HOUSE OF ASSEMBLY

Tuesday 16 February 1993

The SPEAKER (Hon. N.T. Peterson) took the Chair at 2 p.m. and read prayers.

PETITIONS

DISABLED CHILDREN

A petition signed by 171 residents of South Australia requesting that the House urge the Government to provide equitable access to out of school hours care services to disabled children was presented by the Hon. G.J. Crafter.

Petition received.

ADELAIDE AIRPORT

A petition signed by 51 residents of South Australia requesting that the House urge the Government to support the retention of the aircraft curfew at Adelaide Airport was presented by Mr Becker.

Petition received.

LIQUOR LICENSING

A petition signed by 28 residents of South Australia requesting that the House urge the Government to rescind the increase in liquor licence fees was presented by the Hon. B.C. Eastick.

Petition received.

CHEQUE TRANSACTION CHARGES

A petition signed by 37 residents of South Australia requesting that the House urge the Government not to increase cheque transaction charges was presented by Mr Such.

Petition received.

QUESTIONS

The SPEAKER: I direct that the following written answer to question No. 253 on the Notice Paper be distributed and printed in *Hansard;* and I direct that the following answer to a question without notice be distributed and printed in *Hansard.*

STIRLING COUNCIL

In reply to **Hon. D.C. WOTTON (Heysen)** 10 September.

The Hon. LYNN ARNOLD: The Government does not accept the assertion of the member for Heysen that the District Council of Stirling is facing inevitable bankruptcy. Members will recall that in 1989 the Government assisted the council settle its obligations arising from the 1980 Ash Wednesday bushfire. This enabled the victims of the bushfire to be paid compensation in respect of damage caused nine years earlier. In 1990, the Stirling council and the Government agreed to the council making a certain level of contribution for the following 15 years towards the debt servicing costs associated with its bushfire debt obligation totalling $16 million.

This level of contribution was sufficient to support specially structured loan of $4 million at 14.90 per cent over a period of 15 years. Hence, amongst other things, the Government assumed debt obligations of approximately $12 million otherwise payable by the council. Had interest rates been lower at the time, the council would have been able to support a loan of greater principal, and would have had to assume responsibility for a greater proportion of its overall bushfire debt obligation.

The structure and terms attaching to the loan were determined by council, the Local Government Financing Authority and the Government after considering alternative methods of repayment in order that the most financially appropriate method could be chosen. I have been advised that, consistent with debt restructuring facilities made available by the Local Government Financing Authority to all councils in South Australia, the District Council of Stirling has had the ability at all times to vary the structure of the bushfire loan on a commercial basis.

In August 1990, the Government committed itself to a full review of the financial consequences of the bushfire loan arrangements at the conclusion of the 1993-94 financial year. In July 1992, the Minister of Local Government Relations wrote to the council confirming the Government's commitment to such a review. In addition, during 1992, the Minister of Local Government Relations provided help from Treasury Department for the council to review the current structure of the council's overall debt obligations. I am advised that officers from Treasury Department worked with council management on this matter in close consultation with the Local Government Finance Authority.

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Housing, Urban Development and Local Government Relations (Hon. G.J. Crafter)—

Children's Court Advisory Committee—Report 1991-92

Summary Offences Act—

Road Block Establishment Authorisations and Dangerous Area Declarations—Returns—20 October 1992 to 19 January 1993

Classification of Publications Act 1974—Regulations—Sydney Inside Out Exemption

Corporation of Glenelg—By-law No. 2—Foreshore

By the Minister of Environment and Land Management (Hon. M.K. Mayes)—

Liquor Licensing Act 1985—Regulations—Dry Areas—Gawler

By the Minister of Business and Regional Development (Hon. M.D. Rann)—

Marine Act 1936 and Fees Regulation Act 1927—Regulations—Consultancy Fees.

PRISONS DISPUTE

The Hon. R.J. GREGORY (Minister of Correctional Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. R.J. GREGORY: I wish to make a statement regarding the industrial action taken by members of the Public Service Association in selected South Australian prisons. Last Friday the Public Service Association met with the Acting Chief Executive of the Department of Correctional Services and sought an assurance that the department would not pursue a further investigation of allegations of assault by a prison officer on a prisoner. When this was refused, the General Secretary of the Public Service Association indicated that 'we will close your prisons down' and take the Chief Executive to the Supreme Court. Subsequently, the department received a letter from the association which made the following demands:

1. All correctional officers to be provided with handcuffs and personal duress alarms.
2. All contact visits for prisoners to cease.
3. Proper restraint training be provided regularly to staff.
4. Staffing to be increased at all institutions to ensure adequate numbers of response officers on both day and afternoon shifts.
5. Removal of all potentially dangerous activity equipment (bats, billiard balls).
6. That an inquiry be held into the actions of the Chief Executive Officer and his failure to carry out his responsibilities under section 6 of the GME Act and the Occupational Health and Safety Act.

When these demands were not met, the Public Service Association imposed a series of work bans resulting in prisoners being locked in their cells and visits being cancelled. It was the actions of the Public Service Association—not the department—which lead to the prisons being 'locked-down'. The Government believes that these demands are nothing more than a smokescreen to confuse the issues at hand which are the need for officers to be accountable for their actions and the achievement of agreed savings of staff positions in the restructuring process. The department has a very clear position on the issues raised by the Public Service Association.

Handcuffs and duress alarms.

The department's policy on handcuffs and personal duress alarms is consistent with its counterparts in all mainland States. It is not considered necessary that all officers should be provided with handcuffs and duress alarms. Their availability differs on an institution by institution basis and are issued to agreed security positions throughout the prison. The staff have not raised any significant concerns in relation to these matters in the established consultative processes before now. Handcuffs and duress alarms only complement other existing security systems which include an extensive camera system, intercom system, static duress alarms in key security areas and agreed staffing procedures.

All contact visits to cease.

The association has not given any prior indication to the department in relation to these visits and the Government believes that the call to cease these visits is an over-reaction. Contact visits are a well established program and practice in civilised prison systems around the world and are seen as a necessary component to achieve the following:

* Visits are an integral part of the United Nations Minimum Standards for Imprisonment with the view that imprisonment is based on loss of liberty.
* Contact visits are essential to maintain the important ties between the prisoner and family, children and friends. Therefore they are seen as an important part of the prisoner resocialisation process.
* Contact visits are an important tool for the management of prisoners and can be withdrawn if abused.

The department already provides extensive restraint training for all custodial staff to assist them in dealing with physically violent and resistant situations. Training is provided on three fronts:

* Custodial Officer Induction Training—which provides a 12 week training course for every probationary officer. If they do not successfully complete these sessions they do not graduate from the course.
* Conflict Management—over the past year approximately 150 staff have been trained in conflict management and more courses are available this year.
* Emergency Response Group—members of the Emergency Response Group deal with all major physical incidents with all prisons. Training consists of methods of control including weaponless defence and restraint techniques. Training is conducted on a weekly basis. Plans are in place to enable Emergency Response Group personnel to instruct prison staff in methods of self defence and restraint.

