HOUSE OF ASSEMBLY

Wednesday 10 February 1988

The SPEAKER (Hon. J.P. Trainer) took the Chair at 2 p.m. and read prayers.

SUPERANNUATION BILL

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

PETITION: COUNTRY HOSPITALS

A petition signed by 37 592 residents of South Australia praying that the House urge the Government to cease the closure of selected country hospitals was presented by Mr Olsen.

Petition received.

PETITIONS: TOBACCO PRODUCTS

Petitions signed by 257 residents of South Australia praying that the House reject any proposal to increase State taxes on tobacco products were presented by Messrs Becker and Duigan.

Petitions received.

QUESTION TIME

GOVERNMENT CONTRACTS

Mr OLSEN: Will the Premier immediately revoke a Cabinet decision made on 7 December last year that will allow the Trades and Labor Council to dictate which contractors can participate in Government construction and other contracts and will require public servants to keep contractors under surveillance to ensure they employ union members? I ask the Premier that question as a matter of Government policy.

The Opposition has Cabinet and other documents revealing that the Government will adopt measures that will force people to join a union and, as a result, to contribute to ALP funds. On 7 December last year, Cabinet approved new procedures for the letting of all Government contracts for the supply of work and labour that include the following requirements:

public servants to do random checks to ensure that contractors only employ union members;

punitive measures, to quote the Cabinet document, to be taken against contractors who do not employ union labour; and

the Trades and Labor Council to advise Government departments of the names of contractors who are unwilling themselves to join a union or to force their employees to do so.

The SPEAKER: The Minister of Labour.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! I call the Leader of the Opposition and the member for Coles to order for continuing to interject after the House has been called to order. The Minister of Labour.

Mr Becker interjecting:

The Hon. FRANK BLEVINS: Thank you, Mr Speaker. I also thank the member for Hanson for his kind words. The question of union labour being supplied for Government contracts has a long and vexed history. This Government makes no apologies for attempting to tidy up this area. The Government has a responsibility to the people of this State to ensure that Government work is completed on time, within budget, and—

Mr S.J. Baker interjecting:

The SPEAKER: Order! I call the member for Mitcham to order for being disruptive.

The Hon. FRANK BLEVINS: —with the minimum of industrial dispute. The question of the State Bank and ASER is quite another matter. We are talking about Government contracts being performed in the main on Government property. What the honourable the Leader did not spell out is that it is just not about union membership.

Members interjecting:

The SPEAKER: Order! For the second time, I call the House to order.

The Hon. FRANK BLEVINS: The Government will insist that contractors adhere to award conditions. That seems to be fairly fundamental but, from time to time, industrial disputes occur on that point. I find it difficult to condemn any union in the public sector that has an industrial dispute because contractors on site do not adhere to award conditions. Frankly, I am on the side of the unions in that matter. The Government will also insist—

Members interjecting:

The SPEAKER: Order! The Minister will resume his seat. I call the Leader of the Opposition to order for the second time. I will not hesitate to name him, if necessary. Because of his disruptive attitude toward the proceedings of the House, particular attention will be paid to him by the Chair. The honourable the Minister.

Mr Gunn: What about the member for Florey?

The SPEAKER: Order! The Chair will not be deterred from its duty by a member on one side trying to point the finger at a member opposite in order to excuse the discourteous behaviour of several of his colleagues. The honourable Minister.

The Hon. FRANK BLEVINS: Beside award conditions being adhered to and beside union membership, we are insisting that employees are registered with WorkCover and therefore have workers compensation coverage. I would not have thought that that was radical, but time and again we get employees on Government sites who are not covered by workers compensation. We will not tolerate those practices, and agree with the unions when they say that those practices on our sites are totally unacceptable.

The Hon. E.R. Goldsworthy: You would agree with the unions whatever they say.

The Hon. FRANK BLEVINS: I wish that were true—it would make life easier. The provision we are extending to all Government contracts—

Members interjecting:

The SPEAKER: Order! I call the members for Henley Beach and Hayward and the Deputy Leader of the Opposition to order. The Chair cannot tolerate a dialogue being conducted across the Chamber immediately in front of the Chair when the Chair is endeavouring to hear the reply from the Minister.

The Hon. FRANK BLEVINS: The type of clause that we are introducing in all Government contracts has existed for many years in the public sector—most notably in ETSA.

No question exists that if anybody came on to an ETSA site and was not a member of the union or covered by workers compensation and was not being paid the award provisions, we would have no lights. I would find it very difficult indeed to condemn the ETSA unions for that action because, frankly, I and the Government agree with them. People should be covered by workers compensation and paid the award rate. If we have the interest of the public of South Australia at heart in keeping on the lights, we agree with them in regard to trade union membership, because no doubt exists that in reality anybody who is not in a union and goes on to an ETSA site will cause the stoppage at the power station. That is a fact.

Members may not like it, but the same would have applied when they were in office. They would have had no power to do anything about it. Apparently it was right between 1979 and 1982 when members opposite were in Government and the Deputy Leader was the Minister. If it was right then, it is right now. It is not so much a question of whether it is right or wrong—it is attempting to do the best thing for the people of this State. If members believe that creating industrial disputes is in the interest of the people of this State, then we disagree. We have the best industrial record in Australia as a result of sensible discussion with the union and, where necessary, sensible regulations.

The Government does not apologise for wanting contractors doing Government work to do so in a fair and equitable manner. It is not only in the interest of the general public but also in the interest of those contractors who tender for Government work, who pay award rates, and whose employees are covered by workers compensation. These very substantial South Australian companies do not want to be competing with fly-by-nighters who do not pay award rates or cover their employees for workers compensation. This Government stands up for responsible and respectable companies in this State, and fly-by-nighters who tender to get Government contracts by undercutting South Australian business will get no joy out of this Government.

HOUSING TRUST RENTS

Mr DUIGAN: My question is directed to the Minister of Housing and Construction. Does the Government have a hidden agenda in respect of Housing Trust rents? On page 4 of today's *Advertiser* and yesterday in the House the Leader of the Opposition said that there would be significant rises in Government charges, including rises in Housing Trust rents. This gloomy prediction appears to be based on a confidential internal document which was leaked to Rex Jory and which looks at the operation of the Housing Trust and its deficit. The enthusiasm of the Opposition Leader's statements yesterday and today does not appear to have been affected either by the statements issued last week by the Premier or the rejection over the weekend—

Mr S.J. BAKER: On a point of order, Sir, the statement that has just been made is total comment.

The SPEAKER: If the honourable member for Adelaide persists with introducing comment into his explanation, leave for his explanation will have to be withdrawn.

Mr DUIGAN: The accusation by the Opposition has now led to fear being generated in the minds of Housing Trust tenants in my electorate.

The Hon. T.H. HEMMINGS: I thank the member for Adelaide for that question. The answer is a clear and concise 'No'; there is no hidden agenda in the Government's program. Once again, the Leader of the Opposition has made it clear that either he cannot understand plain English or that he is deliberately going out of his way to mislead Housing Trust tenants and to create panic amongst them. For his benefit and that of the House let me make the Government's position perfectly clear once again. In October 1986 I announced that Housing Trust rents for those tenants on full rents would rise by 20 per cent above normal inflation increases as part of a State Government move to protect the supply of public housing. The rises are being introduced in four six-monthly stages. The first of those was a 5 per cent increase which applied from 7 February 1987. A second increase occurred in August 1987, and a third 5 per cent increase a week ago. The final increase in August 1988 will be a 5 per cent real increase plus the CPI. That Government policy was announced in October 1986.

I make it perfectly clear that 65 per cent of our tenants who are on reduced rents were not affected by that 20 per cent real increase which we announced at that time. Everybody knows the situation. I am sure that members on this side know the situation, but it is perfectly obvious that the Leader of the Opposition either does not know or does not want to know the position. Again, I reiterate what I said in the *Sunday Mail* and in the *Advertiser* on Monday and what was confirmed by the Premier yesterday: after August this year rent increases will revert to being linked with the CPI. I cannot say it any more clearly than that.

If the Leader of the Opposition cannot understand me, that is his problem. If he wants to try deliberately to panic trust tenants, again that is his problem and the problem of members of the Opposition, because the Leader of the Opposition is fast acquiring a credibility problem—we are well aware of it, as are the electors, especially the trust tenants. I give that assurance to this House, and I hope that all members who are genuinely concerned about large pockets of trust housing in their electorates will go out and give this message to them: after the last increase in August of this year, during the term of this Government we will revert to CPI increases only.

UNIONISM

The Hon. E.R. GOLDSWORTHY: My question is to the Minister of Labour. What sort of punitive measures does the Government intend to take against contractors who fail to comply with the Government's compulsory unionism policy? The documents revealed by the Leader indicate 'that the Government will take appropriate punitive measures against contractors who fail to impose compulsory unionism'. While the Minister is answering this question, will he say why the Government never takes punitive measures against unions that step out of line?

The Hon. FRANK BLEVINS: In relation to this question, the Leader of the Opposition said earlier that this was a plot to get more funds for the Labor Party, but the Australian Labor Party at present is having difficulty in getting funds from some of its unions—whether they are associated with subcontractors or not. However, the question is a serious one and, given a modicum of order in the House, I will certainly answer it. We will, of course, be advised by Crown Law on what action is appropriate in any specific instance. I make clear to all contractors that if, having been advised of the terms of the contract, they breach that contract, they leave themselves open to action to be taken by the other party to the contract, which is the Government. We will not have a situation—

Members interjecting:

The Hon. FRANK BLEVINS: We will be advised by Crown Law; I have said that. I will not have a site where

Government work is held up because of the non-observance of a contract by a contractor, and whatever avenues are open to the Government to get recompense for the taxpayer, if it has cost the taxpayer money because the contractor has breached the contract, will be followed and whatever appropriate action is advised by Crown Law will be taken.

HAPPY VALLEY RESERVOIR FILTRATION PLANT

Mr TYLER: Can the Minister of Water Resources indicate the status of the construction of the filtration plant at the Happy Valley Reservoir? Some of my constituents have complained to me in recent weeks of the poor quality of their water. My constituents complain that the water is often discoloured and has an unpleasant odour and taste. Indeed, some even fear that it is unsafe to drink. My constituents also consider that this problem has worsened since the introduction of chloramination water in December 1987, making them more anxious than ever for the speedy introduction of filtered water.

The Hon. D.J. HOPGOOD: The project is well developed and we are well down the track towards its completion. At present I am examining the options for providing further funds to accelerate the program, but that may be difficult because money alone is not the only problem in completing a project which to some degree relies on the purchase of equipment from overseas and the timing of which was worked out some years ago. Indeed, I recall that the Tonkin Government delayed the project during its term of office. Howevever, we are examining the options to determine whether or not it is possible to accelerate the completion of the project, because this plant will filter the water that is supplied to 40 per cent of metropolitan Adelaide, including all the western suburbs as well as the southern suburbs. I hope to have that report available for the Government fairly shortly.

I also take this opportunity to say that, in relation to the pattern material discovered in the water recently in the south, the position is rather puzzling. Living in the south, I have noted no deterioration in the quality of the water delivered to me, but I am well aware that others have, and that is on record. The only way in which the situation has changed since these reports have been received in the volume in which they have come in is that we introduced chloramination into a portion of the water supply some time ago. That was introduced on the advice of the Health Commission and it means that the chlorine can better act against the pathogens. However, it is being seriously suggested in some areas that it is the chloramination that has led to deterioration recently. After all, the lack of filtration has been a feature of the water supply in the south since the year dot, so I wonder why these problems were not showing out 12 or 18 months ago. We are examining chloramination and, if necessary, it will be abandoned—if it can be demonstrated that chloramination is having some impact on the content of the pipes and that that in itself is responsible for the deterioration in the water quality which we have noticed.

Again I make the point that there is no deterioration in the health quality, but the additional suspended solids in the water have ruined people's washing and that sort of thing. If chloramination is the problem, then it will be abandoned—and that will save us a bit of money, by the way. In the meantime, we are looking at what additional resources would enable us to accelerate the completion of the project.

OCCUPATIONAL HEALTH AND SAFETY COMMISSION

Mr S.J. BAKER: My question is directed to the Minister of Labour. Has Ms Jan Powning been appointed as Deputy Chairperson of the Occupational Health and Safety Commission? This position was advertised only internally within the Public Service last September at an annual salary of up to $40 454.

I understand Cabinet on Monday decided to appoint Ms Jan Powning to the position despite being aware of widespread concern about the appointment. The Occupational Health, Safety and Welfare Act requires the Minister to consult the Trades and Labor Council in making this appointment. I understand that Ms Powning is the *de facto* wife of the Assistant Secretary of the Trades and Labor Council, Mr Chris White, who is himself a member of the commission. The Chairman of the commission is a former union official. Ms Powning is a member of the council of the Public Service Association and, as this new Act gives union officials significant power to interfere in the work place, there is concern that her appointment is yet another example of this Government's practice of giving too much power to the trade unions.

The SPEAKER: Order! It is out of order for members to comment. It is particularly ironic that I should have to call to order the member for Mitcham for commenting in view of his taking a point of order on another member for an alleged breach of the procedures in the same regard. The honourable the Minister.

The Hon. FRANK BLEVINS: I think this is possibly one of the most disgusting questions that I have heard since I have been in this Chamber. I am not like some members of Parliament—thin skinned. But I certainly take the strongest possible objection to this kind of very grubby and dirty question. The honourable member has been touting this question around the press for a while, trying to get some press coverage on it. The press, to their great credit, have refused to touch it in the manner that the member for Mitcham chose to raise it. I am not quite sure, actually, of the status of the appointment—whether Ms Powning has been formally appointed. She certainly has a recommendation from the selection panel. It may well be that she has been formally appointed—I just do not know—but I certainly would expect her to be so, having the recommendation of the interviewing panel.

Members interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: This appointment has a very ordinary history. The position was called within the Public Service, as are all positions. As members would know, there is a freeze on Public Service numbers and, other than in the most extraordinary circumstances, positions are no longer called outside the public sector. When this position was called, there were a number of applicants. I believe that Ms Powning works in the Health Commission at the moment as a full-time public servant of many years standing. She applied for the position, along with a number of other people, but was not successful the first time the position was called. Another person was appointed. However, within 24 hours of his appointment, he was offered a job with the ILO in Geneva and, unfortunately, was unable to take up the appointment. I do not know whether the honourable member is suggesting that we have some influence with the ILO in Geneva. However, the position was recalled in the normal manner and Ms Powning and a number of other people applied. Ms Powning was successful on that occasion.

I am not quite sure what members opposite are suggesting. Are they suggesting that members of the panel who made the recommendation are corrupt? Are they suggesting that Ms Powning is not entitled to stand for any position in the Public Service for which she is qualified? Is the Opposition suggesting that in some way as public sector employers we ought to discriminate against an individual?

Members interjecting:

The SPEAKER: Order! For the second time I call to order the Deputy Leader of the Opposition and the member for Hayward, who are conducting a dialogue across the Chamber. The honourable Minister.

The Hon. FRANK BLEVINS: Are they suggesting that as employers we ought to discriminate against an individual for any relationship she may or may not have? I do not know the answer; I do not know whether Ms Powning is the *de facto* wife of the Secretary of the Trades and Labor Council. I do not have a clue whether or not that is the case; I would not know.

Members interjecting:

The Hon. FRANK BLEVINS: I know both of them very well indeed. I have not and would hesitate to do so in 1988, asked them their precise marital status and anybody who does so in 1988 is gamer than I am. Quite frankly, I do not know, and what is more I do not care. Ms Powning's marital status has nothing to do with her ability to do this job. The interview panel thought that she was quite capable.

Members interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: Mr Speaker, the member for Mitcham has asked his grubby, grotty question. It suits him. I hope that the media will ask the member for Mitcham the questions that I have asked: is not Ms Powning entitled to apply for a job for which she is qualified, and ought the Government discriminate against one of its employees on the basis of a marital relationship that she may or may not have? As I said, it is one of the most distasteful questions that it has been my misfortune to hear in this Chamber, and I know that some members opposite are ashamed to be associated with it.

ELECTRICITY CHARGES

Mr De LAINE: Will the Minister for Mines and Energy inform the House whether electricity charges will be increased throughout the State because of the recent out-of-court settlement to the 1983 Ash Wednesday victims? It was announced on Friday 5 February this year that the Electricity Trust will pay at least $40 million for the 1983 Ash Wednesday bushfires in the South-East.

The Hon. R.G. PAYNE: I am pleased that the member for Price has given me the opportunity to put something on the record on this issue and to allay some possible concerns that the Naraweena settlement will necessarily result in a dramatic increase in electricity tariffs. I do not anticipate that this will be the case, for a number of reasons, and I do not think that anybody else should come to that conclusion.

First, the settlement of claims from the Naraweena fire will take place progressively under an agreed arrangement with respect to the procedure to be followed and a certain formula which has already been agreed as part of the settlement. In other words, the impact on ETSA's finances is likely to be spread over a period of about 12 months. Secondly, the actual impact on the trust finances will not be known until a final settlement is determined between ETSA and its insurers; and that is a matter still awaiting settlement.

The Hon. E.R. Goldsworthy interjecting:

The Hon. R.G. PAYNE: I can understand the honourable former Minister being very sensitive on the question of ETSA tariffs because, as will always be recorded in the history of this place, as the former Minister he presided over the highest increases in ETSA tariffs in its history: some 48 per cent in a 22 month period.

So, I can understand the honourable member's sensitivity to this question. I make these points in the public interest. Thirdly, in recent years, the trust has had great success in cutting costs and reducing the pressures on tariffs, and these efforts will continue. I remind members that, in 1985, in the time of this Government, ETSA announced a reduction in tariffs, which is somewhat unusual, as I am sure all members will agree. There was a 2 per cent reduction and, as the Premier pointed out in the House yesterday, there has been a 16 per cent reduction in real terms in the cost of ETSA bills over the three year period, which was mentioned quite erroneously yesterday by the Leader of the Opposition as a period in which increases had occurred.

That can be demonstrated quite easily to the Deputy Leader. I expect that it could be put in a simple format that he could follow, if he would only take the trouble to attempt to understand it. Tariff reviews at ETSA are an annual event, and that information is not new to the House. The process of determining what will apply this year is still some distance off, and I expect that, in July of this year, ETSA tariffs will have been reviewed and will be in line with the CPI, as over the past few years the Premier has assured the people of South Australia.

AUSTRALIAN LABOR PARTY

The Hon. JENNIFER CASHMORE: Does the Premier include the Prime Minister when he says, as reported in Monday's Melbourne *Age*, that the Labor Party has to 'get in touch with ordinary people' in view of the Prime Minister's statement in today's *Australian* that this is 'a very superficial analysis'?

The Hon. J.C. BANNON: I fail to understand the relevance of the question.

MOTOR VEHICLE REGISTRATION

Mr KLUNDER: Will the Minister of Transport investigate whether it is possible for the Motor Registration Division to send out a reminder notice for motor vehicle registrations? Recently a constituent of mine was stopped by police for driving an unregistered car. He did not receive a renewal notice, although the Motor Registration Division indicated that it sent out such a notice. My constituent accepts that it is his responsibility to keep his car registered, and he is thankful that it was the police and not an accident that caused him to realise that his car was unregistered.

My constituent is one of those careful people who puts money aside in a credit union account so that all his bills are budgeted for. Had he received a notice, he would have taken it to his credit union, it would have been paid and he would not be facing a fine and a licence suspension. His job depends on his driver's licence and, because a reminder notice is highly unlikely to have got lost as well, it would have saved both his licence and his job.

The Hon. G.F. KENEALLY: I thank the honourable member for his question. Although I am prepared to look at the circumstances in which the honourable member's constituent finds himself, it is obviously a matter for the

police and possibly the courts. I will not intervene in the matter, but I will certainly have a look at the circumstances outlined by the honourable member. The honourable member advises the House that the Motor Registration Division has advised him or his constituent that it did send out the original notice, although it did not forward a subsequent reminder note. I have received some representation on this matter and have discussed it with the Registrar of Motor Vehicles. I advise the honourable member and the House of the reasons why the MRD does not send out reminder notices.

It is considered that sending reminder notices for vehicle registrations that have not been renewed upon first advice would be costly and of questionable value. Although reminder notices are sent for drivers' licences, the circumstances are different because licences are usually kept current at all times. Vehicle registrations, particularly on trailers and seasonal type vehicles, are renewed only as required. The Motor Registration Division is not able to predict the client's intentions with regard to renewal; hence the questionable value of sending reminder notices.

Recent changes to the Motor Vehicles Act which provide for the backdating of expired registrations or, if over 30 days from the expiry date, a registration establishment fee have made the public more aware of their obligations and reduced the incidence of unregistered vehicles being driven on roads. The month of expiry is clearly shown on the registration label attached to the vehicles and, under proposals for the on-line computer system, a full date of expiry will be shown. This should serve as a constant reminder of registration expiry. Third party insurance legislation allows for an extension of 14 days cover after the expiry date, so a measure of protection is offered in regard to expired registrations, and may have been appropriate in the case of the honourable member's constituent. I am not aware of the length of time that had elapsed.

Figures provided by the Motor Registration Division suggest that approximately 5 per cent of registrations are not renewed within 30 days of the expiry date. Of this percentage, approximately 75 per cent relate to seasonal type vehicles which probably would not have been renewed if a reminder notice had been sent. Of the remaining 25 per cent, a significant proportion expired for several months before renewal, and there is no evidence to suggest that they were not renewed as the result of an oversight. The estimated cost of sending reminder notices is $25 000 per annum, and it is considered that only a small proportion would result in the owner subsequently renewing registration.

An honourable member interjecting:

The Hon. G.F. KENEALLY: It is not as the honourable member is trying to suggest. That matter has been considered on a number of occasions by the Registrar of Motor Vehicles and the Minister of Transport, and I believe that the decision that has been taken is the appropriate one. However, because the honourable member has asked the question, I am prepared to have another look at it. I expect that my review of the situation will encourage me to come down with the same decision that I made previously.

FEDERAL MINISTRY

The Hon. B.C. EASTICK: Will the Premier advise whether, in order to maintain South Australia's representation in the Federal Ministry, he is supporting the Left's Senator Bolkus, despite the opposition to the South Australian Senator from his own Centre Left faction?

The SPEAKER: Order! The question is completely out of order.

Members interjecting:

The SPEAKER: Order! It does not in any way relate to the Premier's capacity as an administrator.

The Hon. B.C. EASTICK: On a point of order, Mr Speaker, the Premier has frequently advised the House that he fights for South Australia. We have on public record—

Members interjecting:

The SPEAKER: Order! That is not a point of order.

The Hon. B.C. EASTICK: We—

The SPEAKER: Order! The honourable member for Light has not in any way produced a point of order to date. If he cannot produce a point of order in the next four or five words, I will not listen.

The Hon. B.C. EASTICK: The Premier has a responsibility to this State to fight for South Australia. He has advised the House on numerous occasions that he does that.

The SPEAKER: Order! I can see the point that the honourable member is trying to make. However, the Chair cannot accept that point because an internal Party matter is not a matter—regardless of the view of the member for Light—that is the responsibility of the Premier towards this House.

The Hon. B.C. EASTICK: Are you, Sir, seeking to advise the House that the Premier has no responsibility—

An honourable member interjecting:

The Hon. B.C. EASTICK: Thank you for the help.

An honourable member interjecting:

The SPEAKER: Order! The honourable Minister is out of order.

The Hon. B.C. EASTICK: Are you, Sir, seeking to advise the House that when the Premier says he is fighting for South Australia he is not really doing that?

The SPEAKER: Order! That is not a point of order and is flippancy towards the Chair: in fact, it comes very close to disrespect for the Chair. The honourable Deputy Leader.

Members interjecting:

The Hon. E.R. GOLDSWORTHY: I am always encouraged by support from the other side.

The SPEAKER: Order! Does the honourable member have a point of order?

The Hon. E.R. GOLDSWORTHY: Yes, I was waiting for the interjections to cease so that you, Sir, could hear me. They were encouraging me. In relation to your ruling the honourable member's question out of order, I point out that Senators are elected to represent South Australia. They are constitutionally elected to represent the State.

The SPEAKER: Order! Matters of constitutional philosophy do not impinge on the Premier's responsibility towards this House.

The Hon. E.R. GOLDSWORTHY: It is a senatorial responsibility, Mr Speaker.

The SPEAKER: Order!

The Hon. E.R. GOLDSWORTHY: It is the responsibility of a Senator to represent the State, as it is the Premier—

The SPEAKER: Order! Will the honourable Deputy Leader of the Opposition resume his seat. The honourable member for Florey.

Members interjecting:

The SPEAKER: Order! Interjections that reflect on the Chair's ruling are a reflection on the Chair and will be treated as such. The honourable member for Florey.

STORMWATER DRAINS

Mr GREGORY: Will the Minister of Transport take such action as is necessary so that a recommended 1.4 metre diameter stormwater drain is installed immediately in the planned position at Golden Grove Road, Modbury North? On 23 January this year heavy rainfall was such that in the affected area a run-off of water from land adjacent to Golden Grove Road ran over the kerbing. The existing drain of 300mm diameter was totally inadequate. Two residents had water enter their houses and three properties had water of considerable depth flowing through them. This is the third time that this has happened within two years and twice within 11 months.

The Hon. G.F. KENEALLY: I am not aware of the full details of the situation raised by the honourable member, but I appreciate the seriousness of the problem faced by his constituents. As I understand it, this work has been programmed for completion by the Highways Department. I can assure the honourable member that I will talk to the Acting Commissioner of Highways either later this afternoon if my commitments in the House provide me with that opportunity or, otherwise, tomorrow, and I will instruct him to give the utmost priority to completing this work so that the flooding to which the honourable member has referred does not occur again. I think that time is of the essence in this matter, and the repair work should be performed immediately.

I point out that the honourable member has advised me that this is part of the Highways Department's programmed schedule of works. I would not want other members in the House to think that, as Minister, I am prepared to instruct the Highways Department to undertake works which have not already been committed by the Government and which are not part of the works program but, because this particular work is on the program, I will be pleased to instruct the Acting Commissioner of Highways accordingly.

