of 25 projects that are affected by the legislation that we are looking at today. I remind honourable members that the second reading speech states —

> As a result of this practice, —

That is, the practice of meetings taking place and members with pecuniary interests making decisions —

> the validity of environmental approvals for projects involving significant capital expenditure is now subject to doubt.

There is no question that many of the 25 projects on this list would be well-nigh impossible to unravel. Nobody in their right mind would want to cancel some of these projects, which includes some major mining ventures across the state. One project clearly does not fit into that category, and I simply cannot understand why it is one of the 25 projects. I note before I go into this detail that James Price Point is not on the list. We are not validating James Price Point because the government is saying that a decision has already been made about it. What has the government done with James Price Point, incidentally? It has given it to three de facto or co-opted members of the EPA, not people who have pecuniary interests. That assessment is now being redone by three independent people. I am sure that they will come to the right decision. More importantly, when they do come to that decision, it will be a decision that the community of Western Australia can have confidence in because it has been done legally in accordance with the statutes. James Price Point is not on this list. However, the Roe Highway stage 8 extension is on the list. I ask the government why Roe Highway is on the list. I ask a simple question: has there been significant capital expenditure on Roe stage 8? The answer is clearly no. Not

a single shovel of earth has been moved. A section of Main Roads has done some public consultations. I am sure that a cost was involved. I simply have not been able to find any sign whatsoever of significant capital expenditure on the Roe 8 project. It is simply not true. The Roe 8 extension has been slipped into this list because it suits the government not to revisit that issue. Roe 8 ought to be revisited. For the benefit of honourable members who perhaps are not familiar with the project, although I doubt anybody has managed to escape it because it is so controversial, Roe 8 involves driving a major highway through one of the state's best preserved wetlands, so it is very, very controversial. If that decision is to go ahead, it must be on the basis of an open and transparent process so that the community can have full confidence in it. Notice that I am not questioning the legal validity of what we are attempting to do today. The second reading speech, all the research I have done and all the advice that we on this side of the house have received make it clear that we are engaging in a legally valid process today. When this bill is made a statute, 24 projects will properly get their legal validation, but Roe 8 should not be one of them. Roe 8 is the last one—the twenty-fifth project. This bill should not apply to Roe 8. I say that with absolute categorical insistence. Notice that I am being quite reasonable here. Personally, I will chain myself to the bulldozers at Roe 8, because I think it is an appalling planning decision.

Hon Phil Edman: Would you really?

Hon SALLY TALBOT: Yes, I would. Has Hon Phil Edman been down there and walked through the wetlands and seen what will happen. He could not do so and still endorse that road going through there. I will take every measure available to me to stop Roe 8 happening.

I am saying that the most important thing here is to have a vigorous and transparent environmental process. We do not have it for Roe 8. If the Liberal and National Parties are intent on slipping this through with this blanket retrospective approval, they will do the people of Western Australia a huge disservice.

In conclusion, the government, the Liberal Party and the National Party, has been in denial about the seriousness of this issue from day one. From the time the government took office in September 2008, it has been in denial about the fact this is a problem. The Premier has used every form of convoluted language open to a human being to try to slip and slide through the fact that we cannot have conflicted people making these decisions. We cannot have inquorate meetings making decisions that completely contravene the law. The Premier has devised novel terms. I think they need to be in whatever that dictionary is that is produced in Europe about neologisms, new terms. The Premier has invented this concept of a "notional conflict of interest". What on earth is a notional conflict of interest? He has also talked about the fact that they were not really conflicts of interest; they were just mostly about shareholdings. With the greatest respect to the Premier, the Supreme Court of Western Australia has shown that he is wrong. I do not know what a notional conflict of interest is. Let us stick to the more conventional term of a minor conflict of interest that can be managed. I draw members' attention to two paragraphs of the Supreme Court judgement in which this is mentioned, paragraphs 25 and 50. The Chief Justice states that "the investments were not insignificant" and he repeats the same phrase over and again in his judgement. He states that "the investment could not be described as insignificant". The Premier is wrong to try to invent a term to get around that. These are in the notional or minor conflicts of interest. They are not about small insignificant shareholdings or arms-length investments. The Chief Justice himself has said "the investments were not insignificant".

This is the government's fault. It is not the Environmental Protection Authority's fault; it is the government's fault. I say that for three reasons. The first is that a strong government acts to protect the interests of the state. A strong government would not have allowed that cultural change to start infecting the public sector back in September 2008. A strong government would have taken action to maintain the integrity of its own systems. That is the first reason.

The second reason it is the government fault is that strong ministers know what is going on in their portfolios and I am sad to say that three environment ministers under this Liberal–National regime were not strong ministers and have indicated by their lack of action that they had no idea what was going on in their portfolios. They were totally unable to manage what was going on in their portfolios, so they have either failed to ask the questions or, if they have asked the questions, they have not liked the answers and so they have buried the answers. All the chickens are coming home to roost because we now have a major problem that is a long, long way from being resolved.

The third and probably most significant reason—this is something that every member of the Liberal Party and National Party sitting on the government benches can do something about—is that the government sets the cultural tone of the way government business is conducted. The tone of the culture changed in September 2008. I defy anybody to come into this place and demonstrate to us in any viable way that the culture started to change before then, as that is simply not true. In September 2008 we had a change of culture that has wrecked the system.

HON LJILJANNA RAVLICH (North Metropolitan) [2.36 pm]: I am not the lead speaker, but I rise to support the Environmental Protection Amendment (Validation) Bill 2013. I am a bit amazed at how lighthearted the government is about this bill. I am particularly surprised that the government does not seem to understand the magnitude of the damage done by its actions in this whole issue. I am almost dumbfounded that the minister handling this bill on behalf of the government believes that it is a better use of her time to make some disparaging remarks about me and how I am "the Jacqui Lambie of the Labor Party", and that is her contribution to this bill. That is breathtaking, because this minister is part of a government that should really be hanging its head in shame because of what is before us today.

This is not the first time that this government has come into this place seeking support for a validation bill. In fact, the last time a validation bill came into this place, it was brought in by the minister because we had to validate and authorise a range of activities in which overseas-trained psychiatrists had been involved; they had been working in the capacity of psychiatrist without having the authority to do so. The minister should understand how important a validation bill is and I would say that perhaps the minister should have a bit more respect for this place, the members in it and what this house is trying to do to fix this government's mess.

Point of Order

Hon PHIL EDMAN: It is very clear what we are supposed to be debating here. Why are we continuing to talk about something that is not even on the notice paper?

The ACTING PRESIDENT: There is no point of order.

Debate Resumed

Hon LJILJANNA RAVLICH: What we have here today is an absolute mess. The Environmental Protection Authority is a statutory authority and the primary provider of independent environmental advice to the government through the Minister for Environment. A key function of the agency is to assess resource and planning proposals and make recommendations to the minister regarding the environmental acceptability of those proposals and, when required, recommend environmental conditions that may be attached to the project in the event that the proposal is approved by the minister. The EPA board consists of five people—a full-time chairman, a part-time deputy chairman, and three part-time members. Currently, the board consists of the chairman, Dr Paul Vogel; the deputy chairman, Professor Robert Harvey; and members Dr Rod Lukatelich, Mr Denis Glennon—a longstanding member—and Ms Elizabeth Carr. Dr Chris Whitaker has also been a deputy chairman in the past.