Staffing levels within the prisons have recently been the subject of a departmental review by a restructuring committee which includes staff and paid representative of the Public Service Association. The existing staffing levels were the subject of agreement in this committee and recently the focus has been on further reductions which the association has also agreed to but has not as yet delivered.

In relation to the removal of potentially dangerous equipment, the department has a well established consultative process including Occupational Health and Safety Committees at each prison. There has been limited discussion of these type of issues in these forums and it confirms the view of a 'smoke screen' when these issues suddenly become major issues. The department continues to be prepared to discuss and address any issues which are raised by staff in the established process and decide the case on the merits.

In relation to the establishment of an inquiry, the Government completely refutes any suggestion that the Chief Executive Officer has acted improperly in relation to the institution of further inquiries of the incident in question or that he has not met his obligation in relation to occupational health and safety. It is interesting that the Public Service Association has not taken any action to place an improvement of default notice on the Chief Executive Officer as is the staff right under the legislation.

By way of further information which will put this dispute in perspective, I point out that staffing levels in the South Australian prison system are the most generous of those in any mainland State. For example, the ratio of prison officers to prisoners in NSW is 2:4 and in South Australia the ratio is 1:5. To suggest that our prisons need more staff in the current economic climate and against these facts is ludicrous. Further, the department has been very patient in its negotiations with the Public Service Association in relation to the additional savings which have been agreed as part of the restructuring process. In December 1991 the department agreed to pay salary increases to staff on the assurance of the Public Service Association that a further 20 positions would be found in the system. Despite weekly meetings and negotiations, the association has not honoured its commitment. Over this time several issues have been raised to effectively prevent the department from implementing new structures which are effective and staff efficient.

The department is continually trying to work through the existing mechanisms to resolve these issues, and I will meet with the Public Service Association this afternoon to encourage it to meet its commitments and not hold the department and the Government to ransom.

QUESTION TIME

FEDERAL FINANCIAL ASSISTANCE

The Hon. DEAN BROWN (Leader of the Opposition): My question is directed to the Premier. While the Prime Minister is in South Australia tomorrow, will the Premier urge Mr Keating to explain why the Federal Government has rejected previous requests from South Australia for special financial assistance to deal with the impact on the State budget of the State Bank's massive losses? Will he agree that South Australians are entitled to be cynical, to say the least, about any election offer from Mr Keating to a State with five marginal seats when the Prime Minister has rejected previous requests for assistance?

I have in my possession notes taken by the Premier's office of a meeting in Canberra on 31 January 1991 between the then Premier, Mr Bannon, and Mr Keating. The purpose of this meeting was to discuss the impending first announcement of the State Bank's losses. The notes specifically record that the Under Treasurer, Mr Emery, asked during the meeting whether South Australia would receive financial assistance. Mr Keating replied that the Commonwealth did not bail out Victoria. He asked, 'How can we give you money without it being appropriations or without doing what we didn't do in Victoria?' The South Australian Government made a further approach to the Commonwealth for special financial assistance during the preparation of the 1992 State budget. Again this was rejected.

The Hon. LYNN ARNOLD: This is a very thin piece of supposed evidence from the Leader about the alleged cynicism of the Federal Government on the matter of assistance to South Australia. Anything that goes back to 31 January 1991 really should not be taken into serious account. The amount of water that has gone under the bridge since then in terms of a number of changes in circumstances means that, if this is the very best the Leader can do, he really is clutching at straws.

I know why he is clutching at straws: it is because he knows full well that, after he had been in the process of signing away South Australia last week—after he had been in the process of saying that, if John Hewson gets elected as Prime Minister, this State Government, courtesy of the kind of support that the Leader of the Opposition gives South Australia, will be worse off by nearly $140 million a year—that is the kind of thing about which he is embarrassed. In trying to defend his position, he comes to a memo allegedly dated—or some notes of a meeting allegedly dated—31 January 1991.

I have described publicly in this place and outside Parliament the process that we have been going through in talking with the Federal Government about South Australia's financial circumstances. We have had some very constructive discussions about that matter. I believe that the process that has been in train now for some time is an ongoing one, and I would hope that we will see a successful conclusion to it.

I would ask that the Leader of the Opposition join with me in ensuring that we get the best possible deal for South Australia—that we get the best possible deal for the taxpayers of South Australia—and that he do his bit to help this State's budgetary position and not do the sort of thing that he does by willingly signing away this State's financial future by putting his name to a document that acknowledges that John Hewson would take nearly $140 million away from the State budget of this State were he to be elected Prime Minister.

AUTOMOTIVE INDUSTRY

Mr QUIRKE (Playford): My question is directed to the Premier. In the light of the Federal Opposition's policy back down with regard to the sugar industry in Queensland, will the Premier once again be approaching the State Leader of the Opposition in a bid to get bipartisan support for the automotive industry in South Australia?

The Hon. LYNN ARNOLD: This is an important question. The Leader flew all the way up to Queensland to put his name to a document. He relished the signing of a document—

Members interjecting:

The Hon. LYNN ARNOLD: He went to Sydney—I am sorry. Perhaps he should have gone to Queensland, where he would have seen something that would have impressed him, rather than in New South Wales. He quite willingly signed away South Australia's budgetary future by his willingness to accept John Hewson's package that he has offered to the South Australian people. If he is so willing to sign, I invite him once again to co-sign with me a letter to John Hewson to bring to the fore the issue of the automotive industry. I have asked this before of the Leader; I have asked him to join in a bipartisan stance on this matter, and he has refused.

We now know that in the Federal arena things are somewhat up for grabs and that the Federal Opposition is quite happy, despite its earlier statements that there

would never be any change to Fightback, that there would never be any change to all the elements of Fightback—and there were a number of statements that there would never be any change to Fightback—to change it rapidly. It has been changing on a daily basis.

Indeed, it would appear that the only thing that has not yet changed is the Federal Liberal policy on tariffs for secondary industry. That would seem to be the one thing left. We have a window of opportunity (to use the jargon) to approach him to say, 'Look, you have changed everything else; for the sake of 100 000 South Australians who work in manufacturing industry and 20 000 who work in the automotive sector—the fully built up car makers and the component makers—and all those many tens of thousands of others who rely upon them and the export income it brings to this State, why don't you change this policy too?' Just to give an indication that we have a window of opportunity here that needs working on, we see in this morning's paper that, on the question of sugar tariffs, the Federal Leader of the Opposition has changed his stance. The article states:

Dr Hewson and senior Liberals have backed down over sugar tariffs.

The Hon. Frank Blevins: He said it was set in concrete.

The Hon. LYNN ARNOLD: Yes, but they backed down over this matter. Why have they backed down? Let us look at the number of seats in Queensland and northern New South Wales that seem to be of some concern to the Federal Opposition. We would have thought that would give us a chance for the automotive industry, but it is important that we work on this issue because, when the journalist quite correctly asked him, 'What about the automotive industry?' the article reports:

Asked if the motor industry deserves similar specialist assistance, Dr Hewson said monosyllabically 'No'.