LAND TAX

Mr INGERSON: Is the Premier prepared to review current rates of land tax following the revelation by the Norwood Football Club that its land tax bill has risen by 355 per cent, or from about $3 000 to $14 300, since 1985 and the comment by its Chairman and President, Mr Nino Ferraro, that this sort of impost 'affects the very survival of many sporting organisations, many of whom are already struggling to stay in business' or, in view of his statement in the *News* of 2 February that 'if a business cannot afford to pay the tax, then it should move to an area where the tax is lower', will he advise Norwood to go into the VFL as the Victorian Government is reducing its land tax revenue by more than 10 per cent this financial year?

The Hon. J.C. BANNON: I will ignore the pathetic tail end of the honourable member's question. The statement made by the Norwood Football Club, as reported, is misleading because it neglects to say anything about the nature and the number of property holdings of that club. Clearly, as all members would know, if in fact valuations increase, as indeed they have, then obviously the liability under the Land Tax Act rises as does the value of the property and its commercial earning capacity. Secondly, if one buys or acquires more properties, that obviously increases one's bill. As Treasurer, I shall not put before the House or into the public domain the specific circumstances of the Norwood Football Club. However, in order to correct the record, it would be useful if that club pointed out what property changes it has had during the period it is describing and in fact what has happened to those valuations. I think that, when that is done, the position will be seen to be fair.

Members interjecting:

The Hon. J.C. BANNON: It is a pity that Opposition members are seeking to politicise the Norwood Football Club in this way simply because the candidate for Adelaide happened to work for them. Many good Labor people support the Norwood Football Club and will continue to do so. Just as I support another football club, many Liberals are pleased to support it, and one is running on to dangerous ground when one chooses to politicise a certain club.

Having said that, let me also draw to the attention of the House the fact that in 1986 I, as Treasurer, introduced and got Parliament to pass an amendment to the Land Tax Act relating to certain exemptions. One of these exemptions, involving an amendment to section 10 of the principal Act, states that 'land owned by an association that holds the land wholly or mainly for the purpose of playing cricket, football, tennis, golf, or bowling, or other athletic sports or exercises is exempt.' Commercial properties on which earnings are obviously generated in that instance would not be exempt. However, where the club operates and plays there is an exemption. In the case of the Norwood Football Club, no land tax is payable on the Norwood oval but, equally, the council, not the club, owns the Norwood oval so, if it were payable, the council would be liable. I make the point that that exemption is clearly spelt out.

Those two points that I have made put the statement made in the newspaper, inaccurately and inadequately, in some kind of context and I do not believe that the Norwood Football Club has been hard done by at all. I thought that the reference that was a sideswipe at the Casino was pretty rough as some kind of indictment on the Government. In this regard, I remind members of the Norwood Football Club and anyone else that our Casino employs about 900 permanent people, in new jobs, and about 400 casual employees. That is a great number of employees and, in terms of its drawing capacity as a tourist and other facility, 2.7 million visitors attended the Casino in 1987. Indeed, I know a number of members who have enjoyed that facility themselves. So I thought that the statement made by the club was a gratuitous one. I hope that the club can set the record straight in relation to its property holdings.

HEYSEN TRAIL

Ms GAYLER: Will the Minister of Recreation and Sport ensure that the section of the Heysen trail that passes through the Raywood property at Bridgewater will not be threatened by the proposed sale of the Education Department property? Friends of the Heysen Trail have approached me expressing alarm about the mooted sale. The area of the Heysen Trail in this vicinity is described as one of the last remnants of stringy bark forest in the Adelaide Hills with displays of wildflowers and orchids and with historic connections. The area is said to be one of the first spots settled in the Adelaide Hills, particularly by a group called the Tiersmen who were semi-criminal woodcutters and included ticket-of-leave men from New South Wales and deserters from the Navy. They supplied the plains people with wood. Friends of the Heysen Trail, who describe this as an area of scenic excellence and historic importance, are concerned about the threat to the continuity of the trail in this area.

The Hon. M.K. MAYES: I appreciate the member for Newland's question. I know that there has been a good deal of concern from those people in the community who are

interested in the Heysen Trail, and that represents a significant number of people who have used it, either for recreational activities or for part exercise and recreation. Certainly there have been numerous inquiries about the future of the Heysen Trail.

Members interjecting:

The Hon. M.K. MAYES: Just sit and listen and you will get an answer if you show some patience. The situation is that the Minister of Education has called for registrations of interest in Arbury Park. I have written to the Minister and have spoken with him about the need to preserve the integrity of the Heysen Trail. As the honourable member has referred to the value of the trail to this State, I point out that it will be a unique trail within Australia and certainly one of the unique trails in the world, and will stretch for over 800 kilometres. It will provide a beautiful and unique opportunity for Australians and overseas visitors—and many overseas visitors have taken the opportunity to use the trail—to enjoy the scenery from the Flinders Ranges to the Fleurieu Peninsula. It is very important that we preserve the integrity of that trail. I am sure that the Minister of Education will join with me in that comment. In discussions with those who register interest, either individuals or organisations within the community, we will certainly consider the integrity and the preservation of that beautiful and unique facility.

Members interjecting:

The Hon. M.K. MAYES: I am sorry, the inane interjections of the honourable member really do not assist in this, because there are many people out in the community who would like to hear this answer. As Minister of Recreation and Sport, I can assure them that the integrity of this unique facility will be preserved; through our discussions as Minister of Recreation and Sport and Minister of Education, we will endeavour to preserve that which people in this State have come to enjoy and will continue to enjoy for many years.

Members interjecting:

The SPEAKER: Order! The dialogue being conducted between the honourable member for Bragg and members of the Government front bench is equally distracting and disruptive as other offences of that nature to which the Chair has already referred.

STATE TAXATION

Mr BECKER: Will the Premier give a clear and unequivocal answer to the question he refused to answer yesterday and say whether next financial year the Government will keep revenue from State taxation within the CPI, and also ensure that State charges, particularly public transport fares, electricity tariffs, Housing Trust rents, water charges and public hospital fees are also kept within the CPI?

The Hon. J.C. BANNON: This was all dealt with in a full-scale debate yesterday. I do not know why the honourable member is reviving it now. I have nothing really to add to what I said then or to other statements of Government policy which have been made on this matter.

BOX MISTLETOE

Mr ROBERTSON: I direct my question to the Minister for Environment and Planning. What measures are presently being considered for the control of box mistletoe throughout the Adelaide Hills? Has any serious thought been given to the possibility of biological control of box mistletoe employing a natural parasite such as harlequin mistletoe and a suitable transmission vector?

Members interjecting:

Mr ROBERTSON: Yes, it is very lucky for you.

The Hon. D.J. HOPGOOD: The Wildlife Conservation Fund is financing the writing of a master's thesis in biogeography by a student at the University of Adelaide and various controls and vectors are being investigated. We hope that something good will come out of it. It is a problem not only for the Adelaide Hills but also for the southern Flinders Ranges, and I know that some members opposite have drawn this particular problem to my attention. So a search for parasites is being conducted and the one identified by the honourable member is on the list. I thank him for his interest. I will not detain the House further but I will give him a more adequate reply in writing.

Members interjecting:

The SPEAKER: Order!

Mr MEIER: Mr Speaker—

The SPEAKER: Order! I have not yet called the honourable member. I looked across at the Opposition back bench because my attention was drawn by a disruptive interjection which appeared to come from the honourable member for Murray-Mallee. I was merely seeking reassure myself that my first perception was the correct one. The honourable member for Alexandra has the call for the next question.

BEACHED WHALES

The Hon. TED CHAPMAN: My question is to the Deputy Premier. Will the Minister identify the authority or authorities, in their respective order of command, that are responsible for the disposal of animals or mammals of the sea where those creatures beach themselves in places of public presence; in other words, where they beach themselves at coastal sites that are adjacent to public residence or where people frequent the area for recreational or other purposes?

A few weeks ago, indeed on Christmas Eve, a very large whale of some considerable tonnage beached itself in front of the township of Penneshaw, on what is known as the Hog Bay beach. The local people, given that it was the time of the festive season and a carnival that was planned over the next few days, were somewhat concerned about this incident and sought to find a Government authority that might assist or take the responsibility to dispose of that whale. The Fisheries Department was contacted. I understand that that department did not want to know about the problem because a whale is not a fish. The National Parks and Wildlife Department was contacted, but that department did not want to know about it because the whale was not yet on land; it was within low water mark but not above high water mark. The Department of Environment and Planning did not want to know about it because the Coast Protection Board did not have any money and was not considered to be responsible for the whale's disposal. The Marine and Harbors Department was another authority that was contacted and, as I understand, that department was not of much help to the local community.

The Hon. D.J. Hopgood interjecting:

The Hon. TED CHAPMAN: Perhaps the Minister is indicating that I should have contacted the Highways Department, but that department could hardly tow it out of the water. Seriously, this was a very great problem. There could well have been a hundred whales or a school of whales. The situation was that the animal was not initially dead. The museum wanted its jaws for obvious purposes

but the Greenpeace representative on site would not let the representative of the museum touch it because it was not dead and they were not able to slaughter it. It became an absolute debacle.

The responsible council people in the Dudley district took it upon themselves in that situation, as they saw it, of emergency to engage some fishermen. Obviously they called on Nigel Buick as the first one. Even with the *Lady Buick* our friend Nigel could not shift the whale into deeper water and tow it around the gulf. So they engaged, at significant expense, another local fisherman with a very large vessel and were quite embarrassed about the situation. I know that members are making a bit of a joke about this being the last question, but seriously it did pose a problem for the community.

At the moment the council is faced with a significant account from the owner of the second boat who did his level best to tow the whale around the end of the island and float it out to sea. Nigel Buick, the local citizen I mentioned earlier, recognised the plight of the district and the council and did not send an account. That is typical of the fellow.

Notwithstanding that background, I ask the Minister to take the question seriously and seek to clear up this matter. I represent a district with as much, if not more, coastline as any other member in this House, and therefore in that context my district is probably more vulnerable to this sort of happening than others may have to encounter. Be that as it may, it does pose a question that does not appear to have been properly addressed by previous Governments. I urge the Minister to take up this matter with the seriousness it deserves and, in the meantime, take whatever steps he can see his way clear to doing, to reimburse that council for its out-of-pocket expenses for the work incurred in the public interest on that pre-Christmas occasion.

The SPEAKER: I am not sure to which Minister the honourable member was directing his question. As almost every Minister seemed to receive a mention in the course of the question, at least by inference, I did for a while think that, as he was referring to several tonnes of whale, it might be directed to the Minister of Transport, who would deal with something that was a 'whale-weigh', but it appears to be the Minister for Environment and Planning, the honourable Deputy Premier.

The Hon. D.J. HOPGOOD: I am glad that I abbreviated my previous answer to give the honourable member an opportunity to get to his feet, because I would not have wanted to miss the question for one moment and I appreciate the dilemma that was created. In view of the abstemious habits of the people of that island, they would immediately realise that the whale was not a pre-Christmas apparition but a genuine example of cetacea.

The first contact to be made, if the animal is alive, should certainly be to officers of the National Parks and Wildlife Service because the various species of cetacea are protected under the National Parks and Wildlife Act, despite the fact that they respect no boundaries. That should always be the case in strandings, not only of the larger cetacea, but smaller cetacea, pinnipeds, seals, sea lions and things like that. That usually works reasonably well for the smaller species. There have been cases along the coast where such animals have been taken to Marineland where they have been nursed for some time and then released back into their natural environment. There was a case of that just after Christmas.

However, in the case of a whale, one is talking about a very much larger creature and one that is in those circumstances very difficult to rescue. I think that the honourable member has identified a gap in relation to State Government and local government services. I think it is probably sensible, as local government usually has people around the place with some sort of work force, that it should have the final responsibility for the disposal of the carcass. However, I also take the honourable member's point that the capacity of local government to absorb these costs varies from place to place.

I will certainly take up the matter with others of my colleagues who may conceivably have a ministerial interest in it and get a full report for the honourable member and local government generally. If his local government authority believes that the State has responsibility for reimbursement I am sure it will take it up with the Minister of Local Government.

The SPEAKER: Call on the business of the day.

TRADE STANDARDS ACT AMENDMENT BILL

The Hon. G.J. CRAFTER (Minister of Education) obtained leave and introduced a Bill for an Act to amend the Trade Standards Act 1979. Read a first time.

The Hon. G.J. CRAFTER: I move:

That this Bill be now read a second time.

The first purpose of this Bill is to amend the Trade Standards Act 1979 to allow for interim bans on dangerous and potentially dangerous goods and to allow for product recall systems for dangerous goods based on Part V Division 1A of the Trade Practices Act of the Commonwealth. Under the Trade Practices Act the Minister responsible for the Act can:

(a) Publish a warning about potentially dangerous goods (before they are banned) or a statement that the goods are being investigated to see whether they are dangerous;

(b) impose safety standards on goods;

(c) place a ban on goods which may be dangerous, for up to 18 months (called 'interim bans'). If at the end of that time there is no safety standard prescribed for the goods the Minister can impose a permanent ban on the goods.

Where the Minister publishes a statement that goods are being investigated and the goods are not later banned or recalled, the Minister is required to publish the results of the investigation and what action he or she proposes to take. Further, before goods are banned or recalled the Minister is required to publish a draft of the proposed banning or recall notice. Interested parties then have 10 days with which to notify the Trade Practices Commission that they wish a conference to be held and if they do so a conference must be held within 14 days of the notification. This process can be overridden if the Minister certifies that there is imminent danger to the public; in which case the banning or recall notice has immediate effect. Even in this case, however, i.e. after the ban or recall has come into effect, the Minister is still required to arrange for a conference subject to the same procedures.

Under the Trade Standards Act the Minister can only publish a warning about goods that have been banned or for which there is a safety standard in force. The Governor in Executive Council can also permanently ban goods and impose safety standards on goods. The Governor cannot specify in a banning order that it will expire on a specific date or that it remains in force for a specified period of time although he can vary or revoke an order once made.

Clearly, permanent bans are not always appropriate. If a product can be made safe by taking certain steps, such as adding a warning label or clearer instructions, then there can be no point in continuing to prohibit the sale of the goods.

The power to impose interim bans on goods was not inserted in the Act when it was introduced because of financial consequences to retailers and manufacturers who may suffer considerable loss if it were later found that in fact the goods were safe (e.g. the fault lay in the consumer's use of them) and an interim ban were then lifted. Provisions to compensate suppliers in these circumstances were considered too complex and it was decided that banning was a serious step that should only be taken as a last resort and after it had been established that the goods were dangerous or potentially dangerous. Most other States in Australia, however, have specific provisions in their equivalent legislation to impose interim bans as does the Commonwealth under the Trade Practices Act. Both the Commonwealth Government and these State Governments have used these powers regularly for a number of years now. The Bill amends the South Australian Trade Standards Act to include specific provisions for interim bans to bring the legislation into line with the Trade Practices Act.

The Bill alters the procedure for imposing bans. The current Act requires that the declaration of dangerous goods must be made by Executive Council, with advice through the Minister from the Trades Standards Advisory Council. In order to ensure the quickest response to advice, the Bill provides that the Minister of Consumer Affairs should have power to act directly on the recommendations of council. This would bring the Act into line with the Trade Practices Act and with most other States' laws. A power to ban goods temporarily would allow the Minister to withdraw goods until their safety could be verified or until any necessary modifications were made. By granting the power to the Minister, this would allow him to act immediately upon notice of a danger or potential danger, to withdraw goods from sale until the gravity of any risk could be established.

The Trade Practices Act provisions already apply in South Australia in relation to corporations. This proposal would fill the gap in protection provided to consumers, by applying similar provisions to other suppliers and manufacturers. Currently, South Australia is the only State without specific interim banning provisions while Queensland has no legislation in this field at all. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Remainder of Explanation

The Bill proposes that the conference procedures in the Trade Practices Act be mirrored in the case of recall procedures but not in the case of either interim or permanent bans. Bans would generally only be imposed on the recommendations of council and on products that presented an undue risk of injury or to health. Council has both consumer and industry interests represented on it and already undertakes investigation and consultation before a ban is recommended. The whole notion of a ban is that it is a tool that can be used quickly and it would make the power useless if a conference had to be held before a ban could be imposed.

There is no provision in South Australia to require the recall of dangerous products by manufacturers or retailers. The Trade Practices Act enables the Commonwealth Minister to order either voluntary or compulsory recall of hazardous products. It also sets out the procedure that is to be followed. The procedure involves considerable consultation with industry before a recall order is made.

Further, the Standing Committee of Consumer Affairs Ministers has agreed that, wherever possible, uniform legislation will be enacted in relation to trade practices and consumer protection. That commitment has already led to the passage of the Fair Trading Act, which mirrors Part V Division 1 of the Trade Practices Act. This Bill proposes that the product recall provisions in Part V Division 1A of the Commonwealth Act be enacted in the Trade Standards Act to promote further uniformity between Commonwealth and State legislation. It is understood that New South Wales, Victoria and Western Australia intend to introduce provisions uniform with those of the Commonwealth in the near future.

The Bill also contains some housekeeping amendments. It brings services within the scope of Parts III and IV of the Act. Experience has shown that it is necessary to ensure that suitable safety standards govern the installation of certain goods or substances. For instance urea formaldehyde foam insulation must be applied correctly to avoid the risk of emitting excessive amounts of formaldehyde gas. Similarly in Part IV it would be pointless to introduce a quality standard on rust proofing treatment for cars if the Standards Association of Australia's standard on the methods of application was not prescribed at the same time. The effectiveness of the treatment depends as much on the method of application as on the actual inhibitor used.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 repeals section 3 of the principal Act.

Clause 4 inserts new definitions of 'dangerous goods', 'dangerous services' and 'premises'.

Clause 5 amends section 13 of the principal Act so that the functions of the Trade Standards Advisory Council will include advising the Minister in relation to the declaration of services as dangerous services.

Clause 6 revamps parts of section 15 of the principal Act. Subsection (1) is to be substituted with an up-to-date provision relating to the inspection of premises and vehicles.

Clause 7 will enable a Minister, under section 16 of the princicpal Act, to require a person to furnish specified information for the purpose of determining whether or not any services should be declared to be dangerous services.

Clause 8 provides for a new section 18 relating to the cost of examining, analysing and testing goods or services that are found to be dangerous or that are found not to apply to an applicable safety standard.

Clause 9 provides for a new section 22. The principal change is to provide that it will be an offence to supply a service that does not comply with, or contravenes, an applicable safety standard.

Clause 10 provides for a new section 23. In particular, the new provision will allow the Governor to set safety standards in relation to the supply of services. Furthermore, safety standards will be able to prescribe precautions that should be taken in relation to the supply of particular kinds of goods or services and prohibit the supply of particular kinds of goods unless instructions are supplied, or adequate instructions are given, in relation to their installation, alteration or use.

Clause 11 provides for a new section 24. It will be an offence for a person in the course of a trade or business to manufacture or supply dangerous goods. Furthermore, it will be an offence for a person in the course of a trade or business to supply dangerous services.

Clause 12 provides for a new section 25. Under the present section 25, the Governor is empowered by proclamation to declare specified goods, or classes of goods, to be dangerous goods. It is proposed that the Minister now be able to act by notice in the *Gazette*. The provision will also now relate to the declaration of services to be dangerous services.

Clause 13 provides for the enactment of a new section 26 and a new section 26a. Section 26 presently allows a person to recover a refund from a supplier who supplied him or her with dangerous goods or goods that do not comply with an applicable safety standard. The person is also entitled to recover reasonable expenses incurred in returning the goods and, if the person has received the goods from another person to whom he or she supplied the goods, expenses that he or she incurred on the return of the goods to him or her. New subclause (1) will also allow the person to recover compensation for any damage suffered in consequence of the use of the goods. New subclause (2) allows a person to whom dangerous services, or services that do not comply with an applicable safety standard, are supplied, to recover from the supplier compensation for any damage suffered in consequence of the supply of the services and any amount paid for the services. New section 26a allows the Minister to place a temporary ban on the manufacture or supply of goods that may be dangerous, or on the supply of services that may be dangerous. The ban can initially be for a period of up to three months. The Minister may, on the recommendation of the council, extend the period of the ban for another period (but the total period of the ban cannot exceed six months). It will be an offence to manufacture or supply goods, or supply services, in the course of a trade or business, while the ban is in force.

Clause 14 enacts a new section 27 of the principal Act and will allow the Minister to warn the public against risks, or potential risks, associated with goods and services that do not comply with an applicable safety standard or have been supplied in contravention of a safety standard, dangerous goods or services, or goods or services that are subject to a temporary ban.

Clause 15 inserts a new Part IIIA to the principal Act, relating to defect notices. The Minister will be able to issue a defect notice in relation to goods supplied in the course of trade or commerce that are dangerous goods, do not comply with an applicable safety standard or are such as may cause injury, if it appears to the Minister that insufficient action has been taken to avert danger to those to whom the goods have been supplied. A supplier may be required to recall the goods, make certain disclosures to the public in relation to the goods, or inform the public that the supplier will either repair the goods, replace the goods, or refund any amount paid for the goods. Before the Minister publishes a defect notice, the Minister must publish a draft notice in the *Gazette* and invite suppliers to request the council to hold a conference in relation to the proposed publication of the notice. All interested parties will be able to attend a conference and the parties to a conference will be allowed reasonable access to information on the basis of which the defect notice is proposed and a reasonable opportunity to make representations in relation to the matter. A supplier may voluntarily undertake to recall goods. The liability of an insurer who insures a supplier against risk of loss related to defective goods supplied by the supplier is not affected by the fact that the supplier gives to the council, the Minister, or any other official functionary information relating to those goods.

Clause 16 enacts new provisions relating to quality standards. The Part will apply in relation to goods and services. It will be an offence to manufacture or supply goods that do not comply with an applicable quality standard, or to supply services that do not comply with an applicable quality standard. The Minister will be able to warn the public that particular goods or services do not comply with an applicable quality standard.

Clause 17 provides for a new section 44 that will generally give a person who suffers loss through a failure of a manufacturer or supplier to comply with a provision of this Act the right to recover compensation for the loss. The compensation will be recoverable in the same way as damages in tort. A court that convicts a manufacturer or supplier of an offence will still be able to make orders in relation to the payment of compensation. New section 44a specifically ensures that the remedies provided by the Act are not mutually exclusive.

Mr S.J. BAKER secured the adjournment of the debate.

PRICES ACT AMENDMENT BILL

The Hon. G.J. CRAFTER (Minister of Education) obtained leave and introduced a Bill for an Act to amend the Prices Act 1948. Read a first time.

The Hon. G.J. CRAFTER: I move:

That this Bill be now read a second time.

Its purpose is to deregulate wine grape prices by repealing sections 22a to 22e inclusive of the Prices Act 1948. Section 22a of the Prices Act empowers the Minister of Consumer Affairs to fix and declare the minimum price at which grapes may be sold or supplied to winemakers or distillers of brandy. That section also implies into every contract for the sale or supply of grapes such terms or conditions as are determined by the Minister relating to the time within which the consideration shall be paid and to payments to be made in default of payment within the time specified.

Sections 22b, 22c, 22d and 22e provide for the variation of agreements and penalties for sales and supplies at prices below the minimum and also the exemption of registered cooperatives from the Act. It has been estimated that price fixation applies to only about one-third of total South Australian production. Price control does not apply to wine grapes grown by winemakers for their own use. Similarly the system does not apply to grapes delivered to cooperative wineries (by virtue of section 22e). Cooperatives crush a large proportion of the South Australian grape intake. The market for whole fruit, known as the 'box market', is also outside price control.

As a first step towards deregulation, minimum wine grape prices were not prescribed for grapes produced outside of the Riverland region for the 1987 vintage. However, the terms of payment provisions continued to apply throughout the State. A major weakness of the minimum grape price legislation is that the industry has devised many ways to circumvent and contravene the provisions of the Act. Reports of alleged contraventions are difficult to substantiate as both parties commit an offence.

The fixing of minimum grape prices had other adverse effects:

it provides ineffective price signals to growers with respect to which varieties are needed and which are not;

it offers no disincentives to the suppliers of poor quality grapes within a grape variety;

it discriminates against proprietary winemakers in South Australia in that the quantity of grapes to which legislation applies represents only one-third of production;

it has encouraged South Australian winemakers to source grapes from other States;

it involves a price fixing mechanism which has no regard for the market for wine or supply/demand influences;

it has repeatedly resulted in South Australian grape growers bearing the brunt of Australia-wide surpluses of grapes; and

it has created in grape growers a false sense of security and retarded incentive for growers to undertake vineyard reconstruction and replanting programs.

Past arguments for retaining the legislation have included the potential for grower uncertainty, due to the long history of controlled minimum grape prices. However, much of this uncertainty has been eliminated with the introduction of the computer based Wine Grape Exchange. Growers now have access to up-to-date information on prices for specific varieties, along with indications of shortages and surpluses in these varieties.

The repeal of the minimum pricing provisions will also terminate the provisions under which the terms of payment for wine grapes are prescribed. Under section 22a (4) *(b)* winemakers are required to comply with the trading terms specified by the Prices Commissioner in a gazetted prices order. The removal of these provision will free growers and winemakers to negotiate mutually agreed terms of payment.

The Bill provides a transitional provision which will ensure the payment terms and conditions which formed the basis of contracts negotiated up to and including the 1988 vintage, remain in force after the repeal of the minimum wine grape pricing provisions. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 amends section 3 of the principal Act which is the interpretation provision by striking out the definition of 'grapes' in subsection (1) and by striking out subsections (5) and (6).

Clause 4 repeals sections 22aa, 22a, 22b, 22c, 22d and 22e of the principal Act.

Clause 5 amends section 43 of the principal Act by striking out from subsection (2) the words 'or minimum'.

Clause 6 is a transitional provision designed to ensure that section 22a and the prices order in force immediately prior to the repeal of that section fixing trading terms and conditions for grape sales continue to apply to and in relation to transactions entered into before the repeal of that section.

Mr S.J. BAKER secured the adjournment of the debate.

CORONERS ACT AMENDMENT BILL

The Hon. G.J. CRAFTER (Minister of Education) obtained leave and introduced a Bill for an Act to amend the Coroners Act 1975. Read a first time.