I understand that following the Barnett government's election win in September 2008, Dr Vogel made a decision to loosen some of the conflict-of-interest rules within the EPA board. Was he acting on his own or under instruction from his minister at the time, Hon Donna Faragher? I do not know whether Hon Donna Faragher had instructed Dr Vogel to change those conflict-of-interest rules.

Hon Donna Faragher: You just said that I instructed him.

Hon LJILJANNA RAVLICH: No. I said I do not know whether the minister had instructed him.

Hon Donna Faragher: I have already said that I did not.

Hon Alyssa Hayden: So you are making it up.

Hon LJILJANNA RAVLICH: I just asked the question. I would rather hear it from the minister.

Hon Ken Travers: I would be embarrassed by this bill if I were the minister!

Hon Alyssa Hayden: She is not embarrassed.

The ACTING PRESIDENT (Hon Brian Ellis): Order, members! One at a time.

Hon LJILJANNA RAVLICH: Thank you, Mr Acting President.

This bill before us can be tracked back to a single action—that being the loosening of the conflict-of-interest rules for EPA board members. Why do I say that? I say that because that is exactly what the Supreme Court found on 19 August 2013, when it delivered its decision on a challenge to the validity of the state environmental approvals for the Browse LNG precinct and ruled in favour of the plaintiff. That goes to the heart of the changes to those conflict-of-interest rules. The question that I have put before this place for consideration is a fair question—that is, did Dr Vogel act on his own behalf, or was he instructed to change those conflict-of-interest rules; and, if he was instructed to change those rules, who was he instructed by? I am not going to surmise anything. Other speakers before me, and other speakers after me, can make their own contributions, can make their own judgements and can make their own statements to this place. However, I think that is a fair question, and I would certainly like to know the answer to that question.

Hon Nick Goiran: Are you happy to take an interjection?

Hon LJILJANNA RAVLICH: No.

The Supreme Court of Western Australia upheld a challenge by the Wilderness Society of Western Australia to the validity of the state environmental approvals for the Browse LNG precinct, on the basis that the EPA had failed to comply with sections 11 and 12 of the Environmental Protection Act. Section 11 establishes a quorum for an Environmental Protection Authority meeting at three unconflicted members. Section 12 prohibits members with a direct or indirect pecuniary interest in a matter before a meeting of the EPA board from taking part in the consideration or discussion of that matter, or voting on that matter. The Supreme Court found that the EPA failed to comply with section 12 of the act when EPA board members who held shares in companies with a commercial interest in the outcome of the Browse LNG precinct assessments participated in the assessment. It found also that because the shareholding members were sometimes required to form a quorum, there was a failure to comply with section 11 of the act. The court held that as a consequence of that failure to comply with these provisions, the environmental approvals that followed the EPA's purported assessment were invalid.

In the case of The Wilderness Society of Western Australia (Inc) v Minister for Environment, the Chief Justice of the Supreme Court decided the following: the decision of the Environmental Protection Authority to submit the assessment report of the Browse LNG precinct is invalid; the decision by the Minister for Environment to the effect that the Browse LNG precinct proposal may be implemented is invalid; and the decision of the Environmental Protection Authority to declare the development proposal presented to the authority by Woodside Energy Pty Ltd—a derived proposal—is invalid.

This brings us to the bill before us today. The explanatory memorandum states that —

> The purpose of this Bill is to amend the *Environmental Protection Act 1986* to effectively provide that the rights, obligations and liabilities of all persons shall be the same as if each relevant action of the Authority and subsequent environmental approval had been validly done.

But of course we know that it had not been validly done—if it had been, the Chief Justice of the Supreme Court would not have made the decision that he made in respect of this matter. We need to look at and understand why this is the case, and ensure that it does not happen again. I said in my opening remarks that this is very, very damaging and it needs to be taken very, very seriously. I do not resile from those comments. The determination by the Chief Justice means, in my view, that we can no longer have confidence in our Ministers for Environment. The first is former Minister Faragher. I put the question before the house in terms of who caused the changes to be made to the conflict-of-interest rules. All I asked for was a response to that question. However, Hon Donna Faragher seems to take great umbrage at the fact that I even mention that. We also cannot have confidence in Minister Marmion, who took over from Hon Donna Faragher. We certainly cannot have confidence in the current Minister for Environment, Minister Jacob. It does not say a lot when a community and a society cannot have confidence in their ministers of the Crown.

We also cannot have confidence in the Environmental Protection Authority. The EPA is the lead agency in this state in respect of environmental matters. Given this disaster, we certainly cannot have confidence in the assessments and decisions that have been made by the EPA board since 2008—which is when the conflict of interest requirements for EPA board members were loosened—as they relate to not only the Browse project but the 25 other projects that may well now also be at risk. This is a very serious matter. In my view, there can be no doubt that there has been a loss to the reputation of the Western Australian government and its lead environmental agency, both nationally and internationally, in respect of how this state conducts environmental approvals on major projects. One of the attractive things for investors in this state is that we generally have very robust processes. We generally adhere to the rule of law. But the way in which the law has been interpreted in this case, and the way in which this matter has come about, causes me major concern. I do not doubt that investors from around the world will have a look at what is happening here. I am sure that people in other parts of the world have seen the news headlines about 25 major resource projects at risk, and they will be wondering what will happen. The problem is that the damage may well already have been done. I understand that we are here to make this right. I understand that this is a validation bill that aims to make this right, but at the end of the day it does not mean, with all the modern telecommunication systems we have, that news of this disaster of the government's making has not gone around the world.

One might expect to find the conflict of interest and lack of due process in Environmental Protection Authority assessments happening in a Second World or Third World nation in the way that it has happened here, but not in a First World nation like Australia with a strong reputation for managing the environment while at the same time having a world-class resources sector. Many people in the business community and in the community generally have taken a keen interest in how the EPA approval processes so blatantly disregarded conflict-of-interest procedures and the consequential impact on those 25 major projects that may still face an uncertain future, even after this remedy is applied. Others will be seeking answers to questions about whether successive

Barnett government ministers may have intentionally or knowingly loaded the board with members who had conflicts of interest, knowing that it would then rule them out of voting decisions, to then leave Dr Vogel alone to make such an important decision and recommendation to the government. Maybe it was the sure way of getting the result that the government wanted. I do not know. Maybe the government just did what it does so well; that is, give its mates the board positions simply because they are the government's mates—nothing more than that; just because they are the government's mates.

Several members interjected.

The ACTING PRESIDENT (Hon Brian Ellis): Order! Hon Ljiljanna Ravlich has the call.