That, to my mind, clearly indicates the cynicism. The Leader today gets up and says, 'What about the Federal Government being cynical!' Here we have the cynicism of it, where one more policy is just thrown to the winds by the Federal Opposition, and yet with one policy where we could do with a change of heart, a change of mind, where 100 000 South Australians in the manufacturing industry and all the South Australians who rely on those incomes and the whole State economy could do with a change of vision by the Federal Opposition, we find that the answer is 'No'.

The Leader was willing to fly interstate to sign away our future: let him be willing to sign for our future, to sign for the benefit of the South Australian manufacturing industry. I have sent a letter today to his office, with my signature on it and ready to receive his signature, that we can send to John Hewson.

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: They laugh, Sir.

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: I note, Sir, that last week—

Mr D. S. Baker interjecting:

The SPEAKER: The member for Victoria is out of order.

Mr S.J. Baker interjecting:

The SPEAKER: The Deputy Leader is out of order.

The Hon. LYNN ARNOLD: Last week the Leader stood up and asked me if I would sign the deal that he signed—the half-baked deal. I did not want to sign that kind of deal that was giving away $140 million worth of South Australia's financial future. That is what the Leader has signed. Last week he asked me whether I would do that, and I have given him a straight answer on that. I would like a straight answer that car workers in South Australia can listen to, that those employed in manufacturing in South Australia can listen to, that all South Australians generally can listen to. It is there for him to sign. I call on him to do so.

STATE BANK

Mr S.J. BAKER (Deputy Leader of the Opposition): Will the Premier tell the Prime Minister when he visits South Australia tomorrow that the South Australian Government totally rejects the view of Mr Keating that South Australia should be prepared to give up a head office banking operation in our State? The minutes of the 29 January 1991 meeting quoted in the previous question also expose Mr Keating's views about the sale of the bank. Mr Keating is recorded as advising South Australia to 'start background negotiations to try and sell it'.

He also referred twice during the meeting to South Australia losing a head office banking operation as a result of the State Bank losses—a possibility which is of very serious concern to many South Australian businesses that have been long-term customers of the bank, let alone the residents of South Australia. Mr Keating is recorded as saying during that meeting, '...can't assume no-one is interested in the bank but we lose the headquarters' and 'given the state of the problem, the cost of all this might be just that you lose the headquarters'.

The Hon. LYNN ARNOLD: Again we come back to these apparent notes of this meeting held in January 1991—and how much has changed since January 1991!

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: In any event, I am not in a position to be able to comment on the veracity of these minutes—

The Hon. Dean Brown interjecting:

The SPEAKER: The Leader is out of order.

The Hon. LYNN ARNOLD:—if they are correct minutes of such a meeting that might have taken place. What I do want to listen to are the views of Prime Minister Paul Keating at this particular time with respect to South Australia's financial situation. I want to hear those views, and I will hear them, I have no doubt, when he next visits South Australia and the various times he his here during the campaign. I have been asking him about various matters and we have been having discussions on previous visits to South Australia, and I think it would be much more worth while for me to pay attention to the views Paul Keating expresses in February 1993 than those views that may have been expressed and then may or may not have been correctly transcribed in

minutes that may or may not have been kept of a meeting held in January 1991. It seems to me that is the real issue.

If we are going to talk about other sorts of questions, about where financial institutions may have their headquarters, I think the Leader of the Opposition could do well to answer a few questions about his publicly recorded views on those matters when he was talking about his willingness to see the bank being sold offshore. I do not know exactly where the offshore headquarters would be, but the betting is they would not be on Kangaroo Island; they would be well out of Australia. So, I think this question again indicates the cynicism of the Opposition and the thinness of anything they have to go on when they have to use pieces of paper that are over two years old.

STATE TAXES

The Hon. T.H. HEMMINGS (Napier): I direct my question to the Treasurer. Has the State Government been approached by the Commonwealth and asked to permanently reduce its revenue base? At the request of Dr Hewson last week, the Leader of the Opposition went to an interstate meeting with other Liberal leaders and signed an agreement to abolish payroll tax. As a result of this it has been put to me by interested constituents that members of the public have a right to know whether there are other arrangements which might affect the State's finances which they are not aware of.

The Hon. FRANK BLEVINS: I thank the member for Napier for his question and certainly his constituents who have raised it.

Members interjecting:

The SPEAKER: Order! The Deputy Leader is out of order.

The Hon. FRANK BLEVINS: I do not want to be distracted by members opposite, because there is a very important issue here. The first issue is the question of compensation and, as I understand it, the Leader of the Opposition signed for dollar for dollar compensation for payroll tax. The Leader was boasting about this 1—1 'a dollar for dollar; you won't lose a dollar'. If the compensation is taken, as it has been stated, on payroll tax paid over the last three years, I can indicate what that will mean to this State. It will mean a very significant loss of, on average, about $12.5 million a year to the budget—a not inconsiderable amount.

Members interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: It does not stop there, because what has been said for the last 12 months by the Federal Leader and backed up by the then Senator Olsen, now the member for Kavel, is that you have to take this Fightback arrangement as a package. You have to take it as a package—don't pick the eyes out of it. I have heard the member for Kavel in this reincarnation of his previous life saying, 'Take it as a package—abolition of seven taxes, blah, blah, blah—don't pick the eyes out of it; take the lot.'

Let me indicate, besides the inadequate compensation for payroll tax, what it would cost this State Government's budget if you take the package, and that is what the Leader signed for last week. General purpose grants—spelt out there in the Fightback package—will be reduced by 5 per cent. I assume the Leader agrees with that—agrees with the package—I saw him sign there on TV, and that is $81.8 million alone. That is 5 per cent reduction—$81.8 million. I wish that somebody would ask the Leader if he agrees with that. The Building Better Cities grant for South Australia is to be abolished in the document, involving $28.4 million. Public housing funding in this State—again in the document; you have to take a package—is worth to the housing industry in this State—let alone the people in houses, but to the industry itself—$11.8 million. That roughly totals $140 million, and we can go on—local government, $3 million, and so on down the package, to say nothing of the zero tariff, zero jobs in our manufacturing industry.

I will say this: I had a little bit of respect for the way this package was presented—none for the package, let me make that clear, but a little respect for the way the package was presented because, in all fairness to Dr Hewson, backed up by then Senator Olsen, he did say 12 months out of an election, 'This is the way it will be.' He spent the past 10 months saying, 'This is the package that will save Australia.' He spent 10 months attempting to persuade the poor how taxing the necessities of life was in their interests. I heard him continually telling the poor that to tax milk, bread and clothing was in their interests. The poor were not persuaded, and to my disappointment, not on the issue but on the presentation, Dr Hewson changed on virtually everything. I thought that at last we had a person of some integrity. It was foolish, perhaps—

Mr S.J. BAKER: On a point of order, Sir, I am sure you can recall the original question, and I ask you to rule on the question of relevance.