The Hon. G.J. CRAFTER: I move:

That this Bill be now read a second time.

This very short Bill seeks to amend the Coroners Act 1975 to ensure that, where a person dies in lawful custody within South Australia, an inquest into the cause or circumstances of the death will always be held. Inquests into deaths in prison in this State are not presently mandatory as a matter of law. They were so under the Prisons Act 1936 which was repealed in 1982. This amendment therefore seeks to reinstate the old law. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Remainder of Explanation

Clearly, as a matter of Government policy since 1982, inquests into deaths of persons in custody have always been held as a matter of course. But it is preferable that this be a matter of law, not practice. The Government believes inquests into deaths in custody should always be mandatory for the following reasons:

(i) the relevant affairs of the Police and Correctional Services Departments should be seen to be open;

(ii) the conduct of an independent inquiry provides protection for staff and peace of mind for a deceased detainee's family;

and

(iii) the results of an inquest are public and available to all concerned including the Parliament and the Government.

I commend this Bill to honourable members.

Clause 1 is formal. Clause 2 amends section 14 of the principal Act, which presently defines when a State Coroner must hold an inquest. Section 12 (1) *(da)* of the principal Act gives the State Coroner jurisdiction to hold an inquest into the cause and circumstances of the death of any person while detained in custody, including where there is reason to believe that the cause of death or even a possible cause of death arose while a person was detained in custody. The amendment to section 14 provides that it will now be mandatory for the Coroner to hold such an inquest.

Mr S.J. BAKER secured the adjournment of the debate.

REPRODUCTIVE TECHNOLOGY BILL

Adjourned debate on second reading.

(Continued from 1 December. Page 2316.)

Mr BECKER (Hanson): This legislation has been through a long process in another place. In fact, the Legislative Council spent some 16 hours dealing with the debate and with the various amendments in Committee. We in this place should not need to spend that amount of time, although we must bear in mind the tremendous work undertaken by the select committee in another place. The introduction to that committee's report states:

On 17 October 1984 the Legislative Council of the South Australian Parliament appointed a select committee to examine a variety of questions relating to the reseach and practice of reproductive technology in South Australia. However, that committee lapsed when the Parliament was prorogued prior to the State election in December 1985. Parliament resumed early in the new year and on 19 February 1986 the Legislative Council again appointed a select committee to examine these questions. Evidence taken by the initial committee was referred to the current committee.

The report was released on 9 April 1987 and the committee's terms of reference were as follows:

The select committee is required to consider and report on artificial insemination by donor, *in vitro* fertilsiation and embryo transfer procedures in South Australia and related moral, social, ethical and legal matters including:

1. The possible freezing of early human embryos and any limits of time or circumstance which should be placed on their subsequent maintenance.

2. The possible implantation of human embryos into a person other than the donor and the conditions which should apply if such implantation is to take place.

3. The possible use of scientific or medical experimentation of the pre-implantation human embryo and any conditions which should apply.

4. The possible laboratory maintenance of human embryos beyond the stage at which implantation naturally occurs, and their use for scientific or medical experimentation.

5. Eligibility and conditions for admission of individuals to artificial reproduction programs (with particular reference to social issues, such as marital statuts, the patient's ability to pay and the provision of adequate counselling services).

6. The desirability or otherwise of anonymity for donors of human gametes and the circumstances and mechanisms for possible disclosure of identity of such donors.

7. The desirability or otherwise in the case of children resulting from artificial reproductive techniques, of:

(a) Anonymity/privacy.

(b) Knowledge as to the identity of the donor (having regard to the existing rules for adopted children).

(c) Access to information (for example genetic information).

8. The desirability or otherwise of surrogate motherhood using artificial reproductive techniques or otherwise, and the methods to achieve any control recommended.

9. The appropriate range and extent of services offered in IVF programs in South Australia.

10. The appropriate agencies to provide the services to which reference is made in 9. above.

11. Funding issues associated with artificial reproduction programs in South Australia.

12. Mechanism for developing and monitoring a policy on the use of artificial reproductive technology which take into account the wellbeing of the child and its family, any long-term effects on personal relationships in particular, and on society in general.

13. Development of mechanisms for monitoring and reviewing the use of artificial reproductive technology and, in particular, the role of self regulation, ethics committees and general consultative committees.

14. The present technical and scientific position regarding ova preservation and freezing and likely future developments.

15. Legislative implications which may arise out of consideration of points 1 to 14 above and the desirability of any such legislation being uniform throughout the Commonwealth of Australia; and

16. Any other matters of significance related to points 1 to 15 above.

I had that incorporated in *Hansard* so that people will realise the scope of the debate on the whole issue. The Opposition collectively supports the legislation. In another place Opposition members moved many amendments and were successful on most occasions. We are happy with the Bill, except for one clause relating to the status of persons applying to go onto the program, with which I will deal at the appropriate time.

It is important that we recognise that the legislation is a flow on from the previous *in vitro* fertilisation debate. I will also incorporate in *Hansard* further information that I have received from the University of Adelaide contained in a booklet produced by the Reproductive Medicine Unit and entitled '*In Vitro* Fertilisation Information for Patients'. It is important that the public know what information is provided to those applying to go onto the program. The booklet, on page 13, under 'The History of IVF', states:

The first baby born as a result of *in vitro* fertilisation was Louise Brown in 1978 at Oldham General Hospital, England. Drs Steptoe and Edwards had been working on an *in vitro* program since the mid 1960s and had achieved a small number of pregnancies all of which miscarried before this. Other pregnancies followed at Oldham. By now over 500 IVF babies have been delivered throughout the world.

In 1979 two successful pregnancies resulted in Melbourne at the Royal Women's Hospital after 100 patients had been treated. One miscarried but the other went on successfully and Candice Reed was born in that year. Both English and Australian groups still had many disappointments and it seemed really good news when it appeared that conception rates of about 10 per cent could be possible.

First steps in initiating a program in Adelaide were taken in 1980 at the Queen Elizabeth Hospital. Within a few months two pregnancies occurred but unfortunately both miscarried. There was then quite a long interval without success but in May 1982 the success of our program began and has continued well with ongoing pregnancies. The first delivery from the Adelaide University's team occurred in January 1983 when twins were born. Since May 1982 the conception rate has been about 20 per cent which is similar to the results being achieved in Melbourne and also by the other well established groups in other countries. In 80 per cent of cycles, a laparoscopy is performed. Of these 80 per cent have an embryo transfer and 20 per cent conceive.

While we would like everyone to be successful, human reproduction does not permit this. The best centres in the world have only a 20 per cent success rate. Our group is equal to these results.

It further states:

You must realise that 80 per cent of patients do not conceive in a given cycle on our program despite everything going apparently well. After waiting for so many years this is likely to be a considerable let down. Feelings of grief and anger are to be expected. Please communicate your feelings as much as possible rather than bottle them up. Continually discuss your prospects with your IVF doctor. Sometimes he may recommend ceasing altogether, having further cycles, or modifying your treatment cycles to get better results.

Success on the other hand is much more emotionally satisfying but has its special problems. The outcome of the pregnancy cannot be guaranteed and is subject to the same complications as any naturally conceived pregnancy. Miscarriage may occur. Multiple births have been more common and have their special problems. Abnormalities in babies conceived by IVF are not more common than natural conceptions. The appropriate tests of the health and normality of the pregnancy will be explained to you and performed as necessary.

Because of the difficulties of the whole procedure and the limited number of persons adequately trained to take part in the team, only those patients who do not have a reasonable chance of achieving a family with simpler methods of treatment can be considered for admission to the program. Indeed, the number of couples in whom the cause of infertility is permanent blockage of the tubes is sufficient to keep one *in vitro* team at work for a number of years.

Because natural fertility declines sharply from the age of 38 years onwards and the results of *in vitro* fertilisation even with younger couples are still low, it appears unreasonable to raise the hopes of older women in whom the chance of success would be very small indeed. Therefore, it has been decided that women who have reached 38 years will not generally be selected for treatment because of the poor results.

After you are accepted onto the program by the IVF team, you may need to wait for up to three years before treatment. This is because of the high demand for the program and the fact that its organisation is complex.

During the waiting period, you should enjoy life, pursue your other interests or career and consider alternatives to IVF should it not be successful. You may choose to remain child free or place your name for adoption. Current waiting lists for adoption are longer than for IVF so it is advisable to put your name down earlier rather than later. Remember that you can always defer or cancel adoption requests, and that IVF cannot guarantee success. At the time of application for adoption, the female partner must be aged between 24 and 35 years. The male must be less than 40 years. You must be married for five years. Any previous child under your custody must be under the age of four years at the time of adopting a further child. Adoption of overseas children or older Australian children have shorter waiting periods. Information is available from the Department for Community Welfare.

The book goes on to outline some excellent advice on health and what to do. The whole point I am leading up to is that the most beautiful thing in the world is to be able to bear children and to raise those children in our society, but unfortunately for many women this is not possible, so our medical scientists have come up with a program to assist those people. As has been pointed out by that booklet, it can be time consuming and it must be extremely stressful for the woman. It is something that I doubt very few of us could understand or appreciate. It must be extremely stressful for both partners, and it must require a tremendous amount of patience and support for one another plus the whole team of specialists assisting that program.

I can try to appreciate and understand the problems associated with infertility. I think that the select committee did an excellent job and I pay a tribute to that committee.

I think that many fine speeches were made in the debate in another place, ranging from the technical speech made by the Hon. Dr Ritson through to the general attitude of members from both sides, but the select committee's findings have not been well publicised and I believe that they should be. The select committee recommended:

A South Australian Council on Reproductive Technology be established by statute to examine the broad ethical and social questions related to reproductive technology, to examine and propose standards and to represent the public interest. There should be substantial lay representation on the council. Some members should have experience in the organisation and provision of relevant services. As far as possible men and women should be equally represented on the council.

The legislation makes particular note of this in clause 5, which deals with the establishment of the council and provides:

(2) The council consists of 11 members appointed by the Governor and of these—

(a) one will be nominated by the Council of the University of Adelaide;

(b) one will be nominated by the Council of the Flinders University of South Australia;

(c) one will be nominated by the Royal Australian College of Obstetricians and Gynaecologists;

(d) one will be nominated by the Royal Australian College of General Practitioners;

(e) one will be nominated by the heads of churches in South Australia;

(f) one will be nominated by the Law Society of South Australia;

and

(g) five will be nominated by the Minister.

Fortunately, an amendment proposed by Ms Laidlaw in another place was accepted by the Minister. Subclause (3) provides:

When nominating a person for membership of the council a person or body referred to in subsection (2) must recognise that the council should, as far as practicable, be constituted of equal members of men and women.

The Minister has given an assurance to this effect, but we hope and we want the Government, now and in the future, to abide strictly by that recommendation that there be equal representation of men and women and that the opinion of men, but more importantly of women, be sought on this council. As I read the first six positions on the council, it would be very difficult for a woman to be nominated. Perhaps the Law Society would be their only chance for representation, so it is very important that there be equal representation and that that representation be widespread. The Minister has that opportunity in appointing five persons. I understand that the Hon. Ms Pickles from another place tightened the clause even more when she proposed that, as far as practicable, the council be constituted of an equal number of men and women. That gives the Minister—

The Hon. Jennifer Cashmore: That was Ms Laidlaw's amendment.

Mr BECKER: Then both Ms Laidlaw and Ms Pickles had a considerable amount of input into that clause. That certainly gives the Minister the message and we in this House have no objection to that because recommendation No. 3 of the select committee states:

In nominating five members of the council the Minister of Health have regard to the knowledge and experience of the first six members and to other knowledge and experience which the council may require. To the extent practicable, the general South Australian community should be represented on the council.

That was a unanimous decision of the select committee. Recommendation No. 4 states:

Further, the Minister of Health have regard to the desirability of nominating persons who may have knowledge and experience of:

health administration,
infertility,
non-medical services to infertile persons,
child and family welfare services,
philosophy and ethics,

although a mandatory statutory requirement for such knowledge and experience is not considered necessary.

I think that that made the point very well indeed. The functions of the council, set out in clause 10, are covered by recommendation 5, which states:

The functions of the council include:

developing a code of practice for reproductive technology;

advising those involved with reproductive technology on good practice in service provision and on research which it finds ethically acceptable;

examining the ethical status of research projects involving human gametes and embryos and, where appropriate, approving same;

examining the implications of reproductive technology for the children and their families, donors and their families, and society, and the questions of public policy arising from reproductive technology;

offering advice to, and consulting with the Government on specific issues as they arise;

liaising with any Federal, State or Territory committee or authority concerned with reproductive technology;

providing information regularly to the community regarding reproductive technology.

Basically, those points are covered in the legislation. When we look at research and the use of embryos, at page 19 of its report the select committee stated:

This is an area of very real public interest and concern. There is much still to learn about human reproduction, and research using human embryos has an important role to play in this regard. However, the select committee was unable to reach aggreement on several matters relating to research involving embryos.

Three members of the select committee believe that the respect due to an embryo requires that it be protected from research that will cause its destruction. On this basis, these members believe that non-therapeutic research which is detrimental to the embryo should be prohibited. The other three members believe that any research project, if approved by the council, should be permitted on embryos which are surplus, for example frozen embryos which would otherwise be thawed and left unused, provided that the gamete donors had given prior consent to such use of an embryo. The select committee again divided evenly on whether the limits to be placed on research should be prescribed in legislation or determined by the council. Notwithstanding these differences of opinion, the select committee recommends that, whichever view prevails, the ethics of any proposed research project in South Australia involving embryos be examined by the council. (Recommendation 24.) In assessing the ethics of an application the council should consider, among other things, the potential of the project to enhance the quality of human life.

An article headed 'Life begins at 20 hours' in the *Weekend Australian* of 21-22 March 1987 states:

A Victorian Government committee yesterday unanimously approved in principle an *in vitro* fertilisation (IVF) procedure now prohibited under the Infertility (Medical Procedures) Act 1984. The procedure involves injecting sperm under the shell of a human egg in the first 20 hours after fertilisation when the genetic material of the sperm and the egg fuse in a process called syngamy. The landmark decision by the Standing Review and Advisory Committee on Infertility, chaired by the Professor of Law at Monash University, Professor Louis Waller, has tentatively set 20 hours as the period within which experiments on embryos is permitted. As the experiment would destroy the early form of human life—human embryo or fertilised egg—the committee has effectively set 20 hours as the point at which 'life' begins.

The article then goes into further detail. I hope that that article was drawn to the council's attention. Indeed, I should be interested to know the Government's view as to when life begins, whether in the first 20 hours or whenever. After all, it is extremely important that a lay person such as I be advised of the Government's intention in that regard, because I have always accepted that life begins at the time of conception.

From the functions of the council, let me turn to the licensing requirement on which the Opposition is in conflict with the Government. Clause 13 (4) provides:

(4) In subsection (3)—
'married couple' includes two people who are not married but who are cohabiting as husband and wife and who—
(a) have cohabited continuously as husband and wife for the immediately preceding five years; or
(b) have, during the immediately preceding six years, cohabited as husband and wife, for periods aggregating at least five years.

Some of my colleagues and I contend that the program should be available only to married couples. Call me old fashioned if you like, but I believe that married couples are those who demonstrate stability in courtship and in living together. They show a recognition of the need for supporting one another under our laws which set the moral standards and principles of legal marriage. I find it hard to accept that people living in a *de facto* relationship should be allowed to come into this program.

Having read the sections in the select committee's report dealing with admissions to the program, I still hold to that view. At page 21, the select committee's report states:

The select committee is unanimous in its opinion that the welfare of the child should be of paramount importance in decision-making. (Recommendation 31.) An important factor affecting a child's welfare is the environment within which it is raised. Traditionally, it has been accepted that a married couple are best able to provide a long-term, stable and supportive environment for children. However, the select committee notes that the rate of marital breakdown is increasing. Further, it is not necessarily the case that marriage provides a stable domestic environment.

The select committee notes that both short and long-term *de facto* relationships are increasingly common. The committee expressed diverse views on whether reproductive technology should be available to *de facto* couples. Some members of the select committee believe that reproductive technology should only be available to married couples and that this requirement should be prescribed in legislation. Other members believe that reproductive technology should be available to infertile couples living in a stable domestic relationship, provided that the welfare and the status of the child can be assured.

An opinion was expressed that reproductive technology should be available to any infertile individual, regardless of marital or social relationships, provided there is evidence that the individual will provide adequately for the child's welfare. The select committee was unable to agree whether these matters should be resolved by the council or by the Parliament. Nevertheless, the select committee recommends that reproductive technology be made available only to infertile couples who can satisfactorily establish that they live in a stable domestic relationship. (Recommendation 32.) The select committee was evenly divided as to whether the couple should have to be married.

I believe that initially we should tend to be a little conservative concerning this program and recognise only married couples, but that question must be left to the opinion of individual members. I tend to err a little on the side of caution because of my belief in that regard. I am yet to be convinced that this is anything but a serious matter in respect of which both husband and wife need to give each other tremendous support and marriage, as we accept it in our society, ensures such support. We often hear of a *de facto* walking out because no real responsibility is involved, so I am not convinced that there can be stability in a *de facto* relationship.

Certain clauses of the Bill are mainly administrative. Clause 18 deals with surrogacy. I have a constituent who for many years has been contacting me and using my office to assist her to become a surrogate mother. I agree with the decision made by the Tonkin Liberal Government and the Government since then that surrogacy be not permitted, and I am happy to see that under this legislation there cannot be a surrogacy contract. The confidentiality of the donor is respected by the Bill and we are pleased with that.

Clause 21 deals with regulations under this legislation. I again object to a very scant piece of legislation which leaves it to regulations, regulations which we are not aware of until they are presented to Parliament. At least, any regulations made under this legislation must lie on the table for 14 days and cannot be enacted until those 14 days have passed. Normally, regulations are brought in and become operational the moment they are placed on the table in Parliament. In this respect, the clear 14 days must elapse. If there is an objection, that debate must be held and a decision made before it can become law.

For those reasons, and because, as the shadow Minister of Health advises me, he and his team had success in amending the legislation to a form acceptable to the Opposition, we support the Bill at the second reading stage. We will move one amendment but, in general, we commend the legislation to the House.

The Hon. JENNIFER CASHMORE (Coles): The Reproductive Technology Bill is an absolutely essential piece of legislation, but both intellectually and in my heart of hearts I wish it were not. I have the gravest concerns (and I believe that those concerns are shared by many women of all political persuasions and of both religious faith and no religious faith) that intervention by scientific means in the reproductive process is, on balance, a procedure which carries with it such immense and profound implications that, in the long run, it may be better for society if it had never been made possible.

The fact is, that it is possible. It has been made possible by scientific advancement and, as a result, the law must deal with it to create a framework in which reproductive technology is undertaken in the most ethical fashion which legislators can devise in response to the wishes of the community. That does not alter the fact that there is, I believe, an underlying disquiet, more predominantly among women than among men, and I believe that the day will come when that disquiet is thoroughly vindicated.

It is true, as the member for Hanson said in his very thoughtful speech, that most women would agree that the most creative thing that we do in our lives is to bear and rear children. It is certainly one of the blessings of twentieth century technology that it has been possible to modify the curse of unrestrained fertility—and it has been a curse to women of preceding generations—as a result of birth control. Women of the latter part of the twentieth century are very much blessed that they can both bear and rear children by choice and decline to do so as a result of scientific advancement. No-one could deny that those women for whom that option is not available would give anything to bear children and, consequently, enthusiastically seek the procedures that have been provided for under this Bill.

However, we must have a sense of balance in looking at the blessings and the potential disadvantages and problems which are bound to occur and which will probably not be fully demonstrated until late this century or early next century. The principal problem, of course, is that the reproductive technology procedure involves the creation of vastly excessive numbers of embryos, and the question of what happens to those embryos is something that not one of us here can answer adequately, nor can any doctor, scientist or theologian.

I will simply address several issues which were raised in the Minister's second reading explanation before I deal with aspects of the Bill itself. The first issue which to me is of importance in the Minister's explanation is the following statement:

... reproductive technology is not just a medical or scientific matter. Obviously, medical ethics are involved, but one cannot

and one must not ignore the broader issues—the moral issues and questions of moral values, the legal issues, the questions of public policy and, most importantly, the welfare of the child.

Secondly, the Minister's second reading explanation states the obvious, but the obvious needs to be most carefully addressed in this case. He stated:

> The technology involves invasive procedures performed on women's bodies; it involves issues of women's health, and women's role in society; it should and it will involve women at the level of policy-making and standard setting.

I reaffirm the statement made by the member for Hanson that that is largely as a result of amendments moved by women in the Legislative Council, notably an amendment moved by my colleague, the Hon. Diana Laidlaw, in an effort to ensure that women have, as near as practicable, an equal say with men on this matter.

The reality is that it is largely men who control the scientific decision making which involves reproductive technology. It is largely men who perform reproductive technology. This is, of course, because involvement in this field is so extraordinarily demanding that many women practitioners find it impossible to be involved in it at the same time as fulfilling their home and family role. Most women doctors will choose an area of speciality which enables them to balance their lives in a way that is not possible if one is involved in reproductive technology. It is men, who to a large extent, control the theological debate on this issue. It is men, of course, who largely control the legal profession and its attitude to this issue. And it is men who control this Parliament in terms of their numbers. Those realities may be denied by some in this debate who would seek to say that women have been consulted.

I feel reasonably sure that the Minister at the front bench in charge of this Bill today would recognise that not until we have equal numbers participating, not until we have women actively participating in all those areas I have just outlined, will we get a total human perspective on this issue. It is not sufficient to do our best by way of tokenism through the law to involve women on the Reproductive Technology Council. It is only when women are involved at all those stages, particularly at the stage of the development of scientific knowledge and its application and use, that we will get a truly sensitive response to this extraordinarily sensitive issue.

The further statement in the Minister's second reading speech refers to the matter raised by the member for Hanson, namely, that amendments moved by the Opposition and passed in another place require that IVF procedures may not be carried out except for the benefit of married couples where one or other of the couple appears to be infertile or where there is a risk of transmission of a genetic defect. The definition of 'married couple' includes people who have been living in a *de facto* relationship as husband and wife for a period of five years.

I am one of those who agree that, as a matter of public policy and because public policy should reflect community attitudes to the family—and I am referring to the traditional family of father and mother living within a marriage contract and rearing their children within that stable relationship—*de facto* couples should not be included. I say this in all humility, being only too acutely aware that the marriage relationship, particularly these days, is not necessarily the stable and lifetime relationship which it is ideally designed to be. Nevertheless, it represents a commitment in the form of a contract which does not exist in *de facto* relationships. Therefore, it represents, as near as we are able to judge it, because of the nature of the contract, the best chance which a child has to be born and reared within a stable relationship. No-one denies that it does not always work, but we must acknowledge that it at least demonstrates the best and highest degree of commitment and therefore it is one that I believe we should enshrine in this legislation as being the ideal.

The Minister's second reading speech goes on to refer to the role of the council in promoting and undertaking research into the social consequences of reproductive technology, the promotion of informed public debate on ethical and social issues arising from reproductive technology and the dissemination of information as a vital task. Some of my colleagues will deal with this question of research: I simply want to make the point that I doubt very much that the community is aware that the principal cause of infertility in today's society—as I have been advised by the medical profession—is sexually transmitted diseases. The most common of these diseases, chlamydia or genital warts and herpes, is simply not spoken about. It is virtually an epidemic disease and is causing infertility in vast numbers of young women, particularly those between the ages of, say, 18 and 25. It is often not discovered until infertility is diagnosed at a later date, and yet, because there is this massive wall of silence surrounding it there is no public pressure for prevention of this insidious disease.

I describe the disease as insidious because it does not have painful and obvious symptoms. If it did, perhaps it would have a higher profile and be dealt with in a more public and effective fashion. Until research can be promulgated and there can be public recognition of the fact that sexually transmitted diseases are primary causes of infertility, particularly in females, we are going to continue to spend vast sums of money on what is often a heart breaking exercise of attempting, through reproductive technology, to redress the effects of infertility and we will not be addressing the causes. I state that clearly in my speech with all the feeling that I can command because it is futile for us to be passing and administering laws and allocating funds for the administration of these procedures without addressing the root cause of infertility in an honest, straightforward and effective fashion.

The further matters raised in the Minister's second reading speech and in the select committee report are of critical importance. To summarise this question of the incidence of infertility, the select committee report states that it is estimated that infertility is a problem for at least 10 per cent of married couples. That is a very high percentage. If we were aware of the percentage of that figure that is due to sexually transmitted diseases then we would be a long way down the track towards preventing this tragic problem of infertility in future generations.

When the percentages are broken down into figures it is clear that infertility is likely to be a current problem for nearly 14 000 couples in South Australia. That represents a very serious problem, particularly when it is realised that between only 1 000 and 2 000 of these couples may benefit from reproductive technology. That leaves 13 000 couples, the vast majority, without any hope of having a child.

I wish to conclude my remarks by restating how much this Bill has been improved as a result of amendments in another place. When the Bill was introduced it failed to deal with a number of matters of principle which the Government apparently had intended should be referred to the Reproductive Technology Council. My colleagues and I believe most strongly that, when it comes to matters of principle involving public policy that affect the whole of society and its attitude to fertility and the welfare of children, those matters should not be referred to a small group, no matter how well qualified.

By the terms of qualification for membership of the Reproductive Technology Council most of us in this Parliament are totally ill qualified. Nevertheless, I believe that we do represent the general feeling of the people—if we do not then there is something seriously wrong—and it is better in that case that the Parliament should address questions and incorporate its view in the Bill, as has now been done, on matters such as the recommendation against *in vitro* culture of embryos beyond the implantation stage: whether or not reproductive technology should only be made available to married couples—and that has still to be addressed in further detail by way of amendment; the prohibition of non therapeutic invasive experiments on embryos—that is now in the Bill but it was not when the Bill was introduced in another place; the assurance of total confidentiality of donors in so far as such assurance can be obtained by the insertion of penalties for breach of confidentiality; and the prohibition of commercial surrogacy which is in the Bill but was not when it was first introduced.