Hon LJILJANNA RAVLICH: There is no doubt that the business community is very nervous about what has happened. I am just amazed that the people who are interjecting think that this is an easy thing for the business community to deal with. The business community has done the government a huge favour. It has actually not come out with guns loaded wanting to find targets to shoot, because it is confident that this validation bill will go through. But to suggest that we can pretend that it has not happened, or that the business community is not nervous or uncertain about the future of their businesses, particularly these 25, is not my reading of the situation. I would suggest that the business community is nervous. The government has allayed the community's fears to some extent by bringing in this validation bill, but to suggest that the business community thinks that this is okay or satisfactory and that is the way it believes the government should get on with EPA assessments, is totally wrong. Anyone who believes that is totally wrong.

The question arises: where are the files, the briefing notes and the email exchanges between the EPA and the three environment ministers? Who knew what, and when, and what did they do about the issues surrounding the EPA board operations, the conflicts of interest and the like? I find it absolutely breathtaking that no-one seems to know anything about this. There does not appear to be any evidence of what has gone on, and yet it had been going on since 2008. I believe that these documents should be tabled in this place or presented to a committee of the Parliament. The three ministers concerned since 2008, when these conflict-of-interest rules were changed, must surely have had information presented to them in the form of briefing notes, emails or any form whatsoever, to suggest that these changes had taken place. I say that because this government, and the ministers who have had responsibility for the environment, deny ever knowing that these conflict-of-interest rules were changed. How on earth can three ministers not know that such an important change has taken place? It just beggars belief. It is inconceivable that, since late 2008, after the Barnett government loosened the conflict-of-interest rules, nobody in government knew anything about these changes. The government is now blaming Dr Vogel. The explanatory memorandum states —

> The relevant actions to which the validating legislation will apply will be those actions which are invalid by reason of:
>
> - a failure to comply with section 11 and/or 12 of the Act;
> - the existence of a reasonable apprehension of bias by Authority members; or
> - the response to a perceived conflict of interest being to rely on a delegation where no delegation was in fact available.
>
> The Bill will not prevent a court from setting aside an approval if it finds that the Authority's assessment was actually influenced by the interest of one or more of its members. The validating legislation will not prevent decisions being challenged on grounds which do not concern conflicts of interest.

My reading of that is that a decision could be challenged on grounds other than conflict of interest; that is, it could be challenged on the grounds of lack of due process. Even though the bill will validate these assessments, it will only validate those decisions relating to conflict of interest, but not relating to other areas. This means that there is no clear guarantee that this validation bill will solve the problem for the government, and that these 25 remaining projects are out of the woods yet.

I want to spend a bit of time talking about the question of conflict of interest. When I started to have a look at this issue I thought I would go to POWAnet and do what I usually do—have a look at some of the media releases that were produced by members of the opposition in this case. I naturally went to the time when Hon Sally Talbot was the shadow Minister for Environment. One thing about Dr Sally Talbot is that she is a very hard worker. She was a great shadow Minister for Environment and was well and truly ahead of her game. There is no doubt in my mind —

Hon Helen Morton: It's easy to be a shadow.

The ACTING PRESIDENT (Hon Alanna Clohesy): Order! Hon Ljiljanna Ravlich has the call.

Hon LJILJANNA RAVLICH: I just heard the interjection of Hon Helen Morton: "It's easy to be a shadow." It is easy to be a minister when the minister is as hopeless at it as she is! It is very, very easy to be a hopeless minister!

Several members interjected.

The ACTING PRESIDENT: Order! I ask the member not to invite interjections and to continue making her contribution.

Hon LJILJANNA RAVLICH: Even before 2011, Hon Sally Talbot started raising her concerns about conflicts of interest. Her press release dated 25 October 2011 titled "New EPA appointment raises question of Minister" relates to Minister Marmion's media announcement of Ms Elizabeth Carr's appointment and her lack of environmental credentials. Hon Sally Talbot's press releases are full of good detail and go to the heart of some of the issues surrounding the matters before us. On Monday, 25 June 2012, Hon Sally Talbot put out another press release titled "Mess created by Marmion compromises Browse LNG contract". She could have been a fortune teller, because the information that she put into that press release was spot on. Her press release states —

> Environment Minister Bill Marmion compromised the Browse LNG project by allowing just one Environmental Protection Authority (EPA) board member to rule on whether the agency would support the project, Shadow Environment Minister Sally Talbot said today.
>
> Dr Talbot said Mr Marmion should have been aware of potential conflicts of interest that ruled out the remaining four EPA board members from handing down the decision.
>
> "Despite the majority of the board being ruled out of the decision, Mr Marmion allowed the ruling on the EPA's environmental assessment to continue, creating serious concerns over the integrity of the final ruling," …
>
> "Mr Marmion's appalling misjudgement has trashed confidence in the assessment process and gave the project's opponents a free kick by allowing the EPA to conduct a one-man assessment.

For members who are interested, it is worthwhile looking at the excellent press releases of Hon Sally Talbot, because even though the government did not know then, the opposition, through the work of Hon Sally Talbot, was certainly right across the issue and could foresee it being a major potential problem for the government.

Hon Sally Talbot put out another press release on 29 June titled "Marmion refuses to answer questions on Browse LNG gas hub", and another one on Wednesday, 12 September, titled "Lame duck Minister must step aside over Browse bungles". Hon Sally Talbot was very aware of what was happening in this portfolio, and no doubt the chickens have now come home to roost.

Hon Sally Talbot has already canvassed a number of issues. I note that she also referred to an interesting document produced by the Integrity Coordinating Group titled "Conflicts of Interests: Guidelines for the Western Australian Public Sector". Key departments have badged it, including the Corruption and Crime Commission, the Ombudsman, the Office of the Auditor General, the Office of the Information Commissioner, the Public Sector Commission, and so on and so forth. This interesting document explains how to deal with conflicts of interest in the public sector. It is amazing that nobody, not even the EPA, took any notice of the government's policy on how to deal with conflicts of interest in the public sector, which covers government boards and the like. I must say that that reflects badly on the government.

Specifically, in respect of the EPA's assessment of the Browse LNG precinct, four of the five EPA board members declared a conflict of interest, so it was left to Dr Vogel to make the decision to recommend approval for a gas hub at James Price Point. Effectively, the conflict of interest meant that the EPA board had been reduced from five members to one. Barring the Chief Justice's decision in the Supreme Court in favour of the Wilderness Society of WA, the WA public may never have known of the abuse of process of the EPA. The fact is that if this matter had not gone to the Supreme Court and if the Chief Justice had not looked at this matter as diligently as he did and ruled on it, none of us would have been any the wiser. The question needs to be asked: how could such a crucial environmental decision for a $35 million gas hub proposal at James Price Point be made by one man alone, after conflicts of interest struck out four Western Australian Environmental Protection Authority board members from the Browse LNG program assessment? Also, how could such an important matter not be brought to the attention of anybody and become known to the public only by accident—that is, it ended up in the Supreme Court and before the Chief Justice?

Had the EPA board appointments been made on the basis that people with small or no conflicts of interest were appointed as members, Dr Vogel alone could not have made such an important decision or his subsequent recommendations to the government. It is pretty clear that Minister Marmion also had no intention of informing the public of this disgraceful state of affairs, which came to light almost accidentally. I would have thought that the CCC would have been all over this, but obviously not, and I cannot understand why.