The SPEAKER: The Chair is having some trouble recalling the original question. I ask the Minister to bring his answer to a close.

KINGSTON, MEMBER FOR

Mrs KOTZ (Newland): Has the Premier seen a letter being circulated by a Minister in the Keating Government who is telling his electors the truth about the State Government's responsibility for the losses of the State Bank, and does the Premier agree? I have a copy of a letter being circulated to the electors of Kingston by the Federal Minister for Defence, Science and Personnel (Gordon Bilney). The letter poses a number of questions about the attributes the member for Kingston should have, and I quote one of the questions, as follows:

Is it a person with the experience to fight for the Federal support South Australia desperately needs to deal with the mess caused by the State Government's handling of the State Bank?

The Hon. LYNN ARNOLD: I have seen the letter, and needless to say—

Members interjecting:

The SPEAKER: Order! The Premier will resume his seat. The Chair must hear the questions and the answers to uphold the Standing Orders. I cannot hear the answer with this background noise. The Premier.

The Hon. LYNN ARNOLD: I have seen the letter and, needless to say, I do not agree with Mr Bilney's opinion on this matter. Of course, it is an opinion given

by somebody whose entire concentration is on Federal matters, as quite rightly it should be. He is a Federal member of Parliament. He devotes himself very well to representing the people of Kingston in the Federal Parliament, and he will win that seat because he is a very good representative for them in the Federal Parliament.

However, when you spend so much time concentrating on that game you lose sight of some other games, and what has happened in this situation is that he has cast a gratuitous opinion—gratuitous because it is ill-founded. In this area, which is not about his basic business, that of being a Federal member of Parliament, he has got it wrong. But where he does attend to his basic business of doing what he is there to do, and which he does exceptionally well as a Federal member of Parliament, he does that correctly.

Members interjecting:

The SPEAKER: Order! The House will come to order.

MULTIFUNCTION POLLS

Mr De LAINE (Price): Can the Premier inform the House of the repercussions for South Australia and the MFP of the announcement by the Federal Opposition last week that it would scrap the Gillman core site for the project?

The Hon. LYNN ARNOLD: This is indicative of the views being expressed by the Opposition, both State and Federal, on the MFP. I think it is about time they got their act together and told the people of South Australia exactly what they believe. Does the State Opposition support the Federal Opposition's policy on the MFP?

Mr D. S_ Baker interjecting:

The Hon. LYNN ARNOLD: The member for Victoria interjects saying, 'Hear, hear', so we have a confirmation from at least one on the front bench that Gillman should be scrapped—that the Gillman part of the MFP—

The Hon. D. C. Wotton interjecting:

The Hon. LYNN ARNOLD: The member for Heysen also interjects; I think we could go through and do a bit of a checklist right here and now. Of course, that would be out of order and I would not wish to do that. The Leader himself could simply clear up the matter by coming out with a statement as to what is the view of the State Opposition on the MFP and in particular the Gillman site. The Opposition knows that, if Gillman is to be dropped from the MFP, the concept is effectively dead and it would be a major blow to South Australia and the international reputation of this State. I have always had the view that Gillman is not of itself the MFP: it is a part of the MFP. That is a view I have always expressed.

Members interjecting:

The Hon. LYNN ARNOLD: The MFP is not a new concept; if the member for Kavel had listened to or read the comments I have made over a long period, he would know that I have always said that the MFP needs to involve parallel development between Gillman and the other technology opportunity centres around Adelaide. However, as the Mayor of Port Adelaide, Bob Allen, said when he called for bipartisan support for this project and expressed his great disappointment with what the Opposition has said on this matter, we need a national project, not just an Adelaide project. This is what the MFP was supposed to be—a national project, MFP Australia.

The physical development at Gillman is a crucial aspect of this national project and will bring significant benefits to the State. As I said before, to scrap Gillman is effectively to gut the MFP project. The MFP has always been a unique combination of elements reflected in the very use of the term 'multifunction'. The Opposition proposal to scrap the core site would kill the important environmental and social aspects of the project, and I think it must come clean and say how it would not, if it contested that point. It has not come up with any alternatives; there is this constant nitpicking and trying to carp about the project without saying exactly where it stands. The clear point is that, not only would it gut the project, but it would also concur with the Federal Opposition, if it became the Government, taking away funding from the MFP and truly see the project downgraded from a national project to simply a State based project.

I remind you, Sir, that members opposite have already made comments about the way in which they would fund it federally. Comments by the State Opposition Leader highlight the real problem that would be caused by the proposal. The Leader wants to rename the project 'Adelaide Technopolis', as I understand it. What a graphic illustration of the downgrading of the project in the eyes of the Opposition. After all the work that has gone into it, we are now at the very stage—the takeoff stage in 1993 when this project will really come into its own in the public perception—at which this Opposition at both State and Federal level want to throw it off the rails, gut the project and effectively finish it.

Mr OLSEN (Kavel): How does the Premier justify the continuing delays in the appointment of a Chief Executive Officer for the multifunction polis project, given that applications were called nine months ago? When is it now expected that an appointment will be made?

Members interjecting:

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

Members interjecting:

The SPEAKER: Order! The member for Adelaide is out of order, and the Chair will not keep reminding members. The Premier.

The Hon. LYNN ARNOLD: The member for Kavel would do well to remember what has been said on this matter, that is, that the board is made up of people who should be going through the process of nominating the person to be the Chief Executive Officer. We tried to assist in that process by having advertisements called last year to net in a series of names that could be considered by the board when it was appointed. I have said this before; I refer the honourable member back to Estimates Committees last year and other places where I made comments on the processes that should be gone through.

When the board first met under the chairpersonship of Alex Morokoff, he made the point that a number of the names that had come in were either no longer available

or available but not considered to be the best choices. Other names were considered very good choices indeed but it was felt that perhaps new names had become available which could be added to the list of names, both from the advertisement and from the head hunting process that had been gone through.

The Chair said to me that he wanted to bring a list of two or three names after the board had considered it for me to have a look at and to get my opinions as well. He had hoped to be able to do that before Christmas. But, given the time that had elapsed over the previous months, he felt that the names that had been got in the first call were no longer the most current names. He wanted the opportunity, through head hunters and others, to seek out some more names. He indicated that he would be in a position to come to me in the first quarter of this year. We are in the first quarter of this year, and we will remain there until 31 March. I am very confident I will have some names proffered to me soon by the Chair of the MFP board and then, after further discussions, I am very confident that a name will be chosen, an appointment made and a public announcement made accordingly.

The Hon. J.P. TRAINER (Walsh): I direct my question to the Minister of Education, Employment and Training.

Members interjecting:

The SPEAKER: Order!

The Hon. J.P. TRAINER: Will the Minister advise the House of the job creation potential of the MFP in view of the statement by the Leader of the Opposition on radio 5AD last Saturday that the original Gillman concept of the MFP would not produce one permanent job for South Australia under about four or five years?