The Hon. G.F. Keneally interjecting:

The Hon. JENNIFER CASHMORE: As the Minister interpolates, there is another Bill—the Family Relationships Act Amendment Bill. I simply maintain that that matter should be addressed by the Parliament and not by a council, no matter how well qualified. The people should speak on this matter through their elected representatives.

The other matter to which I refer is that the reproductive technology should be made available only to people who can demonstrate infertility or genetic defect. That matter is in the Bill but it was not in the initial stages. I reiterate my instinctive concerns about this whole matter. Science is carrying us into regions that we can barely believe or comprehend at this stage. It will be the next generation after ours that will have to deal with those regions. I hope that when they deal with them they look at this Bill and say that at least the legislators of 1988 did the best they could do within the confines of their knowledge at the time.

Ms GAYLER (Newland): I support the Bill in its present form, and I welcome the fact that the Parliament is dealing with these very vexed issues in order to try to lay down for the community what is believed to be appropriate at this time, given the information and the medical and scientific knowledge that is available. I welcome the limitations which this Bill places on research and experimentation in the field of reproductive technology. I welcome particularly the requirement that any proposed research or experimentation have the prior approval of the Reproductive Technology Council and, most specifically, that any research be non-invasive in relation to the embryo. I am pleased that issues such as the length of time in which an embryo can grow and the fate of embryos not implanted are dealt with in the Bill.

The Opposition spokesman foreshadowed one amendment with which I disagree, which is to confine reproductive technology to married couples. Clause 13 (4) provides that *de facto* couples who have cohabited continuously as husband and wife for the immediately preceding five years will be able to undergo IVF treatment with a view to having a child. I believe that that clause, moved by an Opposition member in another place, is consistent with the Family Relationships Act 1975 to 1984 in which section 11 defines 'putative spouse' as follows:

(1) A person is, on a certain date, the putative spouse of another if he is, on that date, cohabiting with that person as the husband or wife *de facto* of that other person and—

(a) he—

(i) has so cohabited with that other person continuously for the period of five years immediately preceding that date;

or

(ii) has during the period of six years immediately preceding that date so cohabited with that other person for periods aggregating not less than five years.

The Family Relationships Act, including that provision, was passed by Parliament in 1975. Although a Liberal Government was in office for a three year period after that time, the provision was not amended. Presumably, the Opposition recognises certain rights for *de facto* couples. The definitions in the Reproductive Technology Bill and in the Family Relationships Act are quite consistent.

Essentially, the requirement laid down in this Bill is for a stable family relationship and that should apply whether couples seeking IVF treatment are married or live in a *de facto* relationship. For the sake of the intended child, the crucial question is the stability of the relationship of the man and woman. In practice, couples wishing to join the IVF program must wait a long time. The number of people wishing to join the program, the infertility tests that they must undergo and the IVF treatment itself means that it is a very lengthy process. It is not as though a *de facto* couple, having determined that one or the other is infertile, can pop off to the nearest clinic for IVF treatment. It is a long process and a long wait. The essential test of a stable family relationship for the intended child can well be assessed during that time and it should be assessed for the married couples and the *de facto* couples intending to join the program. For those reasons, I foreshadow that I will oppose the amendment to be moved by the member for Hanson.

Mr LEWIS (Murray-Mallee): As other speakers have said, most of us would probably wish that this Bill was not necessary, but all of us know that it is absolutely necessary. Humankind has developed the intellectual skills and the biochemical and technical awareness of its own condition of life to the extent that we are able to reproduce life entirely independent of the human body in every other respect than the provision of gametes, and that may not be so far away if unregulated experimentation were permitted by people who were unethical in their approach to that research. In my considered opinion, with further research if it is permitted, it will not be long before we can clone a human being. It is therefore essential to ban such research through legislation. There is nothing more abominable for me than to deliver into the hands of fanatics who have views regarding the reason for human life akin to those of Hitler the ability to use the intellect, skills and knowledge that our prosperous, educated society has developed. Yet, that is where we stand if we do not have legislation of this kind.

I welcome the measure and I support its general thrust. I also commend this Chamber as part of this Parliament for the deliberate, scientific and considered analysis of the problem in a sensible non-partisan way prior to the development of the legislation. For enabling that to happen, the Minister and the Government deserve not just commendation but, in my opinion, the highest possible commendation. It is too important to be something of political significance to political Parties.

In my judgment, we can take a bow for having approached it in that way. To that extent South Australia is a unique society. We have shown the way on the world stage in large measures with this legislation, not only in its introduction but in analysing why it was necessary and what was necessary. But it is more than that. On the world scene, over the past decade South Australians have been acknowledged as being at the forefront of reproductive technology and improving fertility for married couples.

That is a consequence of the very principled, professional and ethical work done by a number of people within our

teaching hospitals in this State, initially at the Queen Elizabeth Hospital, through the Faculty of Medical Science at Adelaide University, and more recently at Flinders Medical Centre. Each of those units has in its own way stood in front of any other similar unit or program anywhere in the world with very limited resources to do this. That is the kind of thing for which South Australia, over its more than 150 years of existence, has been famous. Pictures of people on the walls of this Chamber testify to the contributions made by people in this Parliament over the years, the most outstanding contribution—albeit unrelated to this issue—including the development of a comprehensive land titles system that does not require the owner of the land to possess a piece of parchment proving ownership. So much for my background remarks on the necessity and importance of the legislation.

Let me look at some of the things addressed by the Bill which, having been excluded from the realms of possibility, have been worrying me for several years now. It is now possible—and this may have already occurred in other parts of the world—that men who wish to do so can sell semen deep frozen in vials to any woman who wishes to buy it and inseminate herself with it. This and other legislation passed in this Chamber now prevents trade in human tissue of that kind. That is a damn good thing.

It would be terrible, for instance, if pop stars were able to simply sell themselves at stud, producing vials of semen in thousands of batches, deep frozen and sold by whatever means—mail order possibly. The mind boggles!

The Hon. G.F. Keneally interjecting:

Mr LEWIS: Athletes of all types. Equally, one does not want to see the kind of problem that would develop from one person being the parent of, say, several thousand people, all in the same generation, possibly all being born in the same year within a community. If these offspring were to marry, or at least have sexual relations with one another, and ultimately produce children—half-brothers and half-sisters—those children would all be at risk. In the past we have called it the hillbilly syndrome. When inbreeding occurs between brothers and sisters or half-brothers or half-sisters, the children are most commonly born deaf and dumb and, less commonly, they are afflicted by the congenital abnormality of blindness and other physical and intellectual deformities that can result.

Artificial insemination and trade in that material in this State will be put outside the law. It can still happen elsewhere, and it does not mean that South Australians could not buy that reproductive material overseas, obtaining it and inseminating themselves. So, we are not totally free of the risk of pregnancies occurring, thus producing the sort of phenomena to which I have referred. Elsewhere in the world where the technology is known, the phenomena and commercial transactions to which I have referred are possible.

The next phenomenon that I ask members to contemplate as being totally undesirable and, I hope, properly addressed by this measure (and my reading of it indicates it to be so), is what I consider to be an abomination, namely, a pregnancy arranged between a reproductive technology clinic and a homosexual who obtains from some source or other a human ovum (an egg) and contributes to the reproductive technology unit his own semen so that in a few months *in vitro* fertilisation between the egg and semen can take place. The resulting zygote is then transplanted into the abdomen of the male.

How so, you say? It is quite easy. The male goes on to a treatment of hormones to make his abdominal cavity receptive and identical to that of the uterus of the female. It has already been done in animals, and it is no different in human beings—no different whatsoever. The abdominal cavity of the male through hormones is made receptive to the embryo, and the embryo resulting from the *in vitro* fertilisation process, using the semen of the man and ovum obtained elsewhere, is then implanted into the abdomen; the course of hormone injections or other hormone treatment (not necessarily intravenous injections) is then continued to the point where normal parturition occurs and birth is given by caesarean section.

It is an abomination to have the genetic father of the child as its biological mother. The mind boggles at the thought of anyone doing that, yet members of the gay community in the United States, particularly in San Francisco last year, assured me nonetheless that, if it was possible, they would like to participate in such a program. I had on that occasion something to say on these matters to the law psychology group in the California State University, following correspondence I had had with members of that organisation. Human desire and feeling for such parenthood does exist, and people with the money and the sort of inclinations to which I have referred are prepared to become parents in that way. This Bill effectively outlaws such a possibility at least in South Australia.

I could look at even more bizarre types of phenomena that could result from the unprincipled and unethical application of the scientific knowledge on reproductive technology that we now have. I will not take up further time of the House to describe them other than to refer to circumstances, for example, where one has a prize dairy cow. One can induce successive ovulations after radioactively labelling the ovum, amounting to as many as 150 ova in the fallopian tubes over a period of 24 to 28 hours. One would then simply conduct a hysterectomy on that cow, remove its uterus and fallopian tubes, locate the ovum, slice it up and then implant it after *in vitro* fertilisation into other recipient cows.

The Hon. H. Allison interjecting:

Mr LEWIS: Yes, it is surrogate motherhood of another kind. You then have in one year 150 calves from that one dairy cow which would not have produced at best more than 18 to 20 calves in a lifetime. You have effectively tested the animal for its ability to pass on its desirable characteristics and then derived the maximum possible number of offspring from it. It is possible. God forbid! May we as legislators fail in the event of any attempt in that respect. I now turn to other aspects of the measure that I believe the House should address. Under Part II in clause 5 we address the responsibilities of the council that we are proposing to set up under this measure.

I believe that one of those responsibilities should be to promote research into the causes of human infertility and, in particular, male infertility. An amendment which I foreshadow and which I will move later does just that. At the present time a great amount of research is done as to the causes and forms of female infertility, but little or no research is done as to the causes of male infertility and the way in which that can be overcome or treated. I speak with some feeling about the matter and I disclose my personal interest in it, having attempted to participate in the program for that very reason. The cause of my infertility was not known and, whilst it was the subject of speculation, it was not considered worthwhile even to attempt to identify what kind of category the cause fell into. The infertility was of a kind that affected the percentage of motility in the spermatozoa as well as the physiological form that the sperm and the semen took.

Another matter upon which I wish to comment is the question of *de facto* relationships. Unlike the member for

Newland, I do not believe that it is satisfactory for people who are living in a *de facto* relationship simply to require inclusion, along with people who have taken the trouble to indicate to the community that they have a commitment to each other and any children which may result from that commitment, in a program in which those who are legally married can participate. I refer to this program of *in vitro* fertilisation. Damn it, if they are not prepared to make that much of a commitment to each other, I do not see why we, as a community, should allow them, possibly at some time in the future, to foist on that community part of the responsibility for bringing up the children that they derive from participation in this program when, after some time, they decide to walk away from one another without having given prior consideration to the effect that that would have on their children.

I do not believe, if a man and a woman cannot make a commitment to each other in law to illustrate to the rest of us that they are willing to accept responsibility towards each other and any children, that they should be allowed to participate in this program ahead of people who are legally married. As one who in the final analysis was rejected from the program on the basis of my age because more people wanted to participate, I find the prospect of including unmarried and *de facto* couples in the program quite ridiculous and unreasonable. That is quite apart from the fact that a cost is involved. On the basis of demonstrated commitment, I oppose such a proposition.

During the Committee stage I will seek clarification from the Minister as to what is meant by clause 6 (2) and the terms 'misconduct, neglect of duty and incompetence' when referring to dismissal of a member of the council. It would surprise me if anybody in the future is dismissed for any one of those reasons. I do not know why they continue to be included. I would like to know what constitutes 'misconduct, neglect of duty and incompetence' of a member of the council in such a way as would require the Governor to remove them from the council.

I cannot find mention of one matter in the Bill and I believe that it should be included. First, I do not think that people who suffer from AIDS or hepatitis B should be allowed to participate in the program. Indeed, I do not think that anybody who has a disease which can be passed on to the offspring should be allowed to participate in the program. Secondly, I cannot see any reason to oppose the biblical maxim of allowing the father or brothers of the infertile man or the mother or sisters of the infertile woman to contribute genetic material for the purpose of the *in vitro* fertilisation and embryo implant that results in an offspring. It would be particularly relevant in the context of there being a father and a brother and neither individual then being known to be the biological genetic father of the resultant offspring. I see that inclusion as being particularly wise and appropriate and that is the way that the problem was avoided in biblical times.

Mr MEIER (Goyder): In a way it is ironical that we are debating in this House a Bill which allows infertile couples to have a child or children and, at the same time and in the same State, we are killing children conceived by couples who do not want them at the rate of something like 4 000 a year.

Mr Lewis: They are pregnancies; they are not just couples.

Mr MEIER: Perhaps, as my colleague corrects me, they are pregnancies and not just couples. I am totally opposed to abortion, and I suppose in that sense the corollary is that one would assume I would be in favour of legislation that can help create human life, but that is putting it in far too simplistic terms. As other speakers have said, it is a fact that we have before us—and have had before us for some years—the technology available for infertile couples to conceive. It raises many moral and ethical questions, many of which have been covered in earlier debates. There is probably no simple answer as to what is right and what is wrong in all cases. I am very pleased that this matter has had ample opportunity for people in the community to give their points of view to the Upper House select committee that has sat, I believe, for years now and, prior to that, there was a lot of discussion on this topic anyway. That is very positive.

I do not think there is any doubt that children born as a result of the *in vitro* fertilisation program must be a great joy for their parents. I am sure that they would be loved equally if not a little more than perhaps those children conceived through natural means. There is no doubt in my mind that those children would add a lot to our society in a variety of ways and I suppose only the future will tell us that. I suppose that in future years we will witness people who become leaders in their particular areas of life and who were conceived through the *in vitro* fertilisation program. We live in a changing world.

A few people have said to me, 'John, I hope that you will oppose certain aspects of the *in vitro* fertilisation program', but in many ways it is unrealistic to make that blanket statement, because the program is with us; it is being used; and it is bringing joy to many people. Probably, if handled correctly, it will be beneficial to our society in the long run. However, I acknowledge that the concerns must be considered. Much of the material dealt with by this select committee has not been included in specific legislation, mainly because it is perhaps difficult to put moral issues into written legislation in all cases.

Quite a few ethical matters were raised before the select committee and this Bill is in a sense a skeleton that sets up an administration and confers a set of powers, but it does not set up a code or ethical practice itself. In many ways that is fair enough, because in South Australia we have clearly separated the State from religion, and many moral matters must be worked out by the individual because the State cannot legislate in all areas. If people, because of their moral beliefs, cannot engage in such a program as this, there is nothing to stop their saying that they cannot be part of it, and that is fully acknowledged. However, that may not be the case with respect to many people.

I have not received much correspondence on this issue; indeed, I have probably received only four letters. I shall refer to two of those letters, the first of which, from the Catholic Women's League of South Australia, states:

> As concerned members of the community, the 2 000 members of Catholic Women's League of South Australia wish to make the following points re the Reproductive Technology Bill currently before Parliament:
>
> 1. That there should be legislative protection for the embryo as well as legislative protection of the child.
>
> 2. The fundamental issue is our concern based on the strong belief that all human life is sacred from the moment of conception.
>
> 3. The therapeutic experimentation on human embryo should not be permitted.
>
> 4. It is bad legislation to have such contentious and important issues as 'reproductive technology' handled by the proposed council.
>
> 5. We agree that access to IVF programs should be limited to married couples.
>
> A code of ethical practice should be legislated by government, not as regulations made by a council. (It should come before Parliament as a Bill).

That letter is signed by the State Secretary of the organisation (Miss Patricia Mahar). The second letter to which I shall refer, from the Chairman of the Commission on Social

Questions of the Lutheran Church of Australia (Dr Daniel Overduin), states:

I write to you concerning the Reproductive Technology Act 1987 at present before the House. I ask you to support amendments to the legislation which would meet the following criticisms of the Bill in its present form.

1. Section 3 of the Bill defines 'human reproductive material' to include a human embryo, human semen, and a human ovum. Since the human embryo is a human being we object to any definition which would make the human embryo the moral equivalent to semen and ova and which implies that manipulations of human embryos raise the same moral or ethical problems as would manipulations of semen and ova.

The second point relates to a matter referred to in the earlier letter: the fact that responsibility for such fundamental human life issues belongs to the Parliament and should not be devolved to a subordinate bureaucracy. Further, it is stated that Parliament must reject the use of artificial fertilisation procedures for *de facto* couples and single women, as well as the practice of commercial surrogacy. As surrogacy is specifically banned by the Bill, that point is covered.

The third point referred to in the letter from Dr Overduin concerns membership of the council. He states that such membership should include three, at the very least two, nominees of the heads of churches, and I shall consider that point further.

There is a problem of definition in the legislation. In any legislation a definition is always open to interpretation and in this regard I point out that clause 3 provides:

'human reproductive material' means—
(a) a human embryo;
(b) human semen;
(c) a human ovum;

I personally hold the view that the human embryo must certainly be regarded as a human life and I guess that it is only logical that, if I am against abortion, I should hold to that view because I believe that human life starts at the moment of conception. It was interesting to those of us who viewed the film *The Last Emperor* the other evening to see an injection given to the baby who was born to the Emperor's wife as it was not wanted by the Japanese. At that point a few of those watching the film turned away in horror as they realised that the baby was being killed, yet that happens 4 000 times a year in South Australia and people do not think much about it.

The problem of definition is with us and we must be realistic enough to appreciate that embryos are created. It is not only one embryo that is created: more than one embryo is created. That is where half the problem exists, because the embryos in the program need to be kept, literally, on ice in case they are required in the event of the first implantation being unsuccessful. Time does not permit me to enter into further arguments as to what extent we are manipulating human life at that stage. I do not profess to be a medical expert in this area. Indeed, it is an area about which I wish I knew more in the scientific arena. This matter was canvassed extensively in the other place before Christmas and those wishing to consider the argument further may have recourse to people much more skilled in that area than I in order to hear further details.

I endorse the restriction of this program to married couples and I will support the amendment foreshadowed by the shadow Minister to ensure that *de facto* couples are not permitted access to this technology. The member for Murray-Mallee brought out an interesting point when he said that the program at present could not cater for all married couples, so why introduce legislation that must add a burden to the program?

More importantly, surely our society must appreciate the massive problems that we have created for ourselves in having to look after people who are no longer in a stable family relationship. I well appreciate that married couples can become divorced and that divorce is not uncommon; I well appreciate that marriage does not ensure a lifetime relationship in this day and age—perhaps it has not since time immemorial—but I do believe that marriage at least is a commitment from two people that they are determined to do everything possible to live in a stable relationship, hopefully for a lifetime, at the time they make their vows. Whereas it would appear to me that a *de facto* couple do not have any such commitment, and there is no problem for either of them to walk out of that relationship at any time.

Currently our law is such that people would not expect to get half the property, although that is changing. It seems to me that we will have to look at that area as time goes on.

Mr Lewis: They get half the property, but the Family Law Court cannot garnishee the salary of the income earning spouse.

Mr MEIER: The member for Murray-Mallee has provided further information: I will not go into more detail. It is very clear that a married couple represents a permanency that this society needs more and more. Why should we be promoting a society that will lead to less stable relationships, therefore, resulting in more dependence on the Government, which must look after, say, the mother and the children or later on just the children when those relationships fall apart. I think it is very shallow thinking, short sighted thinking to be going in that direction. I hope that members opposite will support the amendment that is to be moved by the shadow Minister.

A lot of further points could be considered in this matter, and other members have touched upon some of them. I will briefly refer to the composition of the council, seeing that the letter from Dr Overduin specifically mentioned that. It is disappointing that only one member from the churches has been included when there are a lot of moral issues to be considered. I fail to see how the provison regarding consideration of an equal number of men and women can be implemented when six people are to be appointed in the first place by six different bodies and, in the second place, the other five people are to be nominated by the Minister. The 11 members will comprise nominees from the University of Adelaide, the Flinders University, the Royal Australian College of Obstetricians and Gynaecologists, the Royal Australian College of General Practitioners, the heads of churches in South Australia and the Law Society of South Australia. I do not have any problems with those nominations, but I fail to see how clause 5 (4) *(d)* can be brought into operation. It provides:

. . . as far as practicable, the council is constituted of an equal number of men and women.

I will be interested to hear what the Minister has to say as to how he believes that that will operate. Five members are to be nominated by the Minister. I guess it could be put forward that the Minister would nominate all women, in which case membership would be almost 50/50. I would also be surprised if that happened, because the Minister's nominees then would perhaps be completely biased one way as against the other. I fully endorse the concept that we should have a reasonable number of women. I will be interested to hear how the Minister intends to see that the council is constituted of an equal number of men and women, as far as practicable.

As the member for Coles said, I wonder how future generations will look back and comment on what we have done in 1988, whether they will say, 'You were far sighted; you certainly had the right perspective in mind', or whether

perhaps new problems will have been created that will be hard to handle in perhaps 50 years or 100 years time. Whatever the case, the technology is with us and there are many happy families and many happy children as a result. It is an aspect of our society that is with us and I trust that our Parliament is handling it in the best way possible.

Mr ROBERTSON (Bright): This afternoon I wish to offer my complete and wholehearted endorsement to this Bill. I also wish to pick up some of the points raised earlier in the debate by the member for Hanson, who is currently sitting at the front bench, and the member for Coles. The member for Hanson raised the perennial chestnut about when does life begin. My response to him would be that he, above all of us, should know that life begins at 40 but, in the current context, I wonder whether that is appropriate.

We are dealing with a Bill that is of immense importance to a great number of South Australians. It is a Bill which will give, in the final analysis, comfort and hope to many people in this State, and it will enable them to have access to the joys of parenting which many of us in this House know and greatly cherish. In his address, the member for Hanson foreshadowed an amendment that only married couples ought to be eligible for this technology; it seems to me that, given the definition of '*de facto* relationship', being cumulative five years out of six years of cohabitation in the main, that would be more of a guarantee of stability within a relationship than most marriages. It is not particularly uncommon for—

Mr Becker: How long have you been married?

Mr ROBERTSON: The member for Hanson asks how long have I been married. I fail to see the relevance of that, but I point out to him and to others who might raise that question that the current longevity of marriage is not as long as it used to be, and I welcome the ease, if you like, with which marriage contracts are dissolved compared to 20 years ago. I think that that has been a progressive step and a step which has enabled many women in particular to escape from relationships which have been entirely damaging towards them both psychologically and socially. I cavil not an iota with the current legislation that enables peole to more easily get out of an unsatisfactory relationship. I find the point to be completely irrelevant.

Members interjecting:

The ACTING SPEAKER (Mr De Laine): Order!

Mr ROBERTSON: To return to the point of the debate, which I am sure the shadow Minister is anxious to escape from, the point is that most *de facto* relationships which are by definition *de facto* show a stability that many legitimate marriages do not show. So far as the hope of stability which that relationship extends to any child of that relationship, it is much greater within those relationships than within many conventional marriages.

Members interjecting:

Mr ROBERTSON: I suggest that the member for Murray-Mallee look at some of the figures and he will see that the point I am making about five years stability—and I am only guessing—would probably be pretty close to the arithmetic mean and a good deal closer to the median, if you wish to look at the longevity of most conventional marriages, particularly within the past 15 years.

Mr Lewis interjecting:

Mr ROBERTSON: I am prepared to look at the statistics and I think you will find that they bear me out. The member for Coles raised a couple of points that I think require, in the one case, support and, in the other, to be questioned. The member for Coles lamented the need for this technology. I must say that I for one do not lament the technology, I welcome it. I believe it to be an enormously liberating influence for those couples who are presently unable to bear children. I think that for the member for Coles to lament—and I use her words—the technology is entirely inappropriate and a great insult for those many couples in South Australia who have remained childless and who want to have children. One only needs to look at the traditional biblical term 'barren' and the social connotations of 'barrenness' from the Bible onwards to understand the social stigma in many quarters and societies which is attached to not having children and not being able to bear children. We know of the phrase 'maiden aunt' and we know the disparaging way in the youth of many of us in which maiden aunts were referred to. Presumably this Bill will extend to many more people the ability to produce and nurture children.

The Hon. Jennifer Cashmore: I did not lament. You should listen more carefully. I expressed reservations.

Mr ROBERTSON: I guess that is an issue that will be resolved when we see *Hansard* tomorrow. I do, however, support the honourable member's point that men predominantly control both the development of reproductive technology and its application and the development and application of laws surrounding reproductive technology. I think that is a matter for some regret, and the Bill goes some way towards meeting that, but I do take the point that it is a matter of regret that so many of the people involved in making the laws and creating and applying the technology are men. I hope that in the fullness of time there will be more women both in this place and within the medical technology field.

Members interjecting:

The ACTING SPEAKER: Order! The interjections are getting out of hand.

Mr ROBERTSON: I think that should be recorded for posterity. The second point raised by the member for Coles concerns what I regard to be a most important social issue and that is the need to prevent infertility by sexually transmitted diseases, such as chlamydia and herpes. I agree with the member for Coles on this point: we need to promote measures to prevent the spread of diseases of that kind that carry with them the burden of infertility. I believe it to be the role of Governments and other organisations in society to promote, on purely medical and social grounds if not moral, the normal preventive methods that one ought to take, including such measures as monogamy and single sexual partners, even abstinence and the use of devices such as condoms. I do not think that those measures are at all out of place and I agree with the honourable member's point that one ought to be addressing also the problem of infertility caused by sexually transmitted diseases. That issue, however, is not within the compass of this Bill and while it is a significant point it is not relevant to this debate.

In conclusion, I support the Bill. I believe that it will give reassurance and comfort to many thousands of South Australian couples. I believe it offers the opportunity to strengthen the bonds, whether they be within marriage or traditional *de facto* relationships, between people. I believe it will give stability to those relationships and above all I believe it will give to those people and the users of this technology the joy of bearing and raising children which might otherwise have been denied them.

Mr OSWALD (Morphett): I support this piece of legislation. I think the whole of the IVF program is one of the most wonderful things that modern day medical science has produced to assist couples who have had difficulties over the course of time in conceiving children. A distinct lack

of babies available for adoption over recent years has been brought about by the trend in this State to bring in this whole concept of abortion on demand. I am not going to get into that phase of the debate today because it is a totally different subject, but it has resulted in the fact that many couples who have wanted to have children and in the past may have been able to adopt them now find that that is not possible. Those couples that desperately want children, having had that avenue closed to them in the past, have had no other avenue to follow.