Board members who were excluded from the decision-making process included the EPA deputy chairperson, Chris Whitaker, and board member Denis Glennon, both of whom had shares in Woodside Petroleum. Dr Vogel said that Dr Whitaker and Mr Glennon's shareholding in Woodside could have varied considerably over the four-year assessment time frame. The EPA became aware of conflicts of interest through the members' declarations at relevant board meetings. Mr Rod Lukatelich was struck off and not allowed to vote because he was an employee of BP, one of the project's main joint venture partners. Elizabeth Carr had never been included in the Browse assessment because, before joining the EPA board, she had worked for the project's proponent, the WA Department of State Development. After going through this material, one can be left wondering whether it was by accident or design that Dr Vogel was the only man left standing to cast the vote. That is still not clear to me. There is part of me that believes that perhaps the minister appointed to that board only members who had a conflict of interest, knowing that at the end of the day it would be easier to exert some pressure on Dr Vogel than on the entire board. I do not know; certainly there are some questions in relation to that.

In respect of the Browse LNG precinct assessment and the 25 other projects, I, for one, would like to know how many times individual board members declared conflicts of interest, how many times the conflicts were identified, and how they were managed. I suspect that they were not managed at all and that there was not really much oversight of what was going on at the Environmental Protection Authority board level. I also suspect that if the Wilderness Society or any other party were to take legal action on the other 25 projects affected by the failure to comply with the conflict-of-interest requirements, the Supreme Court would, in all likelihood, make the same determination for the other 25 projects. The real question is: how did this happen and where was the ministerial accountability in all of this mess? In my view, the way in which the key stakeholders—including the Premier, the Minister for Environment, the Department of State Development and the Environmental Protection Authority—have handled this matter has left the reputation of the EPA in tatters. Dr Vogel's decision to recommend approval for a gas hub at James Price Point, and the disclosure that he alone concluded the EPA's assessment and put the EPA's recommendation to the Minister for Environment, is astounding, to say the least. One has to ask the questions: How could Dr Vogel have made that decision alone and believed that he was following correct procedure and due process? How could anyone versed in how senior levels of government operate believe that this was a legitimate decision-making process? I just do not know. Billions of dollars' worth of investment and thousands of jobs have been put at risk because of this fiasco and the Barnett government has, to date, refused to say who ordered the change to the conflict-of-interest rules.

Had Dr Vogel done this off his own bat, the government would have got rid of him. Under normal circumstances, if a senior public servant changed the conflict-of-interest rules without government authority and the consequence was the placing at risk of 25 projects and an adverse Supreme Court determination by the Chief Justice, they would simply be dismissed. It raises questions about who the puppetmaster is here and why the government is not being more transparent. It is hard to imagine that the decision could have been made by Dr Vogel without any support and input by successive Ministers for Environment; I refer to ministers Faragher, Marmion and Jacob. I believe that Dr Vogel changed the conflict-of-interest rules with, if not the authority, then certainly the knowledge, of the relevant minister, and I believe that the ministers should 'fess up.

Hon Donna Faragher: Did you read the second reading speech?

Hon LJILJANNA RAVLICH: If Hon Donna Faragher thinks I believe anything she puts into a second reading speech, she can think again. Sorry.

If this was the action of Dr Vogel alone, and he was responsible for this grief by leaving the state exposed to the loss of potentially billions of dollars, why is he still in the job? It is clear to me that Dr Vogel is taking the fall for somebody else, and the question is who. I believe Hon Donna Faragher was in the job at the time this happened, and the fact that she knew nothing about it is astonishing, especially given that the government had talked about reforming the EPA for quite some time. It also talked about transparency, but of course it has been anything but transparent.

We also need to ask: Did the Department of the Premier and Cabinet know, and what did it know, in respect of this matter? Did the Department of State Development know, and what did it know, in respect of this matter? Did the Office of the Attorney General know, and what did it know, in respect of this matter? What did the Minister for Mines and Petroleum and his office know? In my view, probably all of them knew; I half suspect that perhaps all of them knew. They just wanted to find an easy way to get what they wanted from the EPA in terms of approvals and unfortunately for them they were caught out. My view is that the government needs to be transparent and should table all the correspondence, all the emails and all the briefing notes regarding the EPA approvals process in relation to the LNG project at James Price Point and the other 25 projects. It should table them all; that is the only honourable thing it could do, but I know it will not. I find it hard to believe that the government did not know what was going on in the EPA on matters as sensitive as environmental approvals for major projects. I definitely know that the response and the lame excuses —

Several members interjected.

The ACTING PRESIDENT (Hon Alanna Clohesy): Order! There is way too much chatter in the chamber. Hon Ljiljanna Ravlich has the call.

Hon LJILJANNA RAVLICH: We have had nothing but denials that successive Ministers for Environment, the government, the Department of the Premier and Cabinet, the Department of State Development and the Attorney General all knew nothing about this. The only person who is responsible for this is Dr Vogel. I am sorry, but I do not think that passes the pub test.

HON ADELE FARINA (South West) [3.17 pm]: I note that I am not the lead speaker for the opposition on this bill, but I will speak to the bill.

It is hard to know where to start here. The people of Western Australia, through the Parliament, have established an independent authority and entrusted the people appointed to that authority with a very important and significant power to make recommendations to the Minister for Environment in respect of which project proposals should be granted environmental approval in this state. The ramifications of that power are significant for any proposal that is put before the EPA, and one would quite naturally expect that such an authority would operate at the highest levels. It is very, very concerning to learn that that is not the case. The instances of misuse of power that have been identified in the case of The Wilderness Society of WA (Inc) v Minister for Environment are extraordinary, to say the least. It really is hard to know where to start in expressing concern about what has actually been exposed here.

We know that prior to 2003, the Environmental Protection Act allowed members with a pecuniary interest in a proposal that was being assessed by the Environmental Protection Authority to take part in the consideration or discussion of that particular matter, but not to vote on the final decision. Clearly there was some concern about that position because in 2003 the EP act was amended to make it very clear that members with a pecuniary interest in a matter should be excluded from all discussions and all considerations of a matter, as well as not being able to vote on any aspect of the matter. That decision was clearly well articulated and reported, because an amendment was made to the act, so it was considered in this place and by Parliament. It was a matter known to everyone. Recently we learned that in late 2008, for reasons that are not clear, the EPA embarked on a process to change its internal governance practices. We do not know why. There has been no explanation of why that occurred. It is a bit difficult to not draw parallels with the timing of that decision coming just after a state election and just after a change of government. It is a bit hard to ignore that fact, particularly when we have been given no explanation whatsoever for why the Environmental Protection Authority decided to change its internal governance practices. In changing its internal governance practices, the EPA decided to allow members with a pecuniary interest to participate in the assessment process—that is, in the consideration and discussions about a particular matter, which is completely contrary to the 2003 amendment to the Environmental Protection Act. We have a situation in which an authority, which makes critical decisions for the state, changed its governance practices and procedures contrary to the law. It is extraordinary that EPA members, who are required to understand and implement the provisions of a big act in their decision-making, did not understand the provisions contained in one section of the act about the amendment made in 2003. It is extraordinary. I do not know how the government would begin to explain that away; it makes no sense at all. The fact that the government has failed to provide an explanation about why the Environmental Protection Authority changed its internal governance practices and why no-one at the EPA pointed out that it was in contravention of the law is absolutely extraordinary. It demands an explanation by the government. The government cannot sit there with its head down, pretend that this issue will go away and fail to provide an explanation for why that occurred. If it is necessary, we can invite Dr Vogel to Parliament to provide us with that explanation. Certainly an explanation is needed. It is simply not good enough that we have to vote on the bill before us without being provided with an explanation. The concern is that this is systemic in the EPA and, given that it has happened once—and it is clear that good governance practices are not in place—we have a responsibility to ensure that they are put in place and that this incident does not happen again. To date the government has provided us with no certainty that this incident will not occur again. We have received no explanation, no guarantee and no indication of which procedures and double checks have been put in place to ensure that this does not happen again. That is not good enough. The government needs to provide some explanation about that.