The Hon. S.M. LENEHAN: I thank the honourable member for his question and for his support for this proposal. It should be noted for the *Hansard* record that a number of Opposition members, while the question was being asked, found it amusing in terms of a statement made by the Leader of the Opposition that demonstrated not only his negativeness and his cynicism but also a parochial attitude and complete disregard for any concept of vision that might be part of South Australia's future. I would like to remind the honourable member, in case he is unaware of this, that the original Gillman concept was absolutely fundamental for Adelaide being chosen as the national focus for the MFP. This project is not about a parochial, small time project with a small amount of vision: it is a project of national and international significance.

In answering the honourable member's question about job creation, I would like to put a couple of facts on the record, because they are not things that the Opposition likes to hear. Many industries, as a result, first, of the concept being identified at Gillman and, secondly, of South Australia's being awarded this international and national project, have indicated support, and development proposals and employment opportunities are already flowing.

Mr Ingerson: Name them.

The Hon. S.M. LENEHAN: I will name them, if the honourable member would like me to do that.

The SPEAKER: Order! The Minister will resume her seat. The Chair is not sure whether the member for Bragg was speaking out loud and being disruptive or was interjecting: both actions are out of order.

The Hon. S.M. LENEHAN: I put to the House and I put to you, Mr Speaker, that the Opposition has lost the focus of this whole national dimension of the project and, indeed, as the Premier has said, of the social and environmental opportunities it can create. I cannot believe that any Opposition, having had the opportunity to be briefed thoroughly on the project, particularly with respect to the cleaning up of the Gillman site, the opportunity to provide a pilot project and a pilot program that can then be marketed to the rest of the world in terms of cleaning up this highly contaminated site, would want to turn its back on this part of the concept—and it is only one part of the concept. Of course, Science and Technology Parks are linked in with some of the major developments that will be happening through the MFP.

Work has already been undertaken on the greening of the Gillman site, and this has included the involvement of the Aboriginal community. The economic analysis for the development of the site will consider the timing and, indeed, the staging of works. But I can tell the House that already work has started on the site in the earthworks trials, which are currently employing people. So much for the four to five years out: people are currently being employed. It is interesting to note—and I would like to put this on the record in response to the out of order interjection—that a number of projects are already committed to the MFP.

The setting up of the signal processing research institute at Technology Park north of Adelaide is one such project. There is the multi-million dollar commitment by Arena-GSM to locate in Adelaide and be part of the MFP infrastructure in communications and information technology. There is the commitment by BHP to support the MFP project by locating a major facility there, and let me remind the now Opposition spokesperson on the environment—he would be aware of this—that we believe that the National Environment Protection Authority will be located here in Adelaide, as indeed will be the R&D facility of the Commonwealth Environment Protection Authority. The MFP Services Company, a vision which brings together local companies and international companies—

Members interjecting:

The SPEAKER: Order!

The Hon. S.M. LENEHAN: Well, you asked for this—

Members interjecting:

The SPEAKER: Order!

Mr S.J. BAKER: Mr Speaker, I rise on a point of order. I draw your attention to the length of the answer.

The SPEAKER: The answer is starting to stretch out but, on my timing, including a point of order and an interjection, the answer has not been too excessive in length, but I ask the Minister to come to a close.

The Hon. S.M. LENEHAN: Thank you, Mr Speaker. The MFP Services Company will provide the vision to ensure that we can sustainably get rid of our waste in that area, that we can look at the provision of water and the provision of electricity and gas, and that we can look at creating the kinds of eco-villages that can then be

marketed around the world. I understand that this is too much vision for the Opposition, which cannot raise its sights above negativity and parochialism.

Another development is the biomass project, which involves the use of trees to generate fuel and to treat waste, such as sewage. Of course, another project is the utilisation of Raywood as a privately operated, internationally recognised centre for multilingual IT&T training. Those are but a few. This demonstrates what a nonsense the Leader of the Opposition's statement is that there would be no jobs at the MFP for four to five years. What a nonsense!

Mr BECKER (Hanson): What success has the Premier had in convincing the Federal Government to offer tax breaks for investment in the MFP? At the annual State Convention of the ALP last August, the Premier supported a motion calling for Federal tax incentives for the MFP, but Mr Keating has yet to respond.

The Hon. LYNN ARNOLD: Indeed, I raised this matter at the national trade strategy meeting of the States and the Federal Government and I indicated how important this was, at that time as Minister of Industry, Trade and Technology. Indeed, I was echoing comments made by the member for Ross Smith, the then Premier, who believed that that was an important direction to follow. It is something that I had hoped we could further pursue at this year's national trade strategy meeting which was due to be held a couple of weeks from now but which, obviously, has been cancelled as a result of the Federal election.

I remain of the view—and have said this publicly and privately to the Prime Minister—that it is important that there be tax breaks for projects such as this. I hope that that is a view that will be listened to by the Prime Minister. I believed that, when the One Nation statement came out last year, it indicated that there was now an attitude in the Federal Government that it was prepared to look at special incentives and taxation breaks for certain projects of national significance. As a result of those statements, which came after the national trade strategy meeting at which I first raised the matter and which gave us hope that the matter was being listened to, we have been, through the MFP as well, pursuing this issue, and we will continue to do so.

WOMADELAIDE

Mr McKEE (Gilles): Can the Minister of Tourism indicate the economic impact that Womadelaide will have on South Australia? I understand that this is the first time that Womadelaide has been staged as a single event in the southern hemisphere, and I would like to know the economic benefits of hosting this international music and dance festival.

The Hon. M.D. RANN: Tourism South Australia is delighted to be involved in WOMAD, which of course was a major success when it was first held during the Adelaide Festival of Arts last year, attracting about 30 000 people. WOMAD, as I am sure everyone here is aware, stands for the World Of Music And Dance. Peter Gabriel, who headed the first WOMAD in Europe 10 years ago, is one of the major drawcards at this weekend's event. It is also his first and only Australian appearance before a major world tour.

It was important that Adelaide secure WOMAD. We are talking about a major international event. It is the first time it has been held anywhere in the southern hemisphere. Melbourne, Sydney and a range of other cities around the world have been bidding to get WOMAD. Adelaide was successful once again. As I say, we hope it will be a regular event on the South Australian calendar, hopefully on alternate years to the Festival of Arts.

I can tell members, because I know they are interested in the bottom line, that ticket sales to date are at about $300 000, which is way ahead of last year's sales even on the day of opening let alone a week ahead of time, and we look very likely to exceed our best expectations of sales. Yesterday Womadelaide achieved its record box office of more than $27 000 worth of sales in one day, which is $10 000 more than the previous record. Last year tickets at the gate returned $211 000, which means that within a week to go there is every chance all our targets will be exceeded.

There is another spin-off to WOMAD, and that is that it is expected to have an economic impact in terms of this city and State of $500 000 because of the interstate visitors involved. We expect there to be more than 2 500 interstate visitors and, even taking the most conservative estimate of spending $200 over the three days of the festival, we expect a $500 000 impact on the city.