With the advent of the IVF program women can conceive with the aid of modern day medical science. I think that, as a Parliament, we should applaud that. As parliamentarians we should look at the whole field of the IVF program and divide it into two areas: the scientific and clinical area, which is provided by the medical profession, and the legislative area. As members we obviously look at the legislative area and the scientific area has been well covered. Many experts in that field are making great advances. As I said in my opening remarks, the result is that childless couples are now able to bear children, but a few years ago that would have been totally impossible.

We have to look at the legislative side. There are a few moral and legal implications and I think the select committee has covered most of them. One matter that will be raised and canvassed by the member for Hanson, who has carriage of this piece of legislation, is this question of whether or not couples should be married. The members who have contributed thus far to the debate are seen to have fairly fixed views on that subject. I personally consider that, if it is at all possible, they should be married. If the program is to be made available and there is a long waiting list, I would give preference to married couples because I believe that a married couple has shown a longstanding commitment to marriage. I know that it can be argued that marriages of today do not last as long as they should and that a couple that has been living together for five or six years—whatever is the required time—has probably got as great a chance of success as a married couple of five or six years. I find it very difficult to argue with that point but, if a long list of couples want to join the IVF program and only a limited number can begin the course, then I believe those couples who have made a specific commitment should receive priority.

The other matter that will also be raised is the composition of the advisory council. I was not in the House when the member for Coles spoke, but I think I can predict that she would have said that there should be a fair balance on that committee between men and women. I have no difficulty with that as a legislator. Quite clearly, if we look at the whole field of reproductive medicine the contributors and the academics involved are mainly male and it is natural that when appointments are made they will probably come from the male sex.

However, certain emotions are involved in the IVF program and, let us face it, we are not going to be able to change the regulations in this place as to what this council will be able to do, but I see no difficulty in asking the Minister to ensure that, when he chooses his five appointees, if possible, provided each person has the appropriate qualifications, he should balance it up and make sure that there are females on the council who can, quite obviously, think as women think in these matters. I do not think it would be desirable to have a council comprised solely of males. It is a problem because at this stage experts qualified in this field are predominately male. Even the nomination from the Law Society would probably be a male.

I support the legislation and I do not have any great difficulties with it. I have been a keen admirer of the way in which the IVF program has developed over the years. I do not think that we have seen the end of it and, as a member who has great apprehensions about certain aspects of genetic engineering, I will closely watch the progress in this field so that, if anything that comes in is against mother nature, I will be one of the strongest objectors to it. On the whole the deliberations of the select committee were worthwhile and the House should support the legislation in broad terms and support the two amendments to be moved by the Opposition.

Mr BLACKER (Flinders): I also support the Bill, and I share the same concerns of many other members that it is a pity that it is necessary. However, with the advancement of modern science and the experimentation that takes place, a code of ethics is necessary in any further developments of this kind. In fact, one wonders whether we will have already gone too far down the track with experimentation before this legislation will come into effect, because the mind boggles as to how far an unscrupulous person could go in this type of experimentation. Nevertheless, I support the concept of what the legislation is trying to achieve.

Mention has been made of the need and desirability of couples who have been unable to have children to be able to use a program such as this in order that they can have a family. I support them in that because nothing could be more devastating to a couple than not being able to have a family if that is their strong desire. If this program can help people in those circumstances, a useful purpose has been served. Unfortunately, many of the people who would have otherwise adopted children have been unable to do so and that puts even further pressure on them and, therefore, their demands and requests for the *in vitro* fertilisation program have come about. This has meant greater experimentation in the medical field.

For some years, a number of my constituents have spoken to me about their very grave concern at the lack of children available for adoption. Their concern has been brought about by the seemingly increasing use and expansion of the abortion on demand principle. Some would argue that there is no abortion on demand but when one looks at the figures—approximately 4 000 abortions are carried out in this State each year—it is difficult to say that we do not have abortion on demand, particularly when 96 or 97 per cent of abortions are carried out on the excuse of psychological reasons.

Any legislation that tends to interfere with nature is controversial, and this Bill is no exception to that. I guess that we can only tread with extreme caution to make sure that whatever advances are made occur to the best possible advantage or benefit of mankind. I am concerned at one major aspect of this Bill, which has already been mentioned, and that is the reference to married couples in clause 13 (4). I have a very definite view on this because the *in vitro* fertilisation program will be available only to a very limited number of people. Costs and expenses will not allow the general use of *in vitro* fertilisation programs to a wide cross-section of the community, and it is for that reason that I believe that only married couples in the traditional sense should be eligible for assistance under the *in vitro* fertilisation program. I am quite adamant that this should be the case, and I do not share the views of the speaker on the Government side that it should be available to people in *de facto* relationships. I heard the argument put up that *de facto* relationships sometimes last longer than marriage. That might be an argument based on selected criteria but to generalise is totally wrong.

Mr S.G. Evans interjecting:

Mr BLACKER: As has been pointed out, not many of them last a lifetime. If people have made the commitment to be marriage partners, given they will not be eligible for the *in vitro* fertilisation program for many years anyway, their commitment to life and to their unborn child must be of paramount importance, and I am certain in my own mind that a married couple would be by far the best parents in such circumstances, though I am generalising. I cannot accept for one moment that, if a man and woman are not prepared to enter into the bond of marriage, they should be given the right to participate in an *in vitro* fertilisation program. If they are not prepared to make that commitment to themselves and to their potential family, they are not worthy of being parents of a child through an *in vitro* fertilisation program. In my own mind there is no compromise on that issue. As I said, it is not as though an *in vitro* fertilisation program will be available to two-thirds of the community; it will be available on a very selective basis only.

Mr Klunder interjecting:

Mr BLACKER: I appreciate that. I thought it was my right to present that view to this Parliament. I made it perfectly clear that it was my view.

Members interjecting:

The ACTING SPEAKER (Mr Rann): Order! There are too many interjections. The member for Flinders has the floor and will resume.

Mr BLACKER: Thank you, Mr Acting Speaker. I find the comment from the member for Todd extremely hard to understand because I thought that all members had the right to express their own views and those of the majority of their electorate as they perceived them to be. I have seen examples in this Chamber when individuals have presented views which I would guarantee were not the will of their electorate. In this instance I can speak with the will of my electorate in taking my stance. I am prepared to challenge any member, Government or Opposition, to make that same claim. I am more than adamant about that, and I should thank the member for Todd for allowing me to highlight that particular point.

The legislation also makes it perfectly clear that it will not tolerate surrogacy, and I am sure that all members would agree with that. Where it has occurred in other parts of the world, massive court cases have resulted as to who the parents should be, whether they be natural or foster. What could be more demeaning or more disgraceful to any child than to be the subject of a court battle, even though the infant may not know much about it at the time? In years to come, it would be a terrible burden upon that child to know that the story of their surrogacy arrangement had been spread across the papers of the world. I am pleased that this legislation attempts to stamp that out.

I am sure that all members would agree with the confidentiality provisions in the legislation. Every endeavour should be made to see that confidentiality is maintained. I am concerned about the press and the grapevine in a local community. As much confidentiality as possible should be maintained, and all members would support that. Clause 21 makes provision for regulations. I am always very sceptical about regulations because the basis of the legislation can be incorporated in the parent Act but an overriding clause appears which allows the nuts and bolts and the administration of a particular Act to be carried out by regulation. I have seen too many pieces of legislation that have been used, abused and misused through regulations.

I am very wary of them. Every Government of recent times has used regulations to excess. If the Government of the day has a view on a subject it should be put down in black and white. Parliament should make a determination on it and not give a blank cheque to enable someone to distort and misuse legislation by way of regulation. I am not saying that every Parliament distorts and misuses regulations. However, it does happen, albeit with the best of intent.

With a subject as delicate as this one it would be much better to have set down in black and white what can and cannot be done and for this Parliament to make a determination on it. We have been asked to support legislation that has been introduced into this place with the best of intent. However, we do not know the extent to which the regulations can distort the effect of this legislation, either now or in the future. The regulations provide quite clearly that this House must deal with any disallowance motion before the regulations can be brought into effect. That should be an automatic obligation in relation to all regulations. However, we all know that that is not the case. A regulation is operative from the date of gazettal and, although Parliament has the opportunity to object to it during a period of 14 sitting days, subject to any extension of time by parliamentary debate, the regulation operates until that time or until Parliament determines otherwise.

The regulation clearly states that Parliament must make a determination if a disallowance or appeal motion is brought before this House. So, regulations cannot come into effect until the review process has taken place. That very principle should be applied to all regulations.

I indicated that I did not intend to speak for very long, and time is already running away from me. I will not go much further, except to say that I am very fearful of any legislation that could promote or allow genetic engineering. Clauses in the legislation are designed to prevent that occurring. However, we know what is happening in the animal world with genetic engineering and how far that is going down the track. We could translate similar processes to mankind. The legislation is designed to prevent that, but one cannot be blamed for being very fearful of any program that might allow any form of genetic engineering. I am very wary and, as other members have said, if we have the slightest hint of any genetic engineering being allowed or suggested, it will certainly meet my strongest opposition.

I support the Bill. It is probably the first time that a subject as delicate as this has been handled with such sincerity and goodwill on both sides of Parliament. I trust that the ultimate outcome, although it will not be perfect in the first instance, will be modified from time to time to ensure that protection exists for all and certainly protection for the now unborn child and its future upbringing within our society.

The Hon. D.C. WOTTON (Heysen): When this Bill was first introduced in another place I was particularly concerned about a number of aspects of it. Many of these concerns have now been overcome as a result of amendments that have been passed in another place. One only has to read the debate that took place in the Legislative Council to realise how much consideration was given to it by members in that place who contributed to that debate as a very technical subject.

I still have a couple of concerns about the legislation, the first of which will be dealt with by the amendment to be moved by the Opposition in this debate. I, too, believe very strongly that people who are involved in this program should be married. Perhaps Government members believe that those of us who share that view on this side are old fashioned. I do not care about that. I feel very strongly that if

a couple really wants to have a family they should be committed enough to be married to do so. That is a personal view that I have and one to which I hold very strongly. It always seems quite wrong to me that so many people that I know are attempting to adopt children, if they cannot have children of their own, and who find it extremely difficult to do so when, as the member for Flinders said, we have such a high rate of abortion in this State as a result of the abortion on demand policy that is recognised in South Australia. I know a number of people who are involved in the program. I am very supportive of their desire to have their own children, and the advancements that have been made in this technology are certainly to be supported.

We are extremely lucky that we have people who are able to contribute in such a way, making it easier for people who, for other reasons, are not able to have children to be involved in the program. Like many other members, I have received a considerable amount of representation on this Bill. I do not have the time to take into account in this debate all such representation, but I will read a letter that I received from the Mount Barker Christian Council.

I am very fortunate to have in Mount Barker such a representative group. There are 11 churches of different denominations in Mount Barker, and they have formed themselves into a Christian Council. It is very supportive with representation on matters that I bring to its notice, and I commend the group for the work it has put into the submission which it has provided to me and which states:

On behalf of the 11 Christian churches located in Mount Barker and which are members of the above council, I am writing concerning the above proposed Act which is curently before Parliament. There are aspects of the Act which we find highly commendable, whilst there are other issues raised within it which we feel express our concerns. It is very encouraging to see Parliament addressing an issue which had very obvious moral and ethical overtones. The issue is also a highly emotive one in which we must feel compassion for those in our society who desire to have children yet, without the use of medical technology, would be otherwise denied that blessing.

Medical technology, as with other fields, has advanced man's knowledge and understanding to a degree previously considered unthinkable. And much of this has been to the benefit of mankind. As you would be undoubtedly aware, legislation often lags behind the rate of advance in technology, which in some sense is not necessarily a disadvantage, for it allows society some time to assess the possible gains brought by that technology while at the same time to view the problems and dilemmas which are confronted in the acquisition of those gains.

Reproductive technology has brought with it many hitherto unthinkable benefits which are a gain to society. On the other hand, with those gains there may well be a cost, and it is that cost which we believe needs to be very carefully and cautiously looked at. At first glance the benefits may seem to outweigh the cost, yet time may prove otherwise. As legislators I am sure this is of paramount concern to you all as you deliberate on the many issues before you and endeavour to determine what is best for our society both in the present as well as the future. There is beyond doubt a need to now determine and, where necessary, regulate for a code of ethical practice in the field of human reproductive technology. The Government's attempt to do this is very commendable because problems in the moral and ethical codes are now confronting society as well as the medical profession.

It is also very commendable that the proposed Act considers the welfare of any child born using artificial fertilisation procedures to be of paramount importance. We do not necessarily, however, agree that it is the single and only fundamental principle in the formulation of a code of ethical practice. The welfare of a child must be jointly considered with the welfare of the family whose responsibility it is to care for that child.

As the family involves both the mother and father, they too are also important as part of that fundamental principle and any code of practice must include them as part of the concept.

If our intention is the proper love and care for a child—and I believe that it is—then it must include parents. And because the natural process, regardless of how technology may supplement and complement this, involves two parents, the principle of a family can never be separated.

To recognise and accept any other fundamental principle, regardless of what benefits it may appear to have, may well reap us a cost which, in hindsight, we as a society would regard as unacceptable. It is the application of wisdom in these areas we implore the Parliament to consider.

The writer then goes on to express concern about surrogacy, which is dealt with and outlawed in this legislation. Other legislation introduced in the other place also deals with that matter, so I will not read the reference to that topic. The letter further states:

If for a moment we dismiss the means involved, this Act is really all about the bringing of human life into being. And if our intent is not to do this in the sterile and detached environment of some laboratory where the quest for human knowledge becomes more paramount than anything else, then we suggest that the intent be carried out with a dignity and respect for the very life we are bringing and capable to bring into being.

Compassion for the normal love and desire of any married couple to have a child must always be felt and respected. But to give mercy and compassion at the expense of society's dignity and respect for life would ultimately bring with it injustice. The situation would be one of where the 'ends justify the means'. We can see no moral or ethical overtones in the use of fertilisation procedures between the natural mother and father regardless of whether it is achieved by normal sexual means or with the aid and benefit of medical research.

However, we do see a problem regarding unused embryos. What happens to these if they are not required by the parents in the future? To store them indefinitely in the hope of finding some answer will not ever solve the moral dilemma but merely postpone and leave it to another generation. To deal with it now means we must make a value judgment on a moral issue and we, as Christians, contend that to destroy them or give them over to any form of experimentation means that life itself is being destroyed or put at risk. And, as with abortion, we as Christian churches unreservedly believe that life begins at conception.

Therefore, our responsibilities as parents for the welfare of that child begin there and then and society's responsibility also begins there, regardless of how the sperm and ovum come together. We cannot accept the God given privilege of knowledge without accepting the corresponding responsibility. If we are to love, care and respect life, and a child is the beginning of that life, then we must responsibly exercise that not only with our ability to bring it about but also from the very moment it happens.

We are therefore totally opposed to the destruction of unused embryos and would urge and respectfully caution Parliament not to adopt, allow or give formal recognition and credibility to such procedures. Furthermore, it is a moral value which affects all society and therefore we feel that parents have not got the right to determine such an issue as an option.

The issue of experimentation with unused embryos we likewise find morally and ethically unacceptable. Undoubtedly, much good can be achieved from experiments and experiments on embryos would bring some good benefits to mankind.

I am very conscious of the time, and I doubt that I will be able to read the remainder of this letter into *Hansard*—and that is a great pity. I might take the opportunity of doing so at a later stage. I am sure that members can recognise the thought and real commitment that has gone into the preparation of that letter, and I look forward to continuing my reading of that letter into *Hansard* at a later stage.

The other concern I have (other than the one to which I have referred, namely, I believe it is essential that only married couples should be able to participate in this program) relates to the council that is to be established. This Bill seeks to give a new statutory body, the South Australian Council on Reproductive Technology—an 11 person committee with expertise in a number of areas—wide ranging powers. Clause 10 provides for the responsibility and powers to be given to the council and it states:

(a) to formulate, and keep under review, a code of ethical practice to govern—

(i) the use of artificial fertilisation procedures; and

(ii) research involving experimentation with human reproductive material;

The Bill further provides that the council shall formulate appropriate conditions to license authorised research

involving experimentation with human reproductive material. The Bill also gives the council the responsibility of issuing licences to persons who wish to carry out research, and a number of those powers are given to the council.

At least the code of ethics comes to Parliament in the form of regulations and Parliament can then either allow or disallow them, but in clauses 10 and 14 in particular the South Australian Council on Reproductive Technology, as a statutory authority, is given wide ranging powers to formulate codes of practice and conditions for licences and it has responsibility for issuing licences for research. I do not accept in any way, shape or form that Parliament should abrogate its responsibilities as legislators to an 11 person council consisting of what we are told are supposed experts. I understand that already an interim committee has sat for the first time. We are aware of the names of the people who are serving on the council, but I do not accept that, in their respective areas, those people have far more expertise in the scientific and technical aspects of *in vitro* fertilisation than I have. I question some of the expertise of those people, and I suggest that a number of people in this Parliament share that concern.

Members interjecting:

The DEPUTY SPEAKER: Order! The member for Mawson is out of order.

The Hon. D.C. WOTTON: Members of Parliament are elected to represent the electorate at large and, in the end, as members, we are answerable to the electorate for the decisions that we take. I believe that that is the important distinction between members of Parliament and an 11 person South Australian council—the latter is not answerable in any way to the community for the views that it may want to put. I believe that the subject is of such importance that only Parliament should be responsible. I feel very strongly about that and I believe that it is quite inappropriate that we should give up the opportunity that we have, as members of Parliament, to be involved in such an important issue, to make our views known and to question further matters relating to this important subject.

Mr Lewis: It is more than an opportunity—it's a responsibility.

The Hon. D.C WOTTON: As my colleague said, it is more than an opportunity—it is a responsibility that we as a Parliament should have. I would have wished to canvass a number of other matters in this debate, but I recognise the limit on time. I support the legislation, but I raise those reservations and hope that the Parliament will support (as I very strongly support) the amendments that will be moved by the Opposition.

The Hon. G.F. KENEALLY (Minister of Transport): I thank members of the House who have participated in this debate for their contributions. I do not think that I would be overstating the case if I said that this is one of the most important pieces of legislation that this House has had to debate in its history, and the implications of the legislation, should it not be passed by Parliament, are so profound that I believe that future generations would condemn us as a Parliament if we had not taken the action.

So, I join with members opposite in congratulating the Minister on the work that he has done and I also congratulate those who have helped him. These comprise a wide range of people including members of the Legislative Council, especially members of the select committee, professional and lay people, people from the various religious denominations, and others.

As has been acknowledged, this Bill has been widely canvassed and it has been accepted by the community as absolutely essential. There seems to be only a small area where there is disagreement between members in this place. It is pertinent to point out, as many of my colleagues have pointed out, that this debate has not been of a political nature. Every member who has addressed himself or herself to the legislation and even those who have not entered the debate have given considerable time and effort to understand what we are doing and I echo the point made by the member for Hanson as the Opposition's lead speaker that the absence of members of the House of Assembly in this debate does not indicate a lack of interest. Indeed, this legislation has been widely and sensibly debated in another place and I ask those people who take the trouble to read *Hansard* to read the full debate in the Legislative Council. It does not seem necessary for us in this place to duplicate that debate.

True, the Government in introducing the legislation wished to provide a framework for reproductive technology and to ensure the setting up of a technology council comprising people with expertise in those areas that impact on this technology. It was decided in another place that we should write into the legislation some principles rather than leave it to the council to recommend such principles. My colleague the Minister accepted that decision and those amendments were made along with other amendments moved by the Government.

It is our view that the legislation that we are now debating is certainly a measure that the Government can strongly support. It may not have been as we would have wished it, but it is certainly a measure about which the Government has no argument. Indeed, many people believe that it has been strengthened by those amendments. Although you, Mr Speaker, may rule me out of order for doing so, I must say that the Government is sympathetic to some of the amendments that have been foreshadowed, but we will want to debate at least one of them, certainly not as regards its intention but rather as to the necessity of including it in the Bill.

I should like to canvass an amendment which I, as Minister, will move in Committee. It is not yet on members' files, so it is appropriate that I give some warning of it.

The Hon. D.C. Wotton: Why isn't it on file?

The Hon. G.F. KENEALLY: The honourable member will understand that as soon as I have explained it. In Committee, I shall move to delete clause 18. It is not necessary to put such an amendment on file because even the least intelligent of us (and we are lucky to have a House comprising intelligent people) would understand that it is not necessary to put such an amendment on file as it is straightforward. My amendment concerns surrogacy and I will move to delete the clause relating to surrogacy, because tomorrow we will debate a much wider concept of surrogacy when the Family Relationships Act Amendment Bill is before us. A provision relating to surrogacy in that measure was moved by the Attorney-General in another place and supported by members there.

I understand that members of another place thought it important to write the provision banning surrogacy into this legislation, because they did not have the alternative Bill before them. Subsequently they did have such a Bill before them and now we have these two pieces of legislation going through together, so I expect that members will agree that the most appropriate place for that provision is not in clause 18 of this Bill but in the amendment to the Family Relationships Act. Therefore, in Committee I shall move to delate clause 18 of the Bill now before us.

Once again, I thank all members who have taken the trouble to participate in this debate. I am certain that leg-

islation involving elements of conscience in respect of which individual members can make their contribution, knowing that what they say is important, engenders greater consideration and better debate in this House than a debate that follows Party lines. I urge members to support the second reading.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

Mr LEWIS: Given that it is necessary for me to get a clearer definition from the Minister about the remarks that he made in his reply on the second reading regarding surrogacy and as it fits, therefore, within the definition of '*in vitro* fertilisation procedure', how does the Minister reassure members now that, whereas a surrogacy contract referred only to artificial fertilisation, nonetheless the practice will not necessarily be banned where it is *in vitro* fertilisation? Artificial fertilisation is artificial insemination. Will the Bill referred to by the Minister ban *in vitro* fertilisation surrogacy contracts? If it does not, how will the *in vitro* fertilisation procedure in terms of the definition embrace that, because at present it does not?

The Hon. G.F. KENEALLY: I understand the honourable member's concern. I could suggest that he take the trouble to look at the Bill to which I have referred, but I understand that one cannot always do that within the time available. I assure the honourable member that the Family Relationships Act Amendment Bill bans surrogacy in all its definitions and descriptions. So, the honouable member's concern will certainly be covered by that legislation.

The honourable member may wish to take this up again on clause 18 when I oppose that clause, but in a Standing Orders sense we should not debate this matter on this clause, because it does not cover surrogacy. I am not trying to be evasive; I am only trying to be helpful. We have certainly discussed the point that the honourable member makes. I want to reassure him that surrogacy in all its forms is taken account of in the Bill that will be debated in this House tomorrow.

Mr LEWIS: I am to some extent reassured by the Minister and, on this occasion, in spite of my experience in the past to the contrary, I nonetheless take him at his word. We have not yet seen in this House any such measure as has been alluded to. That is why I am anxious that surrogacy should have been defined.

The CHAIRMAN: The Chair allowed the question on the basis that there was some connection with this clause, but we will be debating surrogacy when we reach clause 18. I ask the honourable member to take cognisance of that.

Clause passed.

Clause 4 passed.

Clause 5—'Establishment of the council.'

Mr BECKER: This clause was substantially amended in another place. Clause 5 (4) provides:

(d) that, as far as practicable, the council is constituted of an equal number of men and women.

How does the Minister propose to carry out that request?

The Hon. G.F. KENEALLY: The Minister in charge of this legislation will carry out that request with a great deal of skill and dexterity. The wording of that provision explains the difficulty with which the Minister may be faced at times because a number of the members of the council will be recommended from concerned interest groups over which the Minister has no control. He would either accept their nomination or discuss with them the appropriateness of their nomination. Of course, the Minister is experienced in that regard and he would determine for himself. So, there will be six members nominated to the Minister and the Minister will be able to nominate five members. It is clearly understood that, if those six members nominated by the various educational institutions—the Royal Australian College of Obstetricians and Gynaecologists, and so on—were all male (and it is reasonable to believe that certainly in the early stages they are likely to be male because it is the nature of the profession that it has been male dominated and that the nominations are likely to flow from that gender balance), it is also reasonable to believe that the Minister will take account of that and that, of the five that he will nominate, a number will be women.

Of course, the Minister needs to have the right to appoint to the council the people who will be best able to provide an input to the council. So, without tying the Minister completely to redressing the gender balance whereby if the six nominees were male he would have to nominate five females, the provision does require the Minister to take account of the will of Parliament and, I am sure, the wish of the community, to ensure that there is adequate and appropriate representation by women. After all, I think all of us in this House, a male dominated House, would believe overwhelmingly that this is legislation more personal to women than to males. Having said that, let me also say that I also believe it is a very important and personal piece of legislation to males.

I think the Minister is well aware of the intent of Parliament. He understands the amendments moved in another place and, within the constraints placed upon him, he will ensure that there is appropriate membership by both males and females. It is impossible, in regard to the nature of the membership of the council, to tie down the Minister or the Government any more than this measure does.

Mr LEWIS: With respect to clause 5 (2), I would like to know the Minister's reasons for the inclusion of each of the persons nominated by the council of the University of Adelaide, the council of the Flinders University, the Royal Australian College of Obstetricians and Gynaecologists, the Royal Australian College of GPs, the heads of churches and the Law Society. What specific purpose and role will each nominee have? What is the object of including each of them as a distinctly named entity in that council? I do not imply any criticism of the Government at all. I just want the Minister to put on the record exactly why each one of them has been included.

The Hon. G.F. KENEALLY: They have been included because they all have a contribution to make. In fact, what the Government through the Minister has done is to accept the unanimous recommendations of the select committee regarding membership of the council. It is appropriate that I read into the record the names of the members, particularly the Minister's nominees, because this might help members understand just what it is that he has done.