We have been told that 25 cases are at risk of being identified as invalid. The list we have been provided is, quite frankly, disgraceful—it is simply a list of projects. We have been given no idea when they were submitted to the EPA, when the EPA considered their assessment or when the minister made a decision about them. The only information that we have been provided with is that some members had a pecuniary interest, and we have been given the names of the members who have been identified. We do not know the nature of the pecuniary interest and we do not know whether other issues may also cause concerns about the validation of those decisions.

One of the projects on the list is "Residential subdivision, Underwood Avenue, Shenton Park, UWA". The only information the government has provided is that the nature of the interest is unclear. How did it get on the list after a review was conducted and after the receipt of State Solicitor's Office advice if the government cannot tell us the nature of its concern? It is extraordinary; we are being treated like idiots. It is unacceptable. The minister and the government need to explain to us the nature of the interest.

In addition, the second reading speech states that following the decision of the Supreme Court in the case of the Wilderness Society of Western Australia v Minister for Environment, the government sought legal advice about other matters in which there may have been a failure to comply with the requirements of the act relating to conflicts of interest. That is all we have been told. We have no idea what advice was sought, nor do we know the basis for seeking that advice. The second reading speech reads -

> Advice was provided by the State Solicitor's Office, and was recently reviewed by David Bennett, Queen's Counsel, who is a former commonwealth Solicitor-General, and Andrew Tokley, Senior Counsel.

We have no idea what the advice was, but we are supposed to accept the fact the government sought advice and received advice, but we do not need to know what any of that was about. It is extraordinary. How can statements like that be put in a second reading speech, which is presented to the chamber to persuade members to support the bill, without providing any information at all? It is absolutely extraordinary. The government needs to explain to the house the legal advice that it sought, its concerns and the advice that it received. It is not unreasonable for members of this place to want that information. The government put that in the second reading speech—now it should follow through and provide an explanation for why the government considered it so important to have that information in the second reading speech without providing the house with an idea of what it was pursuing in seeking it. The second reading speech continues —

> Having considered this legal advice, the government has identified 25 cases where there is a risk that state environmental approvals for projects other than the Browse LNG precinct proposal could be held to be invalid. Broadly, those cases involved members of the authority who held shares in companies with a commercial interest in the outcome of the authority's assessment participating in the assessment.

We have been told that there are 25 cases relating to pecuniary interest, which are on the list with which we have been provided. However, the government has stated that for one case on the list, it has no idea of the nature of the interest—it is "unclear"—which presents a conflict between the document that has been provided and the second reading speech, which I would appreciate the government clarifying. The second reading speech continues —

> The review of EPA assessments undertaken to inform the SSO advice identified a change in the internal governance practices of the authority from late 2008 to 2012, whereby conflicted members were allowed to participate in the assessment process, in spite of the 2003 act amendment disallowing the practice. The ministers at the time were not advised of this change to the authority's internal governance practices.

This house would like an explanation of what led to those internal governance practices. The second reading speech goes on —

> Other cases, including two examples in 2005, were also identified where a member failed to disclose an interest.

I ask the minister: How many other cases were there? What are the cases? Can she identify them? What are the proposals? We need to know how often members of this authority, who swore to perform their duty at the highest level, have not disclosed pecuniary interests. It is a pretty serious concern. I would certainly like to know. Twenty-five cases have been listed and there are other cases, including two examples in 2005. What are they? Can we have a list of them? The speech goes on —

> There were also some occasions on which the authority responded to a conflict by purporting to delegate the decision to particular members when no applicable delegation was in place.

Again, that suggests that there are more cases than the 25 identified on this list. Surely if the government comes to this place with a bill that is retrospective in nature—we all know the Parliament's view on passing retrospective legislation but I understand in this case it is a necessity—it should at least be able to disclose exactly how many proposals are affected. The government presents a list of 25 projects to which members of the EPA have pecuniary interests, including one that is unclear, and then tells us there are some other cases in which no pecuniary interest was declared at all but it does not tell us how many there were. It then tells us there are some other cases on which the authority purported to delegate the decision to particular members but it does not identify what they are, yet the government expects this house to pass the bill. The bill before us does not just

relate to validating the 25 projects on the list provided by the government, which accounts only for pecuniary interests; it also seeks to validate decisions relating to any proposal considered over an indefinite period—because it is clearly stated; so from the time the EPA was established—that might not have complied with the requirements of the law.

It is extraordinary for any government to think that it is acceptable to come to this place and not identify proposals in which it thinks there is a problem. After all, a Supreme Court decision was delivered by the Chief Justice, so we cannot get better than that. The State Solicitor's Office provided advice. David Bennett, Queen's Counsel, and Andrew Tokley, Queen's Counsel, provided advice, and the department undertook a review. We have no idea who undertook that review; that information has been kept quiet. We do not know whether those Queen's Counsel were engaged to oversee that review so that we can have some certainty that it was conducted appropriately, yet we are being asked to approve a bill that says at least 25 cases have been identified in which there was a breach relating to pecuniary interests. There is a whole lot more but the government will not tell us what they were or how many there were, and it wants us to give a blanket validation to all decisions and recommendations made by the EPA and the Minister for Environment to date.

Hon Lynn MacLaren: Extraordinary!

Hon ADELE FARINA: It is absolutely extraordinary that the government thinks it can come to this house and ask the members of this place to make a decision without supplying them with the information they need to make an informed decision.

What has been exposed by this case going before the Supreme Court and by this review is a systemic practice of poor governance in the EPA. EPA members have failed to disclose pecuniary conflicts of interest at the first opportunity available to them and at each meeting, despite the fact that they are required to do so by law and under the code. Members of the EPA participated in discussions and considered and were involved in decision-making on proposals in which they had a pecuniary interest, despite the fact that an amendment to the act in 2003 made it very clear that members with a pecuniary interest were not to participate in consideration and discussions relating to matters in which they had a pecuniary interest; yet this has been happening. It has also been established that the authority has purported to make a decision when it did not have a quorum. That is just extraordinary. There is no level of good governance at the EPA at all. It is beyond belief that people can be in positions of high standing and not understand that they need to disclose pecuniary interests and that they need to do it at the first available opportunity. They think they can conduct meetings and purport to make decisions when they do not have a quorum. It is just extraordinary. I cannot believe that we have to discuss this and that there appears to be no concern on the part of government that this has happened.