The Federal and State Governments together with the Adelaide City Council have helped fund Womadelaide, with my colleague the Minister for the Arts and Cultural Heritage and myself as Minister of Tourism underwriting Peter Gabriel's appearance as part of the indigenous people's celebrations. Obviously we are very pleased to build a series of events in order to make sure our reputation as being the Festival State, a State that can stage international events such as the Grand Prix and Festival of Arts, is built upon. I am pleased to hear that a number of hotels and hostels are already fully booked for this weekend.

ASH WEDNESDAY BUSHFIRE

Mr VENNING (Custance): My question is directed to the Premier. On this the tenth anniversary of the tragic Ash Wednesday fires, will the Government reveal how many compensation claims remain outstanding given the time it has taken to reach a settlement? Does the Government believe that current procedures are inadequate given that most claims from the Ash Wednesday fires in Victoria were settled in six months? The anniversary of this tragedy has generated public debate about compensation procedures. One woman whose claim is outstanding was widowed in the fire and was left with four children. She has revealed that the compensation procedures have even extended to the requirement that she answer questions about whether she has received any proposals of marriage since the loss of her husband and, if so, on how many occasions and whether she intended to remarry.

The Hon. Jennifer Cashmore interjecting:

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

The Hon. LYNN ARNOLD: I am advised that ETSA has received 2 204 claims for property damage and that 2 109 of those claims have been settled. Only three property claims have been to trial by the courts. In the case of the Adelaide Hills, it has not been necessary for any claim to proceed to court determination. Of the 95 claims outstanding, ETSA is awaiting a response in relation to 91 either as to an offer made by ETSA or a request for further information; and the remaining four claims are presently being assessed. Of personal injury claims, only five have proceeded to court; and of these three were with regard to the time point only, that is, the claim was statute barred and the claimant was required to obtain an extension of time. Of the remaining two matters, one has settled and in the other the claimant has been ordered to pay ETSA's costs. I believe that that provides the information sought by the honourable member. If any other relevant information is available on this matter, I will provide it to the honourable member.

FIRE PREVENTION

Mr QUIRKE (Playford): I address my question to the Minister of Emergency Services. Will the Minister outline to the House current initiatives in relation to fire prevention in South Australia? As the last questioner indicated, today is the tenth anniversary of the 1983 Ash Wednesday II bushfires. It is an appropriate time to reflect on what preparations have been taken to try to avoid a disaster on a similar scale in the future, as I indicated in a speech I made in the House last week. I would like to know, as I am sure would every South Australian, what initiatives have been undertaken in South Australia in relation to fire readiness.

The Hon. M.K. MAYES: The member for Playford has a direct interest in this matter: as he indicated, he was involved in the 1983 Ash Wednesday fires, having had first-hand experience, something which not too many people would want to have but certainly I guess that experience was invaluable in the sense of his contribution as a member of Parliament and, of course, as a member of the community.

Unfortunately, the information I am receiving from our fire prevention officers throughout the State, particularly the Adelaide Hills, is that people are not heeding advice or the warnings that have come from Ash Wednesday of 1983 and, sadly, that puts at risk not only themselves but also, of course, their neighbours, friends and the community at large. But, referring to the honourable member's question in particular, it is important that we record that there has been much progress since 1983 in the whole structure of emergency services and particularly, of course, in the coordination of fire prevention throughout the community.

When dealing with bushfires I think it is important to note that the old adage really does apply: prevention is better than cure. We see now that many things have been achieved by the Country Fire Service, in particular the State Emergency Services, with coordination occurring between all the emergency services—police, ambulance, fire and so on. We did face in 1983, 1 think it is fair to say, a lack of coordination in some of those areas and that was well exposed by the various investigations that have taken place.

However, since then there has been a very definite and concrete effort on the part of Government and the community to ensure that we have a structure that can respond to emergencies of the sort we faced in 1983. As much as we would like to say that we will never face another Ash Wednesday, the fact is that, given the nature of the State and of the environment in which we live, we cannot avoid bushfires but must do everything in our power to see that it does not recur and do everything to prevent the damage and the loss of life that occurred in 1983.

I believe it would be very foolish to become complacent, lethargic and not to face this matter in a very vigorous way. Preventative measures have been taken throughout the State with the establishment of a variety of structures. Communications, together with improved liaison between the emergency services as a consequence of the reviews of what occurred in 1983, have led to a much better service, placing our officers who risk their lives at less risk because of the steps we have taken. We have come some way towards achieving, I believe, some of the essential elements in providing that sort of protection for the community.

We have set up throughout the State a three-tier bushfire prevention system to educate and assist the community in reducing fire risk. It starts at the local level, with council employed bushfire prevention officers on hand to help residents with bushfire prevention methods. These officers are trained by the CFS and are able to work with the local CFS, the council and the community to ensure appropriate fire prevention plans and an improvement in the district's preparedness and response in the event of fire.

At the next level, regional bushfire prevention committees coordinate fire prevention strategies in each of the eight regions throughout South Australia, and overseeing the State is the South Australian Bushfire Prevention Advisory Committee, which provides me with advice on overall bushfire prevention needs.

In addition, of course, the CFS has played an important role offering advice on building design and location as part of the planning process for building in the Mount Lofty Ranges and throughout the State, so again attempting to reduce and avoid future fire risk and save lives. It is important today that we convey that message to the community, and as part of that process I join with the CFS to announce a series of awards that will recognise efficiency and achievement within communities in each of the regions. This will involve prizes of $500 for the eight best regional fire prevention strategies and a major prize of $2 500 for the best overall region.

We believe this is part of the education process to bring home the message to the community to be prepared and to do everything in their power, particularly this year with so much fuel throughout the State, to be ever vigilant. I ask the community to joint with their fire prevention committees throughout local and State regions to ensure that we do not face the same devastating results that we saw from Ash Wednesday 1983.

INC SCHEME

The Hon. D.C. WOTTON (Heysen): My question is directed to the Minister of Health, Family and Community Services. What alternative programs will the Minister introduce to cater for children under his care and control when INC parents are forced to withdraw from the Intensive Neighbourhood Care program, and what will be the cost to the community of such alternative programs? INC parents are being forced to consider withdrawing from the program—and I received further representation on this matter this morning—because of frustrations and lack of support from the Government. According to the 1990-91 Family and Community Services Annual Report, it was costing $151 000 to keep a child in an institution for one year. The cost was $12 500 under the INC program, and the records show quite clearly that children under the INC program were less likely to reoffend.

The Hon. M.J. EVANS: I am not quite sure how the honourable member opposite has drawn the conclusion that in some way the INC system is no longer supported by this Government or indeed that it is in any state of difficulty. This Government strongly supports the INC system. It is an excellent scheme. It provides very good care for a number of very difficult children who need particular attention. That scheme has recently been revised to ensure that the payments under it are consistent and compatible with those paid under the foster care system. In fact, some $242 per week is paid to the parents of those children. That is a very substantial amount. In a few cases, there has been a reduction in the total amount payable to the family, and those parents of current children have received an assurance from the department that they will continue to receive the existing rate until such time as that placement expires.