The nomination from the University of Adelaide is Professor Colin Matthews; from the Flinders University, Professor Warren Jones; from the Royal Australian College of Obstetricians and Gynaecologists, emeritus Professor Lloyd Cox; from the Royal Australian College of GPs, Dr Geoff Martin; from the heads of churches of South Australia, Father Laurie McNamara; and from the Law Society of South Australia, Ms Myf Christie. The five ministerial nominess are: Miss Sally Castell McGregor, Director, Children's Interest Bureau; Mrs Judith Roberts who, amongst many other things, is Chairperson of the Queen Victoria Hospital, our leading maternity hospital; Mrs Sheryl West, an office bearer with Oasis, an infertility group; Professor Marcia Neave, Professor of Law at the Adelaide University; and

Dr Christopher Pullin, an Anglican priest. So, there is a good balance.

The membership of the interim council follows fairly strictly the recommendations of the select committee on which all Parties were represented, so the Minister has reflected the will of Parliament in the membership of the council. That is an appropriate thing to do. Certainly, there would be no purpose in having a select committee unless it would influence the decisions of the Parliament.

Mr LEWIS: I accept that. It is a pity that the reason why each of the individual people were selected in their respective role cannot be cited to the House, because I believe that the select committee and, indeed, other people who have debated the measure in this Parliament prior to its introduction to this Chamber, have made one glaring oversight. Quite simply, that oversight is that there is no-one noted for their personal expertise in male fertility and infertility.

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

Mr LEWIS: At the time of the dinner adjournment I was explaining to the Chamber the reason for my consternation about the composition of the members of the council. Let me make it plain to honourable members that I congratulate all the people named and the Government for their preeminently sensible choice of those people in so far as the skills they bring to the work they will have to do on our behalf are relevant to that task. However, I have pointed out to the Chamber—and I do so again and register my dismay—the oversight in proposed clause 5, an oversight that was also contained in the select committee's deliberations on the matter. In addition, that oversight has continued throughout the debate of this measure in Parliament today of including any one of those 11 people who is in fact a recognised expert in male fertility; indeed more particularly in male infertility. This problem has received no public attention over the decades, indeed probably the centuries, because until recently it has not been possible to identify when a man is infertile. It is part of our cultural mores that anyone who admits to being infertile—and I am talking not about impotence, but about infertility—has been seen, or may be seen even in this day and age, as being something less than a human being, something less than a man amongst men.

I have no compunction or fear about the repercussions of acknowledging my own infertility for the sake of those hundreds of men who are infertile. Whilst that infertility may be due to a number of causes as yet unidentified, either in total number or in kind or by the agency causing them, nonetheless it is a problem that causes a great deal of distress to those other men whom I have met at the infertility clinic who suffer, for one reason or another, from the problem.

I believe it is a problem that deserves to be addressed and it would probably cost less in terms of the total dollars that would need to be expended on it and therefore be more likely to contribute to greater human happiness in marriage, if that is to be measured in terms of the capacity of a married couple to have children, than some of the problems of women that we have already addressed and researched thoroughly. I am saying that from the discussions I have had with people who claim to that same insight into the problem, I believe it is unlikely to cost a lot to identify and solve some of the problems of male infertility and it will cost a lot less than the money already spent on female infertility on a problem by problem basis. If that has not been the case in the past I am assured by those better qualified minds than mine that it will be the case in the future.

For that reason I have asked the Minister to remind the Minister responsible for this measure to seriously consider in future including in the council, in the event that an opportunity presents itself, somebody who knows something about male fertility and infertility. Further, I think the council should be urged to immediately address this problem and, without transgressing against Standing Orders, I draw the attention of the Committee to the fact that I intend to propose an amendment which will assist in that direction.

The causes of infertility are not related only to disease. To my certain knowledge I do not personally suffer from a pathogenesis; indeed, most infertile men do not suffer from a disease. They are physiological conditions which may be caused by acute trauma or exposure to environmental extremes, both chemical and temperature. I cannot identify which of those extremes caused my condition because I have been exposed to both, against my will and inclination, and that is in all probability the reason for my infertility. It is with some feeling that I put that on the record for the benefit of the people who will conduct the affairs of the council and therefore the way in which the problems that they are supposed to be addressing will be sorted out in the future.

The Hon. G.F. KENEALLY: I will ensure that the honourable member's comments are brought to the attention of my colleague the Minister of Health and the council for consideration. It is important to inform the committee that the problem of male fertility has not been overlooked, although it may have been understated in the documentation that has accompanied the legislation.

Two members of the interim council, who will I expect be members of the council once this legislation is proclaimed, have considerable knowledge in the area of male infertility. I suppose it is fair to say that they specialise in infertility. Normally the community expectation is that that means female fertility and there is the tendency of the average lay person to overlook the problems that the honourable member has alluded to. However, I can assure him that Professor Colin Matthews of the University of Adelaide and Professor Warren Jones of Flinders University, as members of the IVF team, have a responsibility and concern about male infertility.

So, if it is not spelt out in this legislation and if the honourable member cannot find appropriate references to it in the papers that accompany this legislation he can nevertheless be assured that it is a matter that the council is and ought to be aware of through the competence of at least two of its members. I will ensure that the attention of my colleague is drawn to the honourable member's comments and that the officers of the department, or the Minister himself, draw those comments to the attention of the council so that the honourable member can be reassured that his concerns are being adequately addressed.

I am quite obviously of the male gender and I can relate very readily to the matters that the honourable member has addressed. I expect that all members of the committee, whether male or female, will understand the importance of those issues. I reassure the honourable member that in the preparation of this legislation his concerns have not been overlooked, even though they are not spelt out in the detail that the honourable member may have wished.

There is a limit to what can be written into legislation. I think there ought to be an understanding, particularly in matters of a complex scientific and medical nature, that everything cannot be written into the legisation. I know that we would all like that to be the case, but our Bills would be so complex that society would stop in a sense if everything was written down as a requirement. I suppose that is

no real consolation to the honourable member but I hope that he is reconciled to the fact that I will raise the matter with those people whose attention he wants drawn to it. If there is any improvement in that area of fertility I think it is appropriate—and the honourable member has already alluded to this—that the council and the Minister further discuss these matters. I expect, because the honourable member has raised the matter in Committee, that in due course he will be made aware of the results of those discussions.

I personally do not believe that those discussions need to take place to answer the honourable member's question. During the dinner break I took the trouble to speak to the Minister and to members of the council because I was concerned about the issue that the honourable member had mentioned prior to the dinner break. The Government has been assured that the honourable member's concerns are adequately addressed. Whether they are addressed to the extent that he is happy is something that can be taken up later. I do not expect that this matter will influence the honourable member's support or otherwise for the clause. If need be, it can be taken up with him when the legislation has been passed and the council is in operation.

Clause passed.

Clause 6—'Terms of appointment.'

Mr LEWIS: In the course of my second reading remarks, I asked the Minister, as I do again, to identify the circumstances that are meant to be covered by subclause (2) *(a)*, *(b)*, and *(c)*, which provides that the Governor may remove a member of the council for any of those reasons. This often appears in legislation and I do not deplore the fact that it is in legislation; on the contrary. However, I do not know of any circumstances and I cannot imagine any circumstances under which the Government would recommend the removal of a member of the council for those reasons. I can understand it in the case of subclause (2) *(d)* but as for misconduct, neglect of duty and incompetence, I cannot. How could a person get on the council in the first place if he or she is incompetent? The same could be asked of neglect of duty. What does neglect of duty entail? In what circumstances would the Government dismiss somebody for neglect of duty? What is misconduct deemed to be? What conduct could be so inappropriate as to be the basis upon which a member of the council would be dismissed? Given the kind of conduct that I have witnessed in recent years and, indeed, in recent days, I am amazed that it is left in legislation.

The Hon. G.F. KENEALLY: For a lot of reasons the Government, Executive Council or the Governor might be influenced to dismiss a member of the council for the reasons listed in the legislation, that is, misconduct, neglect of duty and incompetence. As Minister of Transport, a number of councils report to me and I am responsible to make recommendations to Cabinet and the Governor as to why I believe that an individual might need to be relieved of his or her duties. I cannot speak on behalf of the Minister of Health, of course, but I do not have to think too long to contemplate that misconduct could well involve a member of the council who is privy to information that might provide a financial benefit to him and who discloses that information to interested parties. The Government does not believe that that would happen but the community needs to be protected, as do members of the council. I have just plucked that example out of the air. The Minister and the Government would not appoint to the council anyone that it was felt might be guilty of such action. However, if I am required to speculate, the example I have given would be seen as misconduct.

Neglect of duty could well involve a member of the council who, although he or she was an assiduous member for a number of months, failed to attend meetings for six months. One would clearly see that as neglect of duty and no Government in those circumstances would be expected to retain that person as a member of council. All the members of this council would acknowledge that, if they did not attend to their duties, it would be reasonable for them to resign or for the Government to ask them to do so.

With regard to incompetence, I could say that people are appointed to any number of committees, councils or groups and could be shown to be incompetent. We do not need to look too far. We are all members of this Chamber but sometimes our incompetence does not show up. I suppose that, in my situation, it has not shown up for 18 years or so. People can make decisions about competence or incompetence but, if somebody attended meetings whilst influenced by alcohol or a drug and did not really make a contribution—but if they did it was completely incompetent—and there did not seem to be any resolution of the matter, it would be quite appropriate for the Minister or the Governor to take that member off the council in those circumstances.

They are all extreme circumstances. Obviously, I have not alluded to a whole number of reasons but I want to assure the honourable member that this clause, which he has acknowledged is in various pieces of legislation that have come before this place, is taken seriously by the Government. South Australia is very fortunate in that it has dedicated and competent people who are willing to serve on these sort of councils and committees and the overwhelming number of them have a commitment to do the job well. It is very rare that somebody falls from grace but, should they do so, it is appropriate that the Government have the protection of the legislation to take appropriate action.

There is no way in the world that I could imagine the 11 people whose names I read into the record this afternoon would fall within the categories *(a)*, *(b)*, *(c)* or *(d)* but, nevertheless, this legislation will be in place for a long time. Who knows what might occur in the future. It is an appropriate protection for the council, which needs protection from members who do not perform, for the Government or the Parliament, and for the community that the council is required to serve. I trust that answers the honourable member's concerns.

Clause passed.

Clauses 7 to 9 passed.

Clause 10—'Functions of the Council.'

Mr LEWIS: I move:

Page 4, after line 28—Insert new paragraph as follows:

(aa) to promote research into the causes of human infertility (and, in doing so, to attempt to ensure that adequate attention is given to research into the causes of both female and male infertility);

This is the first of two amendments that I will move to this clause. The purpose of including clause 10 in the Bill is to define the functions of council or its overall responsibilities. There are five subclauses and the first of my amendments refers to the functions of the council, which are to work out a code of ethical practice that governs the provisions that the Bill addresses; to advise the commission on the conditions to be included in the licences; to carry out research into the social consequences of reproductive technology (not the medical causes of infertility); and to advise the Minister on any question arising out of or in relation to reproductive technology. Other functions concern promotion and collaboration. It is my personal belief that, as part of subclause

(1) *(c)*, there should be a requirement on the council to promote research into the causes of human infertility.

Nowhere else do we ask the council to do that. Nowhere else do we then expect that such research will be pursued other than by dint of academic or professional curiosity in the minds of any post-graduate student under the supervision of someone within the medical faculty. If this council and the legislation, concerning which it will be responsible to make propositions to the Government, are to be effective, it should be consciously stated in clause 10 that we as legislators expect the council to address the causes of infertility that are at the root of the problem. My amendment relates to both male and female infertility: it is to be acknowledged that there are causes of infertility in both sexes. I have deliberately drawn attention to the problem in a personal way and illustrated it for the sake of many other men in a similar position.

The Hon. G.F. KENEALLY: I have discussed the matter and sought advice from my colleague the Minister of Health and a number of members on this side of the House, because it is not only a matter of Government policy but also very much a Bill concerning which individual members should have a legitimate input. As a result of those discussions, no opposition was forthcoming to the insertion of the amendment moved by the member for Murray-Mallee. For that reason the Government accepts the amendment.

Amendment carried.

Mr LEWIS: I move:

Page 5, after line 91—Insert new paragraph as follows:

(e) the use of human semen or a human ovum taken from a person who is infected with a disease that can be genetically transmitted must be prohibited;

(f) the implantation of a human embryo in the body of a woman infected with a disease that can be transmitted to the embryo must be prohibited.

Subclause (3) spells out what the code of ethical practice must contain. The provision of embryo flushing must be prohibited. I do not want to delay the Committee with an explanation, but it is one specific technique that could be used and has been banned by law. The Legislature has taken a positive step in doing that. Paragraph *(b)* refers to any person whose embryo is stored outside the human body having the right to decide when it is to be disposed of. We have spelt that out and not left it to council prerogative. It has to make that review of its decision at 12 monthly intervals. In paragraph *(c)* we say that the material must not be kept for more than 10 years, so we will not have a huge bank of it stacked up waiting for someone to claim it. It is to be disposed of if the person on whose behalf it is being stored has not done anything about it for 10 years. We have stated that as legislators, and I have no difficulty with the proposition at all.

In paragraph *(d)* we have stated that we will not tolerate the culture of the human embryo outside the human body beyond the stage of development at which it would normally be implanted and accepted into the uterus of a second female in whose fallopian tubes or womb conception has occurred. Inasmuch as it is necessary in the opinion of members to include these explicit statements about what the code of ethical practice must contain, I also believe that it should contain two further paragraphs explicitly stated in the legislation. That is the subject of my amendment.

The first part of the amendment is to prevent the use of gametes taken from anybody—that is, spermatozoa or ovum—infected with a disease that can be genetically transmitted. Indeed, in subclause (2) we have stated that the welfare of any child born in consequence of an artificial fertilisation procedure must be treated as of paramount importance, and that is accepted as a fundamental principle. That is presumably addressing the matter that will be considered in determining eligibility to participate. However, the legislation ought to contain statements about people who may not participate, and that is why I have stated in my amendment that we must not accept anyone who is infected with a disease. I refer to a pathlogical disorder and not a physiological defect: I am not referring to people with genetic defects: I am referring to people who have a disease that can adversely affect the genes of the child that is born. That is the first part of the amendment.

In proposed paragraph *(f)*, I refer to people who have a disease—in this case the woman—which can be transmitted to and have very adverse consequences for the embryo. The two diseases I have in mind are ample illustration of the condition I want to avoid, namely, AIDS and hepatitis B, both of which can be transmitted to the child. The consequences for the child are horrific.

The Hon. Jennifer Cashmore: Rubella is another one.

Mr LEWIS: In circumstances where the woman has the rubella virus active in her system at the time—

The Hon. G.F. Keneally interjecting.

Mr LEWIS: Maybe not, but it is appropriate for us as legislators to explicitly state that under no circumstances should anybody likely to have within their physiology the kind of things to which these two paragraphs allude be allowed to participate in the program anywhere. It seems a gross dereliction of duty on our part if we do not do that.

As I understand the legislation as it presently stands, it is not possible to compel somebody to take a test for AIDS and, even if they voluntarily take the test, it would not be possible to explicitly exclude them on the basis of the result of that test because they could not be compelled to answer someone else assessing eligibility to go on to the program honestly and say 'Yes, I have AIDS.' If the woman has AIDS she should simply not be allowed to participate. The consequences for the baby are horrific as it lives whatever life it has in misery. It is not legitimate for us as legislators to ignore what I see as an important responsibility.

The Hon. G.F. KENEALLY: The Government will be opposing the amendment for what I believe to be a number of very good reasons. The honourable member should be assured that the medical profession acts in the way that his colleague on the front bench advised him during his contribution in moving the amendment. The medical profession already takes into account these matters of great concern. In fact, people would not be accepted into the program unless they were appropriately tested. If people do not want to be tested to see whether or not they will be accepted into the program, they will not be so accepted. I believe that we have been well served by the quality of our medical profession in South Australia.

Mr Lewis: I am not questioning that.

The Hon. G.F. KENEALLY: I know that the honourable member agrees with me, but nevertheless I do not think it would be unreasonable for the medical profession to feel that somehow or other Parliament was casting a slur upon their competence and integrity if it wrote into the legislation factors that were so basic when dealing with matters of such importance. I believe that in that situation the medical profession, quite rightly, would feel concerned. I am not arguing with the honourable member's concerns about these diseases—of course we are all concerned about them—but I do not believe that we need to write those concerns into this legislation or any other. I think that there is a code of medical ethics which, in a sense, ought to take account of these matters.

The Hon. Jennifer Cashmore: And clinical practice.

The Hon. G.F. KENEALLY: And clinical practice. In any event, as I pointed out earlier to the honourable member, this debate will come to the attention of the Minister and the council. If in their wisdom members of the council feel that there is any merit in the points raised by the honourable member, I have no doubt that they will take the opportunity to discuss it amongst themselves and, if necessary, discuss it with the Minister. Although we will not accept the points made by the honourable member and I will oppose his amendment, nevertheless, in the fullness of time, they will be brought to the attention of the South Australian Council on Reproductive Technology.

It is my view and that of the Government that it is totally unnecessary to write these concerns into the legislation, because, once we do that, there will be no end of circumscribing the medical profession in a whole range of areas. I am not sure whether that is necessarily the role of Parliament. As Minister of Transport I do not feel competent to be involved in accepting such legislation. Even though the honourable member may feel that I am reflecting on him, I am not, but I accept his concerns. I say that this is not the way to address them but, in any event, these matters will come to the attention of the Minister and the council. If, after consideration, they feel that it warrants some change, then they will make up their minds. I feel that that will not be the case, because I believe that we can be absolutely assured that the medical profession and the procedures that will be adopted in this program will ensure that the potential dangers alluded to by the honourable member will not eventuate.

Mr LEWIS: I am quite astonished. Why do we include subclause (3)*(a)*, which is of far less serious consequence to the baby which may result from the parents being included in the program? Subclause (3)*(a)* provides:

> The code of ethical practices must contain provisions to the following effect—*(a)* the practice known as embryo flushing must be prohibited;

Could we not rely on the medical profession and members of this council to decide that that is an undesirable practice? Why did we include that provision? Anybody with an ounce of insight into what we are talking about would clearly recognise that, in the best interests of compassion and commonsense, even looking at it in dollar terms, that is of far less consequence and significance overall than those two amendments that I have moved. My amendments would make it mandatory that the council specifically exclude in regulation. That is what we are doing, otherwise we leave it open to the council to decide whether or not to include in the regulations somebody who may be suffering from a disease which can be transmitted genetically to the offspring through the process and they can get away with it. They do not have to take tests to identify it and the same goes for the consequences to the baby produced by someone infected with a disease that can be passed on not to the genes but to the physiology of the individual. We would commit them, in the case of AIDS, to a short life—from a few months to six or seven years of utter misery. If we are to include subclause (3) *(a)*, why is it not important also to include proposed subclauses (3) *(e)* and *(f)*?

I think that I have made my point fairly well. I will let history be the judge of the comparative veracity of the arguments and I will not waste the time of this Committee by calling for a division, but I express my utter disgust at the indifference of the Government and the inability of the Minister to identify something that I can see has a graver consequence and is a more serious risk than the practice which is prohibited by subclause (3) *(a)*.

The Hon. G.F. KENEALLY: It is one of the strengths of this parliamentary system that members are able to express their concerns and disgust as they see fit, and the honourable member has taken the opportunity to do that. I am quite happy to let history judge this debate and this Bill. I feel confident that history will prove the decisions made by Parliament, Government and those members, including the honourable member, who successfully move amendments. The inclusion of the practice known as embryo flushing was a result of a recommendation that was made by the select committee and the Government has accepted that recommendation.

I also make clear that the matters raised by the honourable member concerning diseases such as AIDS, hepatitis B, rubella, etc. were not hidden from the select committee and were not unknown to the Minister and those people who prepared the legislation. It was not as though they prepared this legislation in ignorance of the matters raised by the honourable member. They are very aware of those matters, but in my view they made the correct judgment that it was not necessary to write that provision into the legislation when there is a code of ethics and a code of practice as a result of which I understand no person would be able to be accepted into the program unless it was quite obvious, as a result of medical testing, that they were not carriers of any of those diseases.

I accept that the honourable member will not call for a division on these amendments. I regret that, in a sense, he almost went over the top. I know that the member for Murray-Mallee very rarely—if ever—does that, but I assure him once again that his comments will be brought to the attention of those people who will have the responsibility for recommending to Parliament whatever regulations are appropriate for the operation of this legislation. I think that, in a sense, that is the appropriate place for the matter to be considered.

We will set up a Reproductive Technology Council and, because of the quality of the people who will be appointed to that council when it becomes a legal entity, if they feel inclined to be influenced by the honourable member's rhetoric and genuine concern, they will take the matter up with the Minister and the Parliament in due course. I believe that the honourable member's concerns, genuine as they may well be, are not matters for which normal practice would not adequately cater.

Amendment negatived; clause as amended passed.

Clauses 11 and 12 passed.

Clause 13—'Licence required for artificial fertilisation procedures.'

Mr BECKER: I move:

> Page 6, lines 29 to 37—Leave out subclause (4).

Clause 13 (4) provides:

> In subsection (3)—
> 'married couple' includes two people who are not married but who are cohabiting as husband and wife and who—
> *(a)* have cohabited continuously as husband and wife for the immediately preceding five years;
> or
> *(b)* have, during the immediately preceding six years, cohabited as husband and wife, for periods aggregating at least five years.

Opposition members consider that they have a right to express their opinion on this matter. The definition of *'de facto'* was considered by the select committee and its report states (at page 21):

> The select committee is unanimous in its opinion that the welfare of the child should be of paramount importance in decision-making. (Recommendation 31.) An important factor affecting a child's welfare is the environment within which it is raised. Traditionally, it has been accepted that a married couple are best able to provide a long-term, stable and supportive environment for children. However, the select committee notes that the rate

of marital breakdown is increasing. Further, it is not necessarily the case that marriage provides a stable domestic environment.

The select committee notes that both short and long-term *de facto* relationships are increasingly common. The committee expressed diverse views on whether reproductive technology should be available to *de facto* couples. Some members of the select committee believe that reproductive technology should only be available to married couples and that this requirement should be prescribed in legislation. Other members believe that reproductive technology should be available to infertile couples living in a stable domestic relationship, provided that the welfare and the status of the child can be assured.

An opinion was expressed that reproductive technology should be available to any infertile individual, regardless of martial or social relationships, provided there is evidence that the individual will provide adequately for the child's welfare. The select committee was unable to agree whether these matters should be resolved by the council or by the Parliament.

As members of the Liberal Party, Opposition members believe that they have a right to express their opinion as individual members of that Party, and the Opposition has given its members the right to a conscience vote on this issue. Under this Bill, which is so important to the welfare of the child, the ability to participate in this program should be limited to those in a married situation. If we sat back and allowed the Bill to pass in its original form, Opposition members believe that they would be denied the right to have a say in this regard.

I refer especially to the statement by the select committee that 'an important factor affecting a child's welfare is the environment within which it is raised'. At this stage it is hard, without having met anyone born under this program, for anyone to predict what a child born under this program will feel and experience because, after all, the first such child is still only 10 or 11 years of age.

Any member who has lost a parent or has experienced divorce in his or her family knows the difficulty of settling down and establishing a relationship with a step parent. It is not easy and in many cases the step parent is not accepted. Speaking personally, although I have a tremendous regard for my stepfather, who is a wonderful person, I know of other step parents who are not accepted. I believe that in a *de facto* relationship that never materialises to anything a child born under this program may experience problems in identity and acceptance. Even if that child is at some stage told of the method of his or her conception, what trauma will the child go through? Much counselling care and love are needed, and this legislation is all about the love and care of the family, whereas such love and care is sadly lacking in our society today.

When a member of the Government was talking about a *de facto* relationhsip, I asked him how long he had been married and he said that that was irrelevant. However, I do not believe that that is irrelevant. I have been married for 30 years, and the Minister has been married for longer than that, I believe. Both of us have enjoyed a wonderful married life and I know that the Minister of Health who will be responsible for administering this legislation has been fortunate in being blessed with a long marriage and a wonderful family.

All members know that life does not necessarily run smoothly and we are the more able to accept the challenges presented if we are in a happy and loving family relationship. In this regard, one must have a disabled person in the family group to appreciate more fully what life is all about and to fight and struggle with the support of a happy family unit. Even then it is still hard at times.

I always remember the words of a former member for Mitcham (now the Hon. Justice Millhouse), whom I respected even though I disagreed with him on occasion. He said that, if one is never too sure of anything, one must err on the side of caution. Those were wise words from Robin (and, in my opinion, not too many came from him) and he meant well. This is an area about which I have much feeling, involving as it does those whom we wish to help. I have strong feelings, too, about those who cannot have children of their own.

A constituent of mine pestered me for many weeks to have the Department of Social Security and the Housing Trust recognise as a boarder the person with whom she was living. I helped her and she succeeded in having that person recognised as a boarder, which helped her concerning her pension, his pension and the Housing Trust rent. When the person passed away suddenly, she came to me in tears asking that the relationship be officially recognised as *de facto* so that she could benefit under his Veterans Affairs pension payment. That is one example of many hundred of what can happen in a *de facto* relationship.

I cherish family life and the environment within the happy family unit. In this regard, the select committee was correct when it stated that 'an important factor affecting a child's welfare is the environment within which it is raised' because that environment is the beginning of life for the child and the formative years help the child establish itself. If that child is in a strong, stable family relationship, he or she has the opportunity to progress to be a proud and worthwhile citizen in our community.

Handicaps should not be placed in the child's way. People can be cruel. In a small country town where, unfortunately, everyone knows everyone else's affairs, a child born of a *de facto* relationship does not have it easy and can be subject to pressures the same as the parents. I like to think that we would have the money in our health and welfare system to provide the backup counselling and support services required in such cases as these, but we have not got it. In many areas, little service is available. It comes back to the family members to help support one another. This important legislation, the first of its type, is probably the most critical that the Minister and I have handled in our almost 18 years in this House. Certainly it will have a tremendous impact in the future and I think that we should proceed cautiously. At this stage, as much as I want to help those who do live in a genuine *de facto* relationship, I still tend to err on the side of caution. We should leave it to married couples initially and further down the track review the situation.