In addition, we have learnt that on the rare occasion that a pecuniary interest was disclosed, the chairman of the EPA decided that he could use section 13 of the EP act to simply brush away that pecuniary interest and allow the member to participate in the discussions and the deliberations through the assessment process of the 2003 amendment to the act that clearly stated that this was not to occur. It is just extraordinary that this can happen. There is no other set of words for it. We are expected to be confident that the board can understand the 200-odd provisions in the EP act and that they are able to implement them when they cannot implement the most basic of those provisions in the act. It is of great concern to me and to all members of the community that the EPA could engage in conduct that is clearly contrary to the law. It is contrary to any reasonable man's understanding of conflicts of interest and how to manage them. We should forget about what is in the act. Everyone has an understanding of conflict of interest and what we need to do to manage it. That was completely ignored by the EPA. We are being asked to accept that this was just a case of poor judgement—poor judgement exercised again and again over many, many years. It is hard not to question whether it was more than that and whether there was some direction behind that.

Hon Helen Morton: Here we go again!

Hon ADELE FARINA: It is great for the minister to say "here we go" but —

Hon Helen Morton: I said "here we go again".

Hon ADELE FARINA: Here we go again! This is a government that goes to an election saying that it is ready to govern, it is prepared to govern and it will govern with great transparency, yet it will not answer basic questions when it has become very clear—it has been exposed—that conduct that is completely unacceptable and that throws numerous projects into question has occurred. The government still thinks it is quite okay to sit there and not answer questions and to bring bills like the one we have before us to this place without providing members with the information they need to make informed decisions. It is completely unacceptable. The lack of transparency by this government is appalling; it is shocking. That lack of transparency allows these sorts of problems to occur. Ministers are quite happy to protect the people who have acted unlawfully —

Hon Alyssa Hayden: Who you appointed!

Hon ADELE FARINA: It does not matter who appointed them. The issue is that they acted unlawfully. The government has now been exposed. The question is: what is the government doing to address it? With the exception of this bill in which the government seeks to give blanket approval to everything that has been done until now, whether or not we know what it is. It is really quite extraordinary. If the government really wants to go to the next election telling the people of Western Australia that it is transparent and accountable, it needs to provide some additional information. It is incumbent on the government to provide a list of all proposals submitted to and considered by the Environmental Protection Authority during the period in question. I have no idea what that period is because the government has failed to identify it in its second reading speech or the bill.

Hon Ken Travers: It makes you wonder whether they know.

Hon ADELE FARINA: The government does not know. It is clear that it does not and that the review being conducted has been superficial at best.

We have learned from the Supreme Court decision that there were a few occasions when pecuniary interests were disclosed. In that list that I have asked the government to provide, the government needs to identify what pecuniary interests were declared in each proposal. In addition to that, we need to know what pecuniary interests were not declared in relation to those proposals. We have learned from the Supreme Court case that consistently and regularly EPA board members do not declare pecuniary interests. That has been exposed by the Supreme Court case. Clearly, the government's list of 25 proposals has identified that interests were not declared in those 25 instances either. Therefore, we need to know what pecuniary interests should have been declared that were not declared in all the proposals considered by the EPA during the period in question. We need to know whether any delegations were made or purported to be made in each proposal and the nature of such delegations. We have learned, yet again from the Supreme Court case, that the EPA has purported to make delegations that were not valid at law. That is extraordinary. That is yet another example of the EPA not understanding how to implement the requirements of the act that it is empowered and entrusted to implement, which is a matter of great concern.

Another aspect that members opposite should be very concerned about is that section 19, "Delegation by authority", states —

> (1) The Authority may, with the approval of the Minister, delegate, either generally or as otherwise provided by the instrument of delegation, to —

And it goes on. The delegation can occur only with the authority of the minister. While members opposite want to sit there and say that the ministers knew nothing about anything that was happening, they need to read the act, because none of these purported delegations of authority could have occurred without the minister's approval. We need to know for each project that was considered by the EPA during the period in question—we do not know how long that is—what delegations were purported to be made and whether the approval of the minister was obtained. Then we might know what ministers might have known about what was happening rather than what they choose to disclose. We also need to know whether there was a lawful quorum at each meeting of the EPA at which any decision was made, because we know that the EPA does not understand what a lawful quorum is because it has purported to make decisions at meetings at which they did not have a quorum. We also need to know who undertook the review and identified the 25 cases; the terms of reference of that review, so that we can have some level of confidence, or not, about whether it was sufficiently thorough; and why the government remains uncertain that all the proposals at risk have not been identified. As I have stated, the bill goes much further than the 25 projects that have been identified. It seeks to validate anything that has taken place to date that may not have been lawful.

As previously stated, we also need to know what legal advice the government sought after the Supreme Court handed down its decision and what advice the government received. Clearly, the government, in my view, was concerned that not all the potential breaches had been identified by the Supreme Court. Let us remember that the Supreme Court was not conducting a review of EPA operations; it was simply considering the matter before it, which was one case. Therefore, it could identify the breaches of law in only that one case. Clearly, the government must have had some concern that there may have been other problems that extended beyond what was captured by that case. Most importantly, the government really needs to explain why the EPA chose to change its internal governance procedures in late 2008, which led to this problem, and why it did so in contravention of the law and in contravention of the good governance and good practice that had been established right across the board.

Another thing that is not clear to me is whether the EPA sought the advice of the Public Sector Commissioner. There seems to be some suggestion that in 2008, when it made these changes to internal governance, advice was sought from the Public Sector Commissioner. One could assume, rightly or wrongly, that the Public Sector Commissioner or his office provided advice that indicated that that change in governance practices was appropriate. If it did not, it begs the question: why did the EPA proceed to implement them if it got advice from

the Public Sector Commissioner that that was not appropriate? Those questions need to be answered. The government cannot leave it hanging in the air that advice may or may not have been sought. Dr Vogel may or may not remember whether advice was sought and what that advice was. Clearly, good governance practice requires file notes to be made and one would hope and expect that the Public Sector Commissioner and his office would be well-versed in keeping file notes. That information is contained somewhere and we should be able to access it and it should be made public.

Another interesting thing that we learned from the second reading speech is that since the EPA changed its code of conduct and procedures in 2008 and got it so terribly wrong by completely disregarding the law, it has since reviewed the code and updated it. We learned that the minister asked the authority to seek advice from the Public Sector Commissioner regarding its governance arrangements in preparing the advice and in April this year a revised code of conduct was adopted. I would like a copy of the authority's code of conduct and procedures that were in place during the period in question from 2008. I would like to see the code pre-2008; the code post–the changes in 2008; and a copy of this new revised code that was adopted in April. My question is: if at the time the 2008 changes were made advice was sought from the Public Sector Commissioner or his office and those changes that were made at the time were approved by the Public Sector Commissioner or his office, and they got it so terribly wrong, why would we have any confidence in any advice the Public Sector Commissioner or his office provided about the revised code of conduct that was approved in April? I certainly have concerns.