Other parents receive the appropriate funding which they consider to be quite relevant, and they continue to support the program. When new parents come into the scheme later on, they do so on the basis of the conditions prescribed. I think those amounts are entirely appropriate. I am very surprised at the tone of the question, given that Liberal Party policy dated November last year talks about instigating a graduated system under which higher payments are made at the beginning of the accommodation period, scaled down over a 12 month period to foster care levels. If it is scaled down to foster care levels, that will halve the payment, if I have understood the Opposition's policy correctly.

The Hon. D. C. Wotton interjecting:

The Hon. M.J. EVANS: Then I would suggest an equal difficulty applies in relation to the honourable member's understanding of the policy presently being implemented by the Government. I invite him to discuss this with me in detail, because it is a matter which I would have thought requires bipartisan support. This program supports these children extremely well, and I believe it will continue to do so. The Government has to be responsible about the financial aspects of the program, but I would not have thought that INC parents would support a plan which would reduce their payments substantially over a 12 month period. That is hardly supporting an INC scheme.

WOOLPUNDA SCHEME

The Hon. D.J. HOPGOOD (Baudin): My question is directed to the Minister of Public Infrastructure. Following the completion of the Woolpunda scheme on the river some time ago, is there yet sufficient information for us to judge as to whether the hopes that were raised for the scheme's impact on salinity in the river have been realised or are being realised? I note from the *Advertiser* this morning that the average salinity in the South Australian part of the river is about 300 electro conductivity units. I recall that it was predicted that Woolpunda's permanent reduction in salinity past Morgan, which is important for both Adelaide and the Spencer Gulf towns, was at least 40 electro conductivity units. So, members can see that that is a not inconsiderable impact on the overall level of salinity.

The Hon. J.H.C. KLUNDER: I thank the honourable member for his question. As most members would know, the Woolpunda salt interception scheme is a way of pumping out the naturally occurring saline ground water before it finds its way into the river and then pumping into an evaporation basin where it can no longer interfere with the river. One of the problems we have found is that the naturally high river levels over three of the past four years have been such that it has been difficult to make any precise measurements of this; however, such measurements as have been taken indicate that the Woolpunda salt interception scheme lives up to its expectation of removing 170 tonnes of salt from the river.

The Hon. D.C. Wotton: It's not even finished yet!

The Hon. J.H.C. KLUNDER: The honourable member is confusing the Woolpunda scheme with the Waikerie scheme. The Waikerie scheme was finished in December of last year.

Members interjecting:

The SPEAKER: Order!

The Hon. J.H.C. KLUNDER: The honourable member really needs to check his facts and figures before he interjects in this Parliament. The Woolpunda scheme has been finished for some time. The Waikerie scheme was finished in December last year, and the honourable member is confusing the two. It is not the first time he has confused matters.

Members interjecting:

The SPEAKER: Order!

The Hon. J.H.C. KLUNDER: The Murray Darling Basin Commission has looked at the capacity of the Woolpunda scheme by upgrading the pumping in some of the bores actually to increase the amount of pumping that can take place from that scheme over and above the current rating of (I hope) 170 tonnes per day to a further 30 per cent of pumping. Indeed, it has come to the conclusion that that is reasonable and it is spending a further $.25 million in order to upgrade that pumping capacity. Just to finish off the answer in regard to the honourable member's interjection, there is a salt interception scheme at Waikerie which is immediately downstream of the Woolpunda scheme. That has just been completed and has been operating since December last year, and saline ground water there is extracted from 17 bores on the Waikerie side of the river only, and is also pumped to the Stockyard Plains basin. When this

scheme is fully operating it will remove about 100 tonnes per day.

TAFE STAFF

An honourable member: How's your kidney stone, Bob?

Mr SUCH (Fisher): It is like the State Bank debt: it is very painful and hard to get rid of.

Members interjecting:

The SPEAKER: Order! The member for Fisher will direct his question through the Chair.

Mr SUCH: My question is directed to the Minister of Education, Employment and Training. Why has the Government reduced the TAFE contract lecturing staff by 160 full-time temporary equivalents from 420 in December 1992 to 260 in February 1993, and how will this help South Australia rebuild its skilled work force?

The Hon. S.M. LENEHAN: The honourable member would know that the way in which TAFE operates is to look at bringing in many of the lecturers on a part-time basis—in some cases, on a part-time permanent basis but in many cases in a part-time temporary capacity—to be able to deliver the short courses. The reason for this is to ensure that TAFE has the flexibility to be able to provide for the needs of the community, and those needs are changing. The honourable member would also be aware that TAFE has been working—

Members interjecting:

The SPEAKER: Order!

The Hon. S.M. LENEHAN: I was asked a question; I know the member—

The SPEAKER: Order! The Minister will resume her seat. I will not yell; I have a sore throat and I will not yell any more.

The Hon. S.M. LENEHAN: The honourable member is asking the question quite genuinely and I would like to provide him with an answer. In the past few years, particularly under the leadership of my colleague, the previous Minister, a very close working relationship with industry and the training sector in South Australia was developed through the TAFE system to enable the colleges, whether in the far-flung rural areas or in the city of Adelaide, to provide courses and packages, working with their Federal counterparts in terms of some of the funding that comes through and working with industry to provide for its needs. Many of the lecturers are temporary. They are brought in to deliver the packages and then, of course, when they are not needed, as is quite appropriate, they are not kept as permanent employees on the payroll.

I do not have in my head the figures to which the honourable member referred. I will obtain a report for him, and I will provide him with the specific answer to his question. However, I would ask him to consider his question within the way in which TAFE operates in South Australia as a responsive vocational training organisation working with industry and business.

CORPORAL PUNISHMENT

Mr HAMILTON (Albert Park): Will the Minister of Education provide background information on the Government's decision in 1990 to ban corporal punishment in schools? Recently, the Leader of the Opposition announced that a Liberal Government in South Australia would reintroduce caning in State schools. My electorate office has received many calls from parents expressing views ranging from anger to outright condemnation of this proposal. One parent—

An honourable member interjecting:

Mr HAMILTON: Belt up!

The SPEAKER: Order! The member for Albert Park is out of order and will direct his remarks through the Chair.

Mr HAMILTON: Yes, Sir. One parent wanted to know whether the Brown policy would apply equally to boys and girls.

The Hon. S.M. LENEHAN: I cannot answer the last part of the honourable member's question, and I suspect the person to whom the honourable member refers, in other words the Leader of the Opposition, is the only person who can answer that. I, as Minister of Education, Employment and Training, would be pleased to hear his answer. Does he intend to bring back caning and corporal punishment for all students? What does he intend to do with students who are past the compulsory age of attendance at schools? What about adults who are attending? We have many adult re-entry programs—and we have one in the honourable member's electorate; is the honourable member intending to cane and beat those younger and older adults who are coming back into schools? What the community is saying was highlighted not only in the editorial of the *Advertiser* but indeed in the article of 5 February, entitled, 'Schools Cane Liberal Policy on Discipline'.