Mr S.J. BAKER: I rise in support of the very sensitive remarks made by my colleague the member for Hanson. I think he has put forward a very sensitive case. Obviously, the retention of the concept of the married couple as we understand it is important to this Bill. It is important for a number of reasons. The first point I will make, in the social arena as we know it today, is that the statistics are quite horrifying with respect to *de facto* relationships. The facts can be presented to the House, but we know they are the most unstable relationships in comparison to the marriage relationship. We know that child abuse and sexual abuse amongst *de facto* relationships is some three or four times higher than it is amongst married couples.

The fact of life is that, because people do fall in and out of relationships, even if it is after five years, the *de facto* relationship is a risk relationship. There is no such thing as a perfect marriage. The member for Hanson alluded to the fact that marriage is often under pressure—and he mentioned a number of members of this Parliament and I thought he put it rather well. I would have referred to long suffering wives who have to contend with husbands coming home at late hours, and our female members have had spouses in the same situation. The stresses do put a strain on the marital relationship. Marriage just happens to be the

most cohesive and longest lasting of any human relationship except, of course, the natural bond of birth and motherhood.

I believe it is important that, if we are to legislate in this House, that legislation should reflect the will of the people and the will of the Parliament. The fact of life is that *in vitro* fertilisation is a very expensive process, as most members would know. We will never be able to satisfy the number of people who believe that they can benefit from the *in vitro* fertilisation process. We will never be able to satisfy the number of people who, in a marriage situation, desire to be involved in this process.

One of the great concerns that I have is, on the one hand, an enormous number of abortions—4 000 plus in this State—are carried out while on the other hand we have this technology that can produce children for those who want them. I would have thought that, somewhere along the line, the social ethic would provide that those elements could come together so that we do not have to make it so difficult for people to have children, even if it is the children of others, and I am talking there about the adoption situation. I find it quite horrifying that we kill off so many babies in this State when there are people who want to love and cherish children of their own. Those married couples, and even those couples who are not married, would love to have the opportunity to raise a child of their own. That is denied them. I do not know what the latest figures are, but I understand there are less than 60 adoptions available. Many of the adoptions today involve disadvantaged children. I know there are at least three people in my electorate with whom I have had contact who have taken up children with some physical or mental disability. I think they are absolutely marvellous people for doing so; they have taken children who otherwise would not have had a home. There are some marvellous human beings out in this world who are making an effort.

I return to the point I was making and that is that, if we are to enact legislation, it should reflect the will of the people. There is no doubt that the will of the people is that this should be restricted to married couples. If indeed in five years or 10 years the ethic changes, it will be appropriate for the Parliament to deal with that situation. Today we do not have the resources to be able to provide this service across the board. I would hate to think that there are deserving married couples out there to whom the service will not be available when *de facto* couples may get prior service because they put their name down accordingly. I do not know what the waiting list is, but somebody quoted a figure of 600—that may well not be true.

Mr Becker interjecting:

Mr S.J. BAKER: It is about three years, my colleague says.

Mr Lewis: Subject to the arbitrary exclusion.

Mr S.J. BAKER: I am not too sure about arbitrary exclusion, to which my colleague refers. I do know that there are simply not enough resources to go around. There will not be enough resources in the next 10 years to go around for everyone who desires to embark on that course. Given my honest belief that the most stable relationship that any two people can have is a marital relationship, despite all the inadequacies, stresses, strains, separations and divorces that result, I still believe it to be the most workable relationship in our community. Therefore, I believe it is very important that this legislation reflect the needs of today—those of married couples. If sometime in the future that situation should change, I do not know whether I will change my own mind, but Parliament can address that question again.

Mr BLACKER: I support the member for Hanson and his amendment. I cannot go along with the concept that a Government is happy to legislate against the very principles of the family. I believe it was the family unit that developed this nation and I believe it is the family unit that we should be fostering in any legislation that comes through. I cannot see that it is necessary that we should have written into our legislation the need to accommodate *de facto* relationships. My personal view is that, if a couple is living in a *de facto* relationship but they do not think enough of the potential child or their family to marry and have that bond, they really do not think enough of that child and therefore should not be afforded the benefits of this legislation.

As has already been said, there will not be available to everyone the facilities of *in vitro* fertilisation and, in my view, the facilities should be exclusively for those persons who are in a stable, married situation. To that end, I believe that the amendment of the member for Hanson should be supported by this Committee, if only to demonstrate that this Parliament believes in the family unit as the basis of society.

Mr LEWIS: I am concerned about the definition of 'married couple' under subclause (4), not only for the reasons already given by the member for Hanson, supported by the members for Mitcham and Flinders (and I will have something to say about that in a minute) but also because nowhere is there a definition of what is a husband and what is a wife. That does not appear anywhere in the Acts Interpretation Act. All right, you say, a husband is a husband—a man; a wife is a wife—a woman. That is pretty simplistic. I know plenty of people who live in homosexual relationships each regarding themselves as taking a specific role in that relationship, one participating in the capacity of the masculine gender and the other in the feminine gender on a permanent basis. If that is their sexual preference, that is okay by me, they can do it. However, I do not think they ought to be able to go along and say, 'I am a husband' and 'I am the wife' and 'We are living in a *de facto* relationship.' Where else have we acknowledged the legitimacy? In argument, I have heard members of the Government acknowledge the legitimacy of homosexuals in *de facto* relationships. Where will we draw the line? This does not apply only to men living in a homosexual relationship that is sustained for five years plus or the best part of six years but for more than five years. It also relates to women, one of whom regards herself as the butch and the other as the pussy.

So, it is a matter of the fellow in the lesbian relationship as well. I think that is an abomination. I do not think that under any circumstances we ought to tolerate the situation in which homosexual couples—and I use the word advisedly—in a *de facto* way become eligible to participate in this program as a consequence of the way in which the law will be interpreted in the future to include in the definition of *de facto* relationships those people who for their own sakes have decided that they are living as married couples and have done so for more than five years and are prepared to state that one of them takes the role of the masculine gender and the other the role of the feminine gender and apply the terms 'husband and wife' where those terms are nowhere else defined in the legislation. That is my additional contribution to this debate.

I want to say something in support of the remarks that have already been made by the member for Hanson—and the other members that I have mentioned—about *de facto* relationships between a man and a woman as biologically determined. If those two people are sincere about their desire to be responsible to the offspring (that is, the baby) why can they not demonstrate that commitment to responsibility by obtaining a marriage licence? There is no impediment, no reason under the present law to prevent them

from doing that. Anyone who finds themselves in a *de facto* relationship with someone who is married to another person and from whom they have not obtained a divorce should not be allowed to participate. Yet we will give them that right, Mr Chairman. We will give them that right if we do not defeat this clause.

The Minister, or anyone in this Chamber, male or female, can walk out of their marriage and not bother to get a divorce, a decree *nisi*, for six years and live with someone else in a *de facto* relationship whilst they are still married. They can live with someone else in a *de facto* relationship and become eligible under the terms of this legislation because of the way in which it has been spelt out. We have not left it to the discretion of the council: we are going to spell it out. We consider that to be more important than stating in the legislation that people who have AIDS and hepatitis B should be excluded. We think it is more important to make it possible for somebody who is married to another person, after they have lived in a *de facto* relationship for five or six years, to be able to participate in this program. And you call that responsible! Why can not the legislation clearly spell out that if you are not married, and not prepared to go along and demonstrate a measure of responsibility by obtaining a licence and getting married, you cannot join the program? As legislators I think we ought to require that much commitment at least and that much trouble for the two adults who want to participate in the program. That is why I support the member for Hanson's amendment.

The Hon. G.F. KENEALLY: The Government opposes this amendment. In accepting the definition of *de facto* relationship and enabling people who come within that definition to participate in the program, we are not introducing a new concept into legal practice in South Australia or even Australia. We are merely applying the definition of *de facto* to an important aspect of human activity; procreation, if you wish. I want to say something about that in a moment.

I do not believe that, in my response to the honourable member for Hanson's motion, I will change anybody's view. Views about *de facto* relationships and their legality are matters for personal conscience and matters that people hold dear, but, having said that and having accepted the genuine concerns of members opposite, I am not prepared to agree with them.

This matter of a *de facto* relationship was given a great deal of consideration by the select committee. Recommendation 32 on page 8 of the report of the select committee states:

> That reproductive technology be made available only to infertile couples who can satisfactorily establish that they live in a stable domestic relationship.

That was unanimous. The select committee was evenly divided as to whether the couple should have to be married. So, this matter was considered very carefully. When the legislation was debated in the Upper House the Hon. Mr Lucas felt compelled to introduce an amendment that established that *de facto* partners should be allowed to participate in the program. That amendment was accepted by the Legislative Council and is the proposal that I, on behalf of the Government, bring to this Chamber.

I want to say one or two things about *de facto* relationships. As the member for Hanson has pointed out, I have been married for 33 years, and I am very fortunate that my wife and family have put up with me for so long. I have five children and four grandchildren and am very much involved with my family. I might say that the statistics of the Minister who brought this legislation to the Parliament are even better than mine, and he, like all of us, has regard for the married state. However, we live in the world of 1988 and the fact is that our morality and our ethics are not accepted by the general community. They are accepted by a large part of the community but not all the community. Members opposite know, because they have lived in our society and are members of Parliament, as I am, and have spoken to people in the same sorts of circumstances as I have, that there are a number of stable relationships in the community that they and I would have bet any amount of money were stable married relationships. It is only when we, as members of Parliament, are called in to assist them that we find out that they are not married relationships, but they are in fact *de facto* relationships of 20, 30 and 40 years duration; very stable relationships indeed.

I have no evidence at all that proves to me that if you are in a stable *de facto* relationship of some five years, which is a condition of reaching the legal status of a *de facto* relationship, that relationship is more likely to break down than a married relationship. There are no statistics to indicate that. Are *de facto* relationships less likely to be happy than married relationships? There are no statistics to prove that and there are no statistics to prove that the children of those relationships are worse off than they would be in a married relationship.

We all know that there are hundreds and thousands of married relationships in the community that are absolute disasters and there are hundreds and thousands of *de facto* relationships that are as happy a situation as one could ever wish upon society and families. So, there is no generalisation that any member in this House can point to that would prove that a *de facto* relationship is an unhappy situation for a baby to be born into. What we are saying is what we feel as individuals. This is our moral and ethical attitude towards the married state. I know that, as members of Parliament, we have a duty not only to represent the people but to reflect whether circumstances warrant our own mores and our own principles. We live in a modern society where *de facto* relationships have been accepted in law in a whole range of areas such as the Family Relationships Act, the Inheritance Act and the Stamp Duties Act, to name a few. A man much wiser than I in matters of health and this type of legislation was constrained to make some comments in another place, and I will read those comments. He said that many couples live in a stable *de facto*—

The CHAIRMAN: I must interrupt the Minister. Standing Orders do not allow him to refer to the debate in another place.

The Hon. G.F. KENEALLY: I accept your admonition, Mr Chairman, but in saying 'in another place' I was leaving it open whether that other place was in the Parliament or elsewhere, but I will not push the matter. The Minister of Health made his point appropriately and very articulately, and I refer members to page 1968 of *Hansard* so that they can read what he said in response to this question of *de facto* relationships. The Government is not attempting to moralise nor to establish any principle in relation to married or non-married couples. What the Government says is that it accepts the reality of the society in which we live. Many people may be unhappy about the proliferation of *de facto* relationships, but many people participate in them and feel quite relaxed about them. The important thing is that the relationship is a happy and stable one in which children are content and brought up well.

My children have never asked me whether my wife and I are married. They have never asked to have a look at our marriage certificate. As far as they are concerned, we may or may not be married. Their concern is whether they have a stable home and the love and care that they would hope

to have within that family relationship. I happen to be married and I think that it is an admirable and desirable state. That is my view but I do not intend to require other members of society to necessarily accept my standards. I have absolutely no intention of asking any member of this place whether he or she has a marriage certificate. It is no concern of mine whatsoever. I would like to know that they all have a happy, lasting, stable relationship.

The Hon. H. Allison: Wait until your wife hears this speech.

The CHAIRMAN: The member for Mount Gambier should not interject out of his place.

The Hon. G.F. KENEALLY: My wife, having been married to me for 33 years, 18 years of which I have been a member of Parliament, has got sick of reading the speeches I make. I do not blame her. The point was made that, while the Government was catering for *de facto* relationships in the IVF program, married couples might be denied the opportunity of having the child that they so dearly seek. I understand that that is not the problem that some members imagine it to be. The waiting time of the two existing IVF clinics is approximately 12 months. That is a fair waiting list but it is not 10 or 20 years. It is a waiting list on a time scale in which many married couples using the pre-existing reproductive technology would be quite happy to have a result. I know of plenty of married couples going about their business in the old-fashioned way who would be happy to conceive within 12 months.

There is no guarantee that a couple introduced to the program will conceive successfully in 12 months. There is an additional waiting time. I understand that a private clinic has been established at Wakefield Street hospital by the University of Adelaide and that probably two more clinics will be licensed. That is a matter for my colleague, but I believe that concerns about the waiting list are not sustainable in view of the information that I have just given to the Committee. I do not propose to enter into a long and tedious debate about this issue. I respect individual concerns and the position that members of this place may take on this question. They may feel that it is a vexed question but I insist that the amendment moved by the member for Hanson be opposed and I ask all members who can look outside of their own personal feelings about this to recognise the reality of the world, which is that *de facto* relationships are a fact of life.

I will end as I started. All members know that many of the most loving, caring, permanent, stable relationships are *de facto* relationships. As members of Parliament, not as individuals, that has been brought to our attention. Otherwise, we would never know, nor should we, and nor should we be concerned about it. It is the personal choice of individuals as to whether they wish to be married. I prefer that they make the decision to be married, but I am not prepared to condemn them if they do not. People in *de facto* relationships as established under law should be allowed to participate in the program, as this clause provides.

The Hon. E.R. GOLDSWORTHY: I disagree with the Minister's argument. I do not believe that he advanced any further information to the Committee which refutes the point made very well by the member for Mitcham that statistically—

The Hon. G.F. Keneally interjecting:

The Hon. E.R. GOLDSWORTHY: I have heard it from sources other than the member for Mitcham. I do not know what the exact position is in relation to the five-year time span, but it is a statistical fact that *de facto* relationships are less stable and are proven to be less stable than those of people who have a binding marriage contract. I will not argue the matter from the moral standpoint but from the point of view of the taxpayer who subsidises fairly heavily the developmental work and the practice of these procedures.

I introduce a point into this discussion which struck me when former Premier Dunstan delivered the eulogy at the funeral of Sir Robert Helpmann. The thesis that he put forward with a degree of self-satisfaction (I could not escape that conclusion) was that until the 1970s South Australians lived in the last century. His phrase was that we were the most conformist society in the nation until we were dragged screaming into the twentieth century. The thing that sticks in my craw and that of the people I meet daily is that it is the conformists in this community who, in the main, pick up the tab for the social fall-out from the non-conformists. The philosophy is: to hell with the ground rules that have held the community together and have been universally accepted.

When Justice Zelling retired from the bench recently he made very much the same point about what had happened in his experience of the law and in his time on the bench. What we took for granted as holding the community together when he first went onto the bench is now no longer the case. As a community, we do not know what to believe or what we can hang on to now. It was a pretty eloquent statement of what had happened to the social structure in his time. This concerns me, as it does my colleagues, friends, acquaintances and the average bloke in the street with whom I mix frequently. Those of us who conform and do not kick over the traces pick up the tab, by way of our escalating taxes, for the non-conformists.

When I was elected to Parliament, we did not have a Department for Community Welfare. We are told that it was one of the great reforms of the present Chief Justice. The budget for the Department for Community Welfare continues to balloon; there is no end to it. We are never satisfied. I know that members cannot refer to the Gallery, but I note that the Minister in charge of the Department for Community Welfare is present. Recently, the answer to one of the social problems was to put more people onto the Premier's staff to look after the social problem, and that is one of the reasons for the ballooning budget.

It is an absurd situation. It is those who during the 1970s decided to follow the lead of the former Premier—kick over the traces and throw to the wind all the social mores that have kept the community together: the dropouts, the fallouts and non-conformists—whom we, as taxpayers who play the game, have to fund by way of our taxes. It sticks in my craw for one, and I make no social judgment but a judgment on where my money goes as well as the money of many others towards supporting the non- comformists in the community.

It is a statistical fact that *de facto* relationships, where there is no binding contract in law which requires a bit of effort and money to break, have a higher fallout rate than that of marriage relationships. If people want to live together in a *de facto* relationship, good luck to them. However, if there is social fallout as a result of that—and statistically I believe that there is—those who choose to have a binding contract, and are conformist in a way that the former Premier would cast off, should not have to pick up the tab. If for no other reason than that (I may choose to make a moral judgment, but I will not as it is not, the purpose of the debate), why should the conformists in the community pick up yet a further tab and pay the bill for this sort of procedure, which is expensive and for which there is a queue, when others who we would say conform and decide to live in a married state are waiting for it?

I put in a plea in this debate for the conformists. I reject what former Premier Dunstan had to say that we had to be dragged screaming into this century, and that it was a matter of great regret that we are such a conformist society. It is not the conformists who cost the community enormous escalating sums for community welfare and for the activities of the rest of the social fallout. Let the Minister get up and quote the statistics in relation to the stability of these relationships. If he can, I might change my mind, but I do not believe that he can. For no other reason than that, there is no way in the world that I would support it simply because the Minister says it is a fact. Of course it is a fact of life. Murder is a fact of life! We do not have to vote for it because it is a fact of life. We do not have to encourage it because it is a fact of life, particularly if it is going to cost the community more to look after abandoned children in the fullness of time. I recognise all the acclaim which certain sections of the community extend to the former Premier who sat where the Minister now sits and who supposedly dragged us screaming into the twentieth century. I believe we went in the wrong direction. To snear at the conformists, who do the right thing, is quite appalling. It is a lot of bunkum. One of the reasons we have an escalating social welfare bill is that sort of thinking.

The Hon. G.F. KENEALLY: Many years ago, probably in 1971 or 1972 when the member for Kavel would have been in the House, the Hon. David Brookman made a speech not dissimilar to the one we have just heard. The Hon. Len King said that the Hon. David Brookman had one of the finest minds to come out of the eighteenth century, and I was reminded of that here tonight. Many people to whom the honourable member has referred as being those who adhere to community standards—the married couples, and so on—are people whose marriages have broken down. Often they may be in a second marriage or perhaps two previously married people living in a *de facto* relationship. The mere fact that one marries is not in itself an indication of a stable, happy relationship, or necessarily a lasting one. That is not how the real world operates. The misery caused by men, women and children having to live together when the household has been filled with nothing but hate has caused so much trauma to so many people that they never get over it. The relationship between people is the commitment that they make to each other. It is not necessarily whether or not they have a marriage certificate, although we may prefer them to have that.

Many *de facto* relationships are a lot more stable than any number of married relationships to which we could refer. I said in rebuttal to the member for Mitcham (which the Deputy Leader may not have heard or which I did not fully expound) that the Government does not argue with the proposition that some *de facto* relationships, particularly in the early stages, may present considerable social and other problems. Problems are likely to occur in the first 12 months to two years of such relationships. This provision takes account of that and provides for a five year stable relationship.

Once we go past the five year period (and the Deputy Leader said he accepted that as he was not aware of whether after five years the statistics changed), evidence would suggest that there is no reason to believe that the *de facto* relationship will break down any more than will a married relationship. It is an unhappy set of circumstances that insists that the only reason two people stay together when they are not happy in a relationship is merely that they have a marriage certificate. If that is the only thing keeping them together the marriage is damned and their children are living in a most unhappy situation, indeed.

We are not being moralistic about this matter at all. I am not trying to change the view of members opposite but, even though I am on the side of marriage, I do not believe the member for Mitcham when he said that it is the expectation of the community at large that stable *de facto* relationships that come under the definition as provided in this legislation and in the family relationships legislation should not be able to be involved in the *in vitro* fertilisation program.

In my marriage relationship I would like to think that what my wife and I have done is the proper, appropriate, sensible, reasonable, rational, moral and ethical thing to do. It reassures us both to believe that. We have friends who have been in a long, stable and, they believe, ethical and moral relationship, although not married, and I will not pass judgment on them. Nobody else will pass judgment either. A difference of opinion exists and we can debate it forever, but nobody will change their viewpoint.

This measure was introduced in the legislation by way of amendment by an honourable member in another place. The Government has accepted that as a reasonable amendment to the legislation and, as the appropriate Minister in this place, I ask the Committee to vote against the amendment and in favour of the clause.

Mr BECKER: I cannot support or agree with the sentiments of the Minister or his colleagues in another place. To get the record straight in this House, the Hon. R.I. Lucas amended the proposal of the Hon. Martin Cameron.

The CHAIRMAN: I have to remind the member for Hanson of the same thing about which I reminded the Minister: the member for Hanson may not refer to debate in another place.

Mr BECKER: But there was mention that the Opposition moved the amendments. I want to correct that statement, because that was not the case.

The CHAIRMAN: Before the honourable member continues, I am quite firm about this matter and it has been the subject of a ruling by the Speaker of the House of Assembly. It is a Standing Order and it is one of the reasons why I pulled up the Minister in debate. I could not allow him to continue even though, in the opinion of some people, the reference was quite legitimate: nobody in this Committee may refer to debate in another place.

Mr LEWIS: On a point of order, Sir, as I understood it, at the time the Minister attempted to read from the *Hansard* record of debate in another place, you pulled him up. On no fewer than four other occasions he mentioned that the Hon. Mr Lucas introduced the amendment. To my certain knowledge the member for Hanson is merely attempting to put the record straight as to that statement and he is not attempting to read from a speech. I seek from you a clarification of your ruling. Are you ruling that both quoting speeches from the other place as well as referring to members and what they did is out of order, or does it relate only to the speeches?

The CHAIRMAN: My ruling is, first, that what has happened in the past in this debate is something that has happened in the past and, if the honourable member had an objection to what was going on, he had rights equal to any member of this Committee to take a point of order at that time. My ruling is the same as that provided in the Standing Orders and I repeat myself for the third time: members of this Committee may not refer to debate in another place.

Mr BECKER: The members of the Liberal Party will have a conscience vote on this proposal, and I think that

explains the issue in that respect. This is a very sensitive program and it is very sensitive legislation. Most members of the Opposition do not object to *de facto* relationships but, because of the type of program involved, many believe that it should be available in the first instance to married couples. It is very easy to say that we live in an undisciplined and confused society and that that type of society suits the current Government in this State—a Government that believes that the community should depend on it for its welfare and support. We believe—and our philosophy is—that the role of the family is very important indeed, as is the influence that that family has as a package or a unit to support one another in society.

We ask members of this Committee to think of the child and that is all we are asking. In this debate nobody has considered that factor. The child will have to answer such questions as, 'Why do your parents have different surnames? Where did you come from?', along with all the other questions. If any honourable member has been in that situation, it is not easy to explain. The children will not accept it, particularly in small country towns. I have experience of this and I know what I am talking about. That is all part of society today. This legislation will place unnecessary pressures and stresses on young people. I plead with the Minister to proceed cautiously and, for that reason, I commend the amendment to the Committee.

Mr LEWIS: I will not get involved in an argument with the Minister—that is not my purpose in getting to my feet on this occasion. I did raise some matters which, as yet, the Minister has not addressed in any of his responses when he sought to justify his position, and presumably that of the Government on behalf of whom he speaks, in wishing to retain this definition in the Bill. I again ask my questions. First, how will the licensed operators of the clinics know that the couple have been living continuously in a *de facto* relationship for five years or that they have been in a *de facto* relationship for five of the past six years. How will they be able to establish that fact?

Secondly, what will happen in the circumstances to which I drew the attention of the Committee earlier where, say, the woman in a stable so-called *de facto* relationship is still married to another man? Even though the stable *de facto* relationship has existed continuously for five years, or for five out of the past six years, the woman is still married to another man. Whatever the origins of this provision, it allows a woman, who is married to another man, and her *de facto* husband to apply—and to become—members of the program. That is how this Bill will read. In law, who will be responsible for the maintenance of the children or child from the relationship after the so-called *de facto* husband walks out? As I understand the law at the present time, the woman can sue her legal husband for maintenance and there is nothing that he can do about it. If he has the money, the poor sod will have to pay up.

Thirdly, who can claim custody of the child who has been created as a result of this program? As it stands at the present time, if there is natural conception in the *de facto* relationship or any other sexual relationship outside of the marriage, the woman can return and expect the legal husband to pay maintenance. She can come back to her legal husband and require him to defend an action in court against having to pay maintenance. We are supposed to be caring for the rights and interests of the child, but we are prepared to allow them to go through the wringer to that extent and to allow them to be brought into existence in those circumstances by this *in vitro* fertilisation program.

Fourthly, where are the words 'husband' and 'wife' defined? The Minister did not even mention the concern I expressed about the definition of the terms 'husband' and 'wife' in a *de facto* relationship. That definition does not appear anywhere in the Statutes, so under this legislation, for the first time in the history of any western democracy, and probably any country in the world, the Minister is allowing people involved in homosexual relationships to have children, because the terms 'husband' and 'wife' are not defined anywhere in a way that would preclude those people from participating in the program. It would seem to me more probable that, in the unlikely event that it does happen, it will occur between two lesbians.

Those are my four concerns. I am particularly concerned about the first situation, namely, the woman who is still married to another man but who is living in a *de facto* relationship can enter the program with the *de facto* husband and then she can walk away from the mess. She can then leave it to the State welfare agencies to try to sort it out. I do not see why the Minister would want to do that. Indeed, I do not want to do it, therefore I oppose this stupid, half-witted proposition put by whomsoever I care not. In my sincere and honest opinion, it is ridiculous.

The Hon. G.F. KENEALLY: I have felt reasonable and considerate during this debate, because I believe that members have legitimate concerns and appropriate contributions to make but, frankly, I believe that many prejudices have just been expressed to the Committee which in the main do not refer to this legislation. First, the honourable member asked how it would be established that a couple had been in a stable *de facto* relationship for five years but, if a couple start a *de facto* relationship, they do not walk into the clinic immediately and ask to be put on to the program. It must be established that one of them is infertile and that there is no possibility of children being born, and that takes years to establish.