The questions that I am raising go well beyond the EPA and the act before us because if the Public Sector Commissioner and/or his office are providing bad advice to public agencies and public officers, this problem is much bigger than we appreciate it to be and it requires an independent review. It also requires the government to give the community confidence that the people who are employed in these positions are able to fulfil their duties as we expect them to be fulfilled and as they should be fulfilled.

All we have had from the government during this whole episode is a whole lot of questions, and very few answers. This bill goes well beyond what any person would deem reasonable, based on the information that we have before us. The provisions of this bill extend well beyond the 25 cases that have been identified by the government. The bill states at proposed section 136(1) —

> This section applies to anything done, or purportedly done, by or on behalf of the Authority before the decision date that, if this section had not been enacted, is or may be invalid on a ground of invalidity.

That is very broad. That covers just about every ill we can think of. If the government seriously wants this bill to pass expeditiously, it needs to provide the information that I have requested. The community has a right to that information, and members in this place have a right to that information, if we are to make an informed decision. I hope the minister has been provided with a list of the items I requested; if not, I am more than happy to provide a written list to her. I want the documents and the information that I have asked for to be provided to the house before we make a decision on this bill.

HON KEN TRAVERS (North Metropolitan) [3.51 pm]: The Environmental Protection Amendment (Validation) Bill 2014 is a very serious bill. It is also a very unusual bill. It is not often that a bill comes before this place that seeks to validate certain procedures that have already occurred. For that reason alone, this house should give this bill significant and serious consideration. What we are being asked to do in this bill is say that things that have already occurred, but that may not have occurred in accordance with the law of the land as it stood at the time that those things occurred, should be ratified. That is a very difficult issue for a Parliament to deal with. Do we allow things that have been done illegally—I use that term in the broader sense—in the past to be ratified going forward? That is something to which we should give serious consideration when we are dealing with this bill. It is not something that we should do lightly. We need to weigh up the consequences of not doing that against the consequences of doing it.

We do not want to create an environment in which people believe that they do not need to follow due process and behave in accordance with the law of the land, and, if they are subsequently found to have been in breach of the law, whether intentionally or through lack of due diligence, everything will be okay—Parliament will just bring in a law that fixes it. If we get into the habit of doing that, it will have significant and serious ramifications for the way in which this place operates. Yesterday, we talked about the breakdown of the social fabric in our regions. If we allow a breakdown in the social contract, and we break down the trust that people have in the institutions that have been put in place to do certain things and to provide certain protections, that is a very serious matter. However, that is what the government is asking us to do this afternoon. As the explanatory memorandum of the bill details —

> Section 12 prohibits members with a direct or indirect pecuniary interest in a matter before a meeting of the Environmental Protection Authority from taking part in the consideration or discussion of the matter, or voting on the matter.

That is a pretty straightforward statement—a member who has a direct or an indirect pecuniary interest in a matter before the EPA is prohibited from taking part in the consideration or discussion of that matter. We also know, according to the second reading speech, that prior to 2003, the act allowed members with a pecuniary interest in a proposal being assessed by the authority to take part in the consideration or discussion of the matter, but not to vote on it. However, from 2003 onwards, that position changed, and the act was amended to provide that members were to be wholly excluded from discussions about a matter in which they had a pecuniary interest. If it had been the other way around, it might be a bit more understandable. A specific decision was made in 2003 that members with a pecuniary interest in a matter could not stay in the room when that matter was being discussed. It is not as though there was some misunderstanding. Yet we are now being asked to validate a range of decisions, because the government has identified that board members did participate in decisions in which they had a pecuniary interest. As other members who have spoken have pointed out, we have been given a list of some 25 projects in which it has been identified that members of the EPA had a pecuniary interest.

We understand from the limited documentation that has been provided to us that another change was made in late 2008. Again, I go back to the second reading speech, which states —

> The review of EPA assessments undertaken to inform the SSO advice identified a change in the internal governance practices of the authority from late 2008 to 2012, whereby conflicted members were allowed to participate in the assessment process, in spite of the 2003 act amendment disallowing the practice.

It goes on to state —

> The ministers at the time were not advised of this change to the authority's internal governance practices.

Under the Westminster system, regardless of whether ministers are advised, they are still held responsible and accountable for their agencies. Therefore, when a serious problem of this nature is identified, we need the government to draw back the curtains and let in the disinfectant that we know is the best—sunlight—with no more cover-ups and no more hiding behind dark and —

Hon Helen Morton: Cover-ups! Conspiracy! It just goes on and on!

Hon KEN TRAVERS: If there is no cover-up, and if the government is happy to disclose fully, then let us make sure that we have a full disclosure during this debate about all the circumstances. If the minister is telling me that there is no cover-up, I want a full explanation from her as to what happened in late 2008, why that happened, and who was involved in making that happen, because that is where we are at the moment. We are being asked to ratify actions that occurred since that action in 2008. Where in the minister's second reading speech does she go through and explain that detail? Exactly! The silence is deafening once again. The minister is always ready to interject with smart alec comments, but when she is asked about a serious matter and is challenged on points of actual detail, we regularly get silence. All of a sudden, the minister is obedient to the will of the Chair.

Hon Helen Morton interjected.

Hon KEN TRAVERS: There we go again—the smart alec comment that is not asked for. But when I ask a question about where in the second reading speech that detail is listed, the minister goes silent.

Hon Helen Morton: You've got 36 minutes, so you'd better make use of it, because at the moment you're just rambling.

Hon Sue Ellery: Are you hurt by that, because it was very cutting?

Hon Helen Morton: It was not meant to be cutting; it was just giving you some idea that your time is running out.

Hon Sue Ellery: He's been here longer than you, so I'm sure he can figure that out for himself.

Hon KEN TRAVERS: I am sure that I will get an extension of time from the Chair if I need it. One thing I have learned in this place is that if ministers come up with puerile interjections, the house is generally supportive of giving members extensions, because members of this house understand the way in which this place works. If, through interjections the second reading contribution is extended —

Several members interjected.

The ACTING PRESIDENT (Hon Alanna Clohesy): Order!

Hon KEN TRAVERS: One thing I understand about the way in which the short title is dealt with in this bill, compared with the way in which the short title might be dealt with in the Tasmanian Legislative Council, is that we have a far more flexible way of debate. I have a lot to say, and the more the minister interjects with her ridiculous comments, the more likely I am to seek an extension. I am happy to have the minister's interjections

when I ask a question seeking clarification and detail to assist the debate, but when I get the minister's nonsense interjections, I will ensure that the points I want to make about the Environmental Protection Amendment (Validation) Bill 2014 are made in this chamber. It is my view that this bill is one of those that, if the government was actually open and honest, should be able to pass very quickly. However, a couple of things will prevent that from occurring. The first is the secrecy, and the other is a point that I will come to later.

Hon Helen Morton: Secrecy, conspiracy, cover-up—how many more words are you going to use?

Hon KEN TRAVERS: Why did those changes occur in 2008?