I would like to put my own position on the public record in this Parliament. I do not believe that there are parents—in fact, if there are, they would be very few in number—who want to see strangers beating and caning their children. When those strangers are adults, I do not believe that they want to see that. I also do not believe that professional teachers should be required to exercise violence as a form of discipline. The last word on this matter probably came from none other than Alex Kennedy when she talked about Dean Brown. In her article, she says:

> Admittedly Leader Dean Brown doesn't want capital punishment so no doubt he'll ensure teachers don't kill anyone with the cane, only hurt them a lot.

Her comment was 'Yuk!' She continued:

> After statements on capital punishment, and caning in schools what's left? Castration for all wandering husbands or is that too close to home?

I will not make any comment about that statement: it is Alex Kennedy's statement, not mine. What I think the Alex Kennedy article highlights is the absolute absurdity of a Party bereft of any policies wanting to reintroduce physical violence.

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

The Hon. S.M. LENEHAN: No; they don't like this: of course they don't.

The SPEAKER: Order! There is a point of order. The Minister will resume her seat.

Mr BRINDAL: I believe that the Minister is debating the question, and I ask you to rule on the matter.

The SPEAKER: Order! I uphold the point of order. I ask the Minister to come back to the question.

The Hon. S.M. LENEHAN: Corporal punishment is certainly not an effective deterrent. It sends all the wrong signals. The message it sends to young people is that the more violent they are, the more of a bully they are and the stronger they are in terms of physical violence, the more able they will be to resolve problems. That is the way to modify behaviour to resolve problems: it is not the way to engender self-discipline. It is not the way forward: it is the way back into the dark ages. The community will judge the Leader and his policy accordingly.

GRIEVANCE DEBATE

The SPEAKER: The proposal before the Chair is that the House note grievances.

Mr LEWIS (Murray-Mallee): Most members here would know, if they know anything at all about geography or geomorphology, that the Lower Murray Valley is characterised by wide swamps on one side of the main stream and by steep cliffs of limestone on the other side for most of its valley in the Lower Murray. There are very few sites of gently sloping land to the water's edge of the main channel.

We also know that recently the Murray Valley Management Review Report suggested that the river was a multi-user resource. Indeed, it is and no-one disputes that. One of the main uses to which the river has been put is that of tourism, and that is envisaged to be, according to the Murray Valley Management Review, a continually increasing use to which the river will be put for the benefit not only of people who live here in South Australia but of people from elsewhere as well.

My remarks about the geomorphology are particularly important in the context of our scrutiny of locations in which we can develop appropriate tourism facilities. Let me now turn to a related matter, though not seemingly so at this point. The South-East Freeway crosses the river at Swanport. A bridge for that purpose was built there about 10 or 12 years ago. The Government acquired the land for the bridge and the approaches to it. It thereby created new allotments of land that have no frontage to any other road than this highway at that point.

After having created those allotments, it then proclaimed the road as a restricted access road and did not provide any access to that public road from the frontage of those allotments to enable people to get from those allotments to any public road. Hence it created landlocked land. That was a decision of the State Government—

Mr Atkinson interjecting:

Mr LEWIS: Whatever you prefer; whatever turns you on—I do not mind. The fact remains that the land remains landlocked. The Government got around this by providing a permit to enable people to get access to the said land. It simply said, 'Well, you cannot use it for anything else but agricultural purposes.' Of course, that shows the Government's inanity and short-sightedness and is in conflict with the Murray Valley Management Review proposals for this land and the Murray Valley in general.

It was also to be expected that such geomorphologically rare sites would be the sites upon which tourism facilities could be developed, because of the ready access to the water's edge of the main channel across gently sloping terrain. Tragically, though, the Government has illegally created a situation in which that landlocked land exists and it refuses to allow the owners of the land to develop it for the purpose for which it has been zoned. By the way, that opinion is shared by Crown Law.

This matter was first raised with the Department of Road Transport early in 1988. It has been shuffled around ever since and nothing has been done to resolve it. The issue has not been resolved and it is about time that it was resolved. The development of the land cannot proceed without access and, in the meantime, the owners are paying $30 a day in debt servicing costs. I know it does not mean anything to this Government, because it simply does not understand private enterprise. That has been the tragic situation for more than the past four years.

The proposal to acquire access via adjoining land would result in substantial cost to the local community. Logic and informed opinion from qualified parties supports that there should be access adjacent to or through the Frank Jackman lookout located next to the freeway. It has been the poor handling of the matter which has caused the problem.

The Department of Environment and Planning admits the error but does not have the power to rectify it. The Department of Road Transport has the power but claims the problem is not its fault. In my judgment, both departments should get together and the Minister of Road Transport should compel them to settle the matter so that it can be resolved and so that the people who own the land can get access. The Minister must give a direction to fix the problem now.

It is long overdue and, if the Minister does not act, she is clearly confirming the Government's public image, namely, that it does not care, that it is snap frozen and that it cannot make decisions on hard problems. There is no logical or valid reason why the Jackman lookout access cannot be utilised.

The ACTING SPEAKER: Order! The honourable member's time has expired. The member for Albert Park.

Mr HAMILTON (Albert Park): Today I would like to hand out a bouquet to ETSA. True, it is not often that I dish out bouquets in this House, but the reason for my wanting to hand a bouquet to ETSA is for the wonderful booklet it has published, the Seniors Information Guide. For those members of Parliament who have not read this guide, I commend it to them, because it details a number of helpful hints to the many people in our community who are retired or classified as seniors.

I refer to the seniors register, a special service available to customers 55 years and over. The guide

helps pensioners to deal with problems that they may have in paying their electricity accounts. The service is free and has been designed with assistance from officers of the Commissioner for the Ageing. Its purpose is to give pensioners and their families peace of mind in emergencies. It goes on to detail how the register works and states:

Suppose you've been taken ill and cannot get out to pay your electricity account. When it becomes overdue, ETSA will send out reminder notices. If it remains unpaid, we will take the normal follow-up action. However, if your name is on the seniors register, we will make a special effort to contact you and discuss why your bill has not been paid.

And so it goes on. This is an excellent and commendable service provided by ETSA. It also provides for constituents a seniors register form and, underneath, a white sheet on which people can make notes. It provides details on Ageline and a list of emergency services telephone numbers, including those of ETSA, the Poisons Information Centre and the State emergency number, with room provided so that seniors can enter the telephone numbers of their doctor, electrician, hospital and plumber.

It also provides an instant guide to ETSA services for account inquiries and for the Electricity Centre. For those members of Parliament who have not been to the Electricity Centre, I point out that it is an excellent centre which provides free, unbiased electrical advice. It is very worthy of a visit, which I would commend to any senior citizens organisation or club in the community, because it provides information about not only the running cost of particular pieces of equipment but also which equipment is more economical in