In any event, when access to the medical knowledge available through such a process is not sufficient, couples can make statutory declarations and, if that is not sufficient (and I imagine that it would never reach this stage, because I have a greater respect for the medical profession than have my colleagues opposite in this matter) under inheritance legislation the court can decide on a relationship. I do not believe that it will ever reach that stage. It will not be easy to get in to this program: infertility must be proved by a couple going to the appropriate medical practitioner and establishing that they really need to get on to the program. Further, it must be proved that the couple have been living together in a fairly stable relationship for a considerable time.

One of the reasons why I did not respond to the honourable member's tirade earlier was because he suggested that the Government would allow people living in a homosexual relationship, whether male or female, to participate in this program. However, those in the medical profession (and rightly so) are among the more conservative elements of our community and there is little prospect of their recommending entry to the program of people living in such relationships. The sci-fi suggestion that males living in a homosexual relationship could be included in this program seems to reflect on the honourable member's contribution whether or not he is serious.

The Family Relationships Act provides rules as to the paternity and maternity of children born as a result of *in vitro* fertilisation programs. The honourable member said that 'husband' and 'wife' are not defined, but I suggest that always in relation to this program and the family relationships legislation those terms refer to 'male' and 'female'.

If the honourable member considers that there are other matters which he has raised but which I have not addressed,

I will read his contribution and refer it to my colleague. However, I can assure the honourable member that he has not raised any point that would change my view that this is an appropriate measure for the Committee to support.

Mr MEIER: We have heard much about clause 13(4). The Minister has put his points so poorly that that speech would be one of his worst. His arguments were put with a complete lack of conviction and I now understand why he will be resigning from the Ministry soon. How could he try to support this unsupportable situation? He did not even convince himself.

Parliament acknowledges *de facto* relationships and we realise that they exist. The Minister did not have to give a sermon in that regard. But such realisation is irrelevant to this subclause. I certainly do not condemn couples who live in a *de facto* relationship: it is their personal choice as individuals whether or not they marry. However, why should we feel that we must allow such couples access to this program? It is only fair that we set decent, high standards right from the beginning in respect of this program. This is the first time that this Bill has been before Parliament, so let us get it right at the start and not have to clean up the mess later.

The position in respect of this issue is similar to that of unemployment. A person has the right to refuse to work, but the Government says, 'If you don't look for work, we won't pay you unemployment benefits.' Similarly, we should say, 'If you want to live in a *de facto* relationship, that is your right, but why should you then impose on the services of the medical profession and on the Government to have children if you can't have them? Why can't you at least be married so that the children born of such a relationship may take advantage of a legally recognised and established relationship between parents?'

It is disappointing to me to see the look on the faces of some members opposite. We are not talking about whether *de facto* relationships are right or wrong or whether or not they exist. I accept the existence of such relationships, but why open the program to people who are not prepared to marry and to give a commitment that they want to stay together, hopefully for the rest of their lives?

The Committee divided on the amendment:

Ayes—(15)—Messrs Allison, D.S. Baker, S.J. Baker, Becker (teller), and Blacker, Ms Cashmore, Messrs Chapman, Eastick, Goldsworthy, Gunn, Ingerson, Lewis, Meier, Oswald, and Wotton.

Noes—(24)—Mr Abbott, Mrs Appleby, Messrs Bannon, Blevins, Crafter, De Laine, and M.J. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally (teller), Klunder, McRae, Mayes, Payne, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Pairs—Ayes—Messrs P.B. Arnold, S.G. Evans, and Olsen. Noes—Messrs L.M.F. Arnold, Duigan, and Peterson.

Majority of 9 for the Noes.

Amendment thus negatived.

Mr LEWIS: Now that that matter is out of the way, on the clause as it stands I wish to express my concern about the apparent anomaly under subclause (3) where it is good enough for the Minister to include a clear statement—

Members interjecting:

The CHAIRMAN: Order! I ask the Committee to come to order please. We want to continue in an orderly manner. Would the Committee please reduce the level of conversation. The honourable member for Murray-Mallee.

Mr LEWIS: It seems to be good enough for clause (13) (3) *(b)* (ii) to state that there appears to be a risk that a genetic defect would be transmitted to a child conceived naturally to the extent that we therefore exclude, say, a father from contributing genetic material where the effect on the child produces a grave risk of its inheriting something that is genetically undersirable from the father—a serious condition. It is good enough for us to include that here, yet earlier this evening the Government could not include a provision of an identical nature relating to pathogenesis. I just want to make that point and put it on the record. I think it is legitimate for the members of the council to know—indeed, for posterity's sake—what I consider to be, on a comparative basis, a fairly hypocritical stand.

Clause passed.

Clause 14—'Licence required for medical research involving human reproductive material.'

Mr BECKER: Can the Minister inform the Committee when life begins in South Australia?

The Hon. G.F. KENEALLY: About 1 800—that is European life; I cannot explain to the House when Aboriginal life began. I think it goes back some 40 000 years. That is a rather flippant reply. In answer to the honourable member's question, I am a lay person, as he is, and I do not believe that that issue is one that can be satisfactorily argued or resolved in this legislation. I just do not believe it is appropriate to do so. As the honourable member has raised the matter, I point out, as I pointed out earlier in this discussion, that matters of a legal technical nature will, in the normal course, be brought to the attention of the council. I do not propose to try to define that for the honourable member. I just put on the record that I happen to be a Catholic—a pretty standard response from Catholics. My view is not necessarily the view of other members in this Chamber, I do not want to impose my view as being a statutory or legal veiw, and I will not argue it one way or the other.

Mr BECKER: I think the Minister and I would agree that life starts from conception. It is important to know; it is important to have a decision: it is important for the Committee to be advised by the Health Commission, so I ask the Minister to take the matter back to the Minister of Health, because I want an answer. This clause deals with the licence required for medical research involving human reproductive material. A decision was made in Victoria, and I again refer to the article in the *Weekend Australian* of 21-22 March 1987 'Life begins at 20 hours—IVF committee indicates', which states:

> A Victorian Government committee yesterday unaminously approved in principle an *in vitro* fertisilation (IVF) procedure now prohibited under the Infertility (Medical Procedures) Act 1984. The procedure involves injecting sperm under the shell of a human egg in the first 20 hours after fertilisation when the genetic material of the sperm and the egg fuse in a process called syngamy. The landmark decision by the Standing Review and Advisory Committee on Infertility, chaired by the Professor of Law at Monash University, Professor Louis Walter, has tentatively set 20 hours as the period within which experiments on embryos is permitted. As the experiment would destroy the early form of human life—human embryo or fertilised egg—the committee has effectively set 20 hours as the point at which 'life' begins.

Therefore, I again ask the Minister, and I ask him to refer the matter to the Minister of Health and the Health Commission: Can I please have a decision as to when life begins officially in South Australia?

The Hon. G.F. KENEALLY: I will do that. It has been suggested to me—and I know this is not the response that the honourable member wants—that in South Australia life begins at 40. I am not prepared to accept that. I will refer the matter raised by the honourable member to my colleague. I understand that they are legitimate questions, but

questions to which I do not have answers. I undertake to have that information provided.

Clause passed.

Clauses 15 to 17 passed.

Clause 18—'Surrogacy contracts.'

The Hon. G.F. KENEALLY: I want to oppose this clause on behalf of the Government, not because we disagree with it—we are certainly in agreement with it—but it is not appropriate to include this clause in this legislation. If I am able to do so I will point out to the Committee that there is another Bill before Parliament which deals with surrogacy in full. This Bill was introduced into Parliament by the Attorney-General and deals in law with all the issues of surrogacy. I think that is where surrogacy ought to be dealt with and it should appropriately be placed in the Family Relationships Act.

I assure members—and if they do not wish to accept my assurance they can refer to the Bill and the second reading speech—that I am certain that they will agree that the action taken by the Attorney-General is appropriate and covers surrogacy in all its ramifications. Whilst I am advised that the Bill does not address in detail the particular issues raised by the member for Murray Mallee earlier in this debate, it does deal with surrogacy and all its ramifications. I ask the Committee to support the opposition to this clause so that it may be more appropriately dealt with in another piece of legislation.

Mr BECKER: The Opposition does not support the Government's request. It believes that the clause should remain. There is legislation before this Chamber that has not been debated or voted upon, nor has it been assented to or proclaimed by His Excellency the Governor. Therefore, there is no legislation operating in this State to replace the clause before this Committee. In view of that principle the Opposition cannot relinquish the meaning of this clause at this time. I repeat 'at this time'. Had the other piece of legislation been passed, dealt with and proclaimed through the normal process, the Opposition may well have been considerate towards the Government's request, but I regret that it is not prepared to do that, and it is not prepared to accept any assurances whatsoever. All sorts of things can happen in this life— particularly in this parliamentary life—and I ask the Government to be a little bit more patient, to get the legislative program through, and as soon as everything has been assented to and properly recorded and everything is in its place the Opposition will consider deleting that clause from the legislation, but not at the present moment.

The Hon. G.F. KENEALLY: During this debate there have been references to many moral and biblical quotations, and all I can say to the member for Hanson is, 'Oh ye of little faith'. This matter will be dealt with tomorrow by the Parliament and in my view there is no reason to believe that the members on the Government side and those who form the Opposition in this Parliament will treat this matter any differently from the way in which is was treated in another place. Whilst I understand the excess of caution that the honourable member expresses, I am a positive and confident person and I believe that, if the Committee accepts that clause 18 should be deleted and the matter is dealt with, as I expressed earlier, in a more appropriate form in the more appropriate Act, then Parliament will have acted wisely and I am confident that this whole matter will be addressed to everybody's satisfaction by the close of business tomorrow. I ask the Committee to support the opposition to clause 18.

Mr BECKER: I cannot accept that. This piece of legislation with which we are dealing has a long way to go. When it leaves this Chamber it goes to the other place for consideration and may well come back. It may well be resolved—I do not know. I have a fair idea of what might happen, and therefore I am not prepared to take any risks whatsoever and I urge my colleagues to support me on this stand. The Opposition opposes the deletion of this clause.

The Committee divided on the clause:

Ayes (15)—Messrs Allison, D.S. Baker, S.J. Baker, Becker (teller), and Blacker, Ms Cashmore, Messrs Chapman, Eastick, Goldsworthy, Gunn, Ingerson, Lewis, Meier, Oswald, and Wotton.

Noes (24)—Mr Abbott, Mrs Appleby, Messrs Bannon, Blevins, Crafter, De Laine, and M.J. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally (teller), Klunder, McRae, Mayes, Payne, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Pairs—Ayes—Messrs P.B. Arnold, S.G. Evans, and Olsen. Noes—Messrs L.M.F. Arnold, Duigan, and Peterson.

Majority of 9 for the Noes.

Clause thus negatived.

Remaining clauses (19 to 21), schedule and title passed.

Bill read a third time and passed.

ADJOURNMENT

The Hon. G.F. KENEALLY (Minister of Transport): I move:

That the House do now adjourn.

Mr OSWALD (Morphett): This evening I will address the subject of the Patawalonga at Glenelg. In opening my remarks, I say how pleased the community is that at last a trash boom of some sort is to be constructed at the northern part of the lake in the vicinity of the Flinders University boat shed. The history of this issue is interesting. I have a press cutting in front of me which I would love to be able to insert in *Hansard* but I cannot because it is a photograph of the member for Hanson (Mr Becker) inspecting rubbish on the bank of the Patawalonga in 1977. It is a photograph of a young man in shorts, ankle deep in the rubbish flowing down the creek. The situation has not changed. This evening I dug out a press release that goes back to 1973 in which an even younger Mr Becker highlighted the problems associated with the debris coming down the river. He described it as follows:

Thick brown dirty water, empty cans, limbs of trees, fuel drums and debris is the scene a few metres from the shore of Glenelg.

Over the years, 11 councils have dumped into the stormwater drains all their refuse, which flows down through Sturt Creek, Keswick Creek and the airport drains and ends up in the Patawalonga. In the early years, by bringing this to the attention of the Government, the honourable member represented the area very well. Unfortunately, the Government only listened. When I came on the scene in 1979, I also brought it to the Government's attention and some progress was made, because the Hon. David Wotton, who was the Minister at the time, agreed to give a grant of $6 500 to the Glenelg council to clean the banks. So we started to make progress.

Very recently people started to agitate for action, because the water quality reached the stage at which the Glenelg council had no option but to ban water sports. The E.coli level in the water had risen to 100 000 units per cubic centimetre, and the safe level is a few thousand. It was outright dangerous and would have led to cases of dysentery and other disorders. On behalf of my community, I thank the Government for going one step.

The Minister has approved the construction of a floating boom which will arrest the refuse as it flows in, and the refuse is quite a problem. In the early 1980s, the local newspaper asked me to go down and show its representatives some of the refuse. In about 50 metres we found two dogs, a television set and literally tonnes of floating debris. The boom will remove that but it will leave one major problem with the Patawalonga, and that is what to do about the water quality.

When it is clear, the Patawalonga is probably one of the most popular scenic attractions in the western suburbs. When it is linked with the new developments at Glenelg and the council completes its upgrading of the area, for which Harry Bechervaise has been employed as a town planner, it will have great potential. A walk is proposed from Moseley Square along the seafront, around to the Patawalonga, a pause at a facility that will be built for tourists to inspect the 'Pat', and a walk along another route back to Moseley Square. It is terribly important for that tourist attraction that Patawalonga is a scenic lake but it will only become so if we can go one step further and do something about the water quality.

Although it may mean deleting a program from next year's works program, the Government should, bearing in mind the tremendous tourist potential of the Glenelg area (it will pay for itself), cut a channel through the treatment works from the northern end of the Patawalonga lake to the sea, lay pipes and close over the earthworks. It would go through the existing Engineering and Water Supply land at the treatment works at Glenelg North. It need not go through any suburban roadways other than under the Patawalonga frontage. As a result, a saltwater inlet would flow in on the tides, as happens at West Lakes. That would solve the problem of the water quality. No council, State Government or Health Commission can allow the E.coli level in the lake to remain at 100 000 units per cubic centimetre.

As a result of the high E.coli level, the milk carton regatta has been cancelled and will probably be held at West Lakes; water skiing competitions have been abandoned, and swimming has been banned. In the late 1970s and early 1980s considerable bird life could be found on the banks of the Patawalonga; that has all gone. Approximately 10 or 12 years ago one could catch mullet in the 'Pat', but that has all gone, because Glenelg is at the bottom end of the stormwater drains for 11 council areas in the southern, southwestern and western suburbs. I ask the Government to give serious consideration to this proposal. It is feasible and saltwater will flow into the northern end of the Patawalonga which will flush out to sea when the tide goes out.

Mr Ingerson: West Lakes revisited.

Mr OSWALD: Yes, indeed. The internal jetties and the marinas in the Patawalonga could be improved as well. There are two reasons why boats do not moor in the Patawalonga. The first is the problem of the sand bar, which has been discussed at length in this House, but I will not mention that tonight.

The other reason is the terrifically high level of the *E.coli*. Whenever you park a boat for more than two or three days, you end up with enormous cauliflowers of growth under the boat. It gets on the mooring ropes and when you pull them up on board they set like cement in the sun within a few hours, virtually destroying the boats. People will not bring in their boats. We are missing out on the potential of a most magnificent site—a panorama that tourists and local residents could look out on, a most attractive waterway for water sports and boats, and containing marine life, with tourists being able to walk around it.

I go back to my opening remarks to the Government that we are pleased to see that the boom is on the way. It is a major step forward in improving the area. The next step is to do something about the water quality. As the only source of water is coming from stormwater drains, we have to go to an alternative source, namely, fresh seawater. We have an easement through E&WS land at the treatment works at Glenelg North. It simply requires cutting through a trench, laying the pipes and closing it over. It will not interfere with any domestic roadways and we will then have a waterway that is acceptable and upon which water sports can take place.

Mr KLUNDER (Todd): Yesterday the Leader of the Opposition in his urgency motion mentioned a figure that so astonished me that I did not want to speak about it last night in the grievance debate just in case I had misheard it and I was doing him an injustice. So, I looked it up in *Hansard* this morning and there it was. The statement in *Hansard* was that since 1982 the average household's power bill has risen by more than 55 per cent. That is such an incredible example of somebody leading with their chin that I was truly astonished and will spend the next few minutes indicating why that was a very unwise statement to make in a political attack on the Government.

The 55 per cent rise is an accurate figure. There is no doubt that electricity charges during the five years of the Labor Government have risen by 55 per cent. If one applies exactly the same technique to the rise of electricity prices during the three years of the Liberal Government, one does not arrive at 55 per cent but at 56 per cent. In other words, the Liberal Government during 3¼ years in office raised electricity prices by more than we have in five years. That works out at an average rate per year of about 11 per cent for a Labor Government and something like 17 per cent or more for a Liberal Government while in office. That, however, is only the simplistic, first level analysis of the situation, and I want to take it several levels further.

The second step looks at the timing of those Electricity Trust charges. The Liberal Government of 1979-82 was indeed incredibly fortunate in this aspect of its timing when it came into office, because there had been a rise three weeks before it came into office. It was therefore not an urgent situation where it has to raise electricity prices immediately. When it left office there was a rise in electricity prices just three weeks later. Again one would assume that, because there were rises just before and just after its time in office, it would not have had to raise electricity prices very much during its tenure. In fact, if the Electricity Trust price rises before and after were both included in the Liberal Party percentages, there would have been a rise of 92 per cent during the Liberal Government's tenure. It was a fate that it avoided by six weeks and some fancy footwork with regard to the second rise, to which I will refer in more detail later.

However, rises so close on either side should have given that Government the chance to ensure that the rises in electricity prices were not too high during its term in office, but that was not the case. Let us continue. After having raised Electricity Trust prices by 56 per cent during its term in office, the Liberal Party was hit by a major increase in the price of gas. Instead of appealing, as it had a right to do and as New South Wales did, it did a deal for a 12 per cent rise each year for three years, the first rise being, coincidentally, three weeks after the election. It could, therefore be argued that the first three rises, each of 12 per cent, were the legacy of the Liberals rather than claiming that they were imposed by Labor. Clearly, some rises would

have been as necessary, even if the Liberal Party had appealed and had been successful in lowering the price hike. I am not able to apportion the 12 per cent increases in regard to whether or not they were necessary or unnecessary.

New South Wales succeeded in some of its appeals. Even in giving the Liberal Party every single benefit of the doubt and taking the minimum possible rise under the Liberal Government and the maximum possible rise under the Labor Government, there is still the unescapable fact of a 17 per cent a year rise while the Liberal Government was in power compared with an 11 per cent rise a year while Labor was in power. A more reasonable comparison would be the three years of Liberal Government and the three years after those compulsory price rises took place in the last three years of the Labor Government. As the Premier and the Minister of Mines and Energy have both explained, the results, if one compares those three year periods, still lead to a 56 per cent increase in ETSA prices under the Liberal Government and a 10.3 per cent increase under the Labor Government in its last three years. That is 16 per cent less than the inflation figure for those three years.

Let us now look at the financial context in which the Liberal Party raised ETSA charges by 56 per cent. Two important points need to be made. In 1979, when the Liberal Government came into power, it found that the previous Government had left a small surplus. In 1982, when it left office, it also left a $63 million deficit. Secondly, during its term in office it shunted money from the capital side of the budget to the recurrent side of the budget. Never mind that it strongly condemned the previous Labor Government for having moved $5.4 million from the capital side of the budget to the recurrent side. In 1980-81, the Liberal Government moved $37.3 million from the capital to the recurrent side. It was not $5.4 million, but more than $37 million. In 1981-82, the Liberal Government moved $61.8 million from Capital Account to Recurrent Account and in its last year of office it moved $42 million from the capital to the recurrent side. A total of $141.1 million was moved by the Liberal Government from the capital side of the budget to the recurrent side after it had loudly condemned the Labor Government in the previous three years for having moved $5.4 million in the same direction.

The statement made by a number of people at the time was that the Government was using rent money to pay for the groceries. Certainly, it was a very poor use of a very large sum of money. In the process it wrecked the building industry and some members may well remember how many cranes were seen on the skyline of Adelaide in 1982 when the Labor Government again took office. Combining those two sums—the $63 million deficit and the $141 million diverted from capital funds—there was therefore $183 million available to the Liberal Party on the recurrent side of the budget that it did not have to raise from taxes and charges.

While this made a mess of the State's economy in the ensuing years, it was a windfall for the Liberal Government in the sense that it had $61 million per year to spend over and above what it needed to raise in terms of taxes and charges. In effect, that $61 million was a buffer between its having to raise those taxes and charges at all, let alone above the CPI so, on all counts, the Liberal Government should have had a dream run. It had $61 million a year which, while it would create havoc later on, was an extra benefit that it had during those years.

Three weeks before taking office there was an increase and three weeks after leaving office there was another increase. It delayed the last increase until three weeks after the election and it imposed three annual increases of 12 per cent on the incoming Labor Government. It still did not do as well as we have done in the past five years. And then, to add incompetence to hypocrisy, it tried to accuse the Labor Government of not having done very well in terms of raising taxes and charges when, of the 50 per cent or so that we had to impose, 36 per cent, in terms of three annual increases of 12 per cent, was demanded contractually by the outgoing Liberal Government.

The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition): If I have time, I will demolish the arguments raised by the honourable member, but first I will read a letter from the District Council of Murray Bridge, and it states:

Dear Mr Goldsworthy,
re: CFS subsidy level.

Council is extremely concerned regarding its CFS subsidy level of only 10 per cent authorised under the CFS revised funding scheme effective from 1 July 1987.

Council along with local CFS representatives had formed a deputation and presented its case to the CFS Director and more recently to the Deputy Premier and Minister of Emergency Services to no avail. The basic substance of council's objection is that the level of subsidy to councils is based upon their total rate revenue. Unfortunately some councils, Murray Bridge being one such council, have a significant portion of their area protected by the MFS for which they pay a direct contribution. Since CFS subsidy is based upon a council's total rate revenue including that fire protected by the MFS, where applicable, some councils are effectively charged twice for fire protection.

We believe that a more equitable method of calculating the CFS subsidy level would be to exclude rate revenue derived from MFS protected areas from the CFS subsidy level determination. Councils are required under the new Animal and Plant Control Act under section 36 (4) *(a)* and *(b)* to separate urban rate revenue and rural rate revenue. So the basic division between MFS area (urban) and CFS area (rural) is already required of councils.

I have enclosed a copy of information laid before the Deputy Premier and his reply for your consideration. It would be appreciated if you could assist this council and the local CFS in overcoming this 'double dipping' which unfairly penalises those councils and their ratepayers which have both CFS and MFS fire protected areas in their districts.

The Deputy Premier's response to an earlier approach from the council stated:

I am satisfied that the basis used by the board to allocate subsidy funds, based on councils' ability to pay, will ensure that subsidy payments will achieve a satisfactory statewide standard of equipment, in a more cost effective manner.

As the District Council of Murray Bridge has chosen to have fire protection provided by both the MFS and the CFS, then the cost therefore must be met by the council, irrespective of the availability of subsidy funds from CFS sources.

That response completely overlooks the basis of the council's argument, which is that it is paying twice for fire protection, and I must agree with the council. The Deputy Premier's response completely evades the point. In effect, he is telling the council that it does not matter whether or not it gets any subsidy at all. The whole question of equity is completely ignored. The council is unhappy and it has written to me. I trust that the Government will have another look at this matter.

I have been approached by one of my constituents who lives at Nairne on a property adjacent to the new freeway. He has been presented with a bill by the local council for the spraying of salvation Jane. Unfortunately, the salvation Jane seeds were dumped there with loads of filling which the Highways Department used in the construction of the road. It seems a little rough to my constituent that this weed did not exist on or in the vicinity of his land previously. In the public interest the Highways Department built a major freeway past his property and, in the process, it used a lot of filling to build up the embankments at the side of the road. That filling contained a lot of salvation

Jane seed which now blossoms annually and it produces a wonderful crop which requires weed control.

The landholder has been charged with the responsibility of controlling the weeds. The council does the job and charges the landholder. It seems to be pretty rough justice when the Highways Department introduced the weed but the landholder then has the problem of controlling it. He has approached the Government and the Ombudsman. I feel that this matter requires some fairly urgent attention in the name of equity.

In relation to the remarks made by the member for Todd, I point out to him that I do not believe that the increases granted to ETSA during the term in which I was Minister were excessive in relation to the level of inflation and the wage increases which were awarded to the working community at that time. I remember one wage hike of about 20 per cent which was awarded to one section of the community during one of those years. I point out that at that stage ETSA was not under ministerial control, but it is now so, if anything goes wrong with ETSA's financing, the Government must take direct responsibility, but traditionally ETSA has always paid Ministers the courtesy of suggesting rises and it has sought Government approval. The increases to which I and the Government agreed were somewhat less than those sought by ETSA.

Further, towards the end of the life of that Government, an 80 per cent increase was awarded by arbitration for the cost of ETSA's prime fuel. About 80 per cent of ETSA's electricity was generated by burning gas and there was an 80 per cent hike in one hit for the price of its major fuel. That occurred as a direct result of the hopeless price fixing legislation which the former Labor Government had allowed to pass. Labor Party legislation allowed for that arbitration process which led to that enormous hike. I do not know how anybody can suggest that an 80 per cent increase in the fuel used to produce electricity can be digested without some impact on tariffs. The honourable member says that we should have gone to appeal. The advice we had was that the appeal did not have a snowflake's hope in hell of surviving. We were advised that the appeal would be turned down flat.

I negotiated to cushion the effect of that rise because, if I had not done so, the incoming Labor Government would have been faced with an enormous immediate hike in ETSA charges. I gathered together all the major users and they, along with the company, agreed on a formula which would cushion the impact of that enormous increase in the price of fuel. If the member for Todd believes that he could have done better, all I can say is that I would wish him well. It was the most difficult decision any Minister has had thrust upon him in relation to the cost of the primary fuel which was used for generating electricity. As I said, it was an 80 per cent hike in one hit.

To keep ETSA increases down to something that was digestible required some very difficult negotiations with the company that legally could have charged those prices. I completely refute the story that the Labor Party keeps regurgitating. It was its legislation which led to that situation, and it is complete nonsense for it to suggest otherwise.

Motion carried.

At 10.10 p.m. the House adjourned until Thursday 11 February at 11 a.m.