Several members interjected.

The ACTING PRESIDENT: Order!

Hon KEN TRAVERS: Help the debate for once.

The ACTING PRESIDENT: Hon Ken Travers, I have called order. I would expect that all members withhold their interjections while Hon Ken Travers has the call.

Hon KEN TRAVERS: I look forward to hearing the minister handling this bill, who, every time I say anything about secrecy, lack of full disclosure, cover-up or any other terms that I can use, says, "Whoooaaa—outrageous!" Sorry, Hansard! But she does not actually contribute to the debate. If the minister gets the opportunity to respond, if that is the case, she should tell us why those things happened in 2008. How and why did they occur? Let the sunlight come in and expose what happened. I would hope that the government does not want this to happen again at some point in the future. This is a very serious action. We would not know that from the way that some government members have been behaving today, but we are being asked to do one of the most serious things that a Parliament can ever be asked to do; that is, to make legal things that have already occurred that might otherwise be illegal. That is what we are being asked to do. It is not something that should be done in a lighthearted way.

The way in which conflicts of interest are dealt with is also an incredibly serious matter. We all understand that there are real conflicts and there is a perception of conflicts. They are important, because if we do not manage them they lead to a culture of potential corruption. If we allow people to operate in an environment in which they have a personal pecuniary interest and we do not manage that interest in a proper way, this leads to an environment that allows for corruption. It is my view that we have seen that culture being allowed to fester in Western Australia. I am not making the allegation at this point that there is actual corruption, although in recent weeks we have seen a number of areas in which this government has completely failed to manage its conflicts and where I believe there is a real smell of corruption in the way in which things occur.

Hon Helen Morton: So we have a smell too now, do we?

Hon KEN TRAVERS: I understand why people on the government benches would want to try to deride these things. They want to try to trivialise very important and serious matters. When we allow people who have conflicts to engage in key decision-making activities, that sets up a real problem for the future. That will develop and ultimately lead to a culture of corruption. That is something I would have thought and hoped that all members in this place would be opposed to. It may be that members in this place do not understand the actions that could potentially lead to that environment of corruption.

Hon Phil Edman interjected.

Hon KEN TRAVERS: My good friend, the Australian Labor Party has had problems with corruption in the past, the Liberal Party has had problems with corruption in the past, the National Party has had problems with corruption in the past, and the Greens have had problems with corruption in the past. If we want to get smart about it, we can turn our focus around and look at New South Wales and see corruption front and centre. When we allow projects to go ahead, and at the same time half the Liberal Party and National Party senior locals are involved in those projects, they are getting political donations, and they are giving favourable dispensation to those companies, at the very least people start to get concerned if those conflicts have not been properly managed along that pathway. I put it to members that even if there is no corruption in those cases as we see them, there is very poor management of the conflicts and the potential conflicts that arise out of those issues. That is the best argument that can be put for the government on those matters. When we come to deal with the Environmental Protection Authority, which is a key agency in determining whether a project should go ahead and that could or could not mean millions of dollars are made or lost in the process, we have to be absolutely scrupulous with the way in which we manage those conflicts, otherwise we will get ourselves into all sorts of problems.

I would be absolutely shocked if it ever turned out that Hon Phil Edman was corrupt. He would be one of the last people in this chamber that I would expect to be corrupt. I say that genuinely. I would say, "No way; you're

kidding me!" However, if we allow the perception to go on, others will come behind us who see the opportunities and will seek out those positions so that they can manipulate and use those opportunities. That is why, when we are dealing with a bill such as this, Parliament should be given everything. It should all be laid out. If necessary, if there is some confidential matter, we should find a way in which we can be given that information on a confidential basis. There are plenty of ways we can deal with that. I have been given things by ministers from the government on a confidential basis, they have remained confidential to this day, and they will continue to remain confidential. A problem has been identified by the courts, and the government is asking Parliament to fix it. When we are trying to fix a problem such as this, we need to be trying to make sure that it is fixed in a way so that we do not have to be back here next year dealing with the next one—that we actually get to an understanding of the systemic issues that led to this problem, to make sure that we are not here next year.

I could give a speech about how incompetent the government has been in allowing us to get to this point, but I think this is a far more serious matter than that sort of speech. Even though it would be a worthy speech to make on this matter, we need to deal with the far more serious matter of how to deal with such conflicts of interest, and how the government should deal with such conflicts of interest. I believe that this issue stretches from the top down in government and that government members do not understand that the management and the perception of conflict are important. When members now ask questions in this place about pecuniary interests that were previously answered by ministers in this place, members are told that they will not be given that information. On something that goes to the highest level of government, we are told, "No, you tell us what you think you've found out about us and then we might tell you what the conflict is, or we might try to spin our way out of it."

Hon Peter Collier: When did that happen?

Hon KEN TRAVERS: I have asked a number of questions about basic things such as conflict-of-interest registers, what shares ministers own, what shares senior staff in decision-making roles have and what secondary employment they have—things that go to the management of conflict—and the government continually and regularly refuses to provide those answers and hides under the protections of personal confidentiality. Those people, in my view, have taken a position; yet in the past, information of a similar nature has been provided to the Parliament.

Hon Peter Collier: Won't their shares be on the register?

Hon KEN TRAVERS: No, it depends on how the shares are owned. If shares are owned through a trust, they will not be listed. Other ministers in the past have made discretionary disclosures; some ministers have not. When we have asked what their assets and shareholdings are, we have been told that it was cabinet-in-confidence. I agree with the minister. I find it extraordinary and it goes to the very heart of the problem if it is not managed. My father used to say that if a boss steals from his business, the staff will steal from the business. I do not want that to be misrepresented—I am using that as an analogy and I not suggesting anyone is stealing from the business—but if a boss acts in a certain way and thinks it is okay to stick their hand in the till and grab $5 when they need it, rather than doing it properly through the business, then every other staff member will look at that behaviour and think that if it is good enough for the goose, it is good enough for the gander and they will do it as well. That will happen if those things are not managed properly. It is my view that this bill is symptomatic of the government and its literal inability to understand conflicts and perceptions of conflicts and the need to manage them. I think the government fails to even understand why it needs to be managed. Its view is that its members are good, fine law-abiding citizens, and they would not behave corruptly so provisions are not needed to prevent that corruption. That is the very moment the opportunity is created for the next person who is corrupt to take advantage of that environment. We see it time and again, and that is when governments get themselves into trouble with corrupt behaviour. When we are asked to pass a bill, as we are today, we need to deal with that.

I want to extend that and refer to some of the letters that the Environmental Protection Authority has regularly sent over the past couple of years. One sent by the chairman on 30 September 2011 to Ms Heidi Nore of the Wilderness Society of WA states —

> Potential conflicts of interest, in relation to the Browse LNG … proposal, declared by other EPA Members on the basis of either direct or indirect shareholdings in possible foundation proponents, have similarly been determined by the EPA Chairman to represent no potential or actual conflict of interest and the Members participated fully in the meeting.

Debate interrupted, pursuant to standing orders.

[Continued on page 6940.]

Sitting suspended from 4.14 pm to 4.30 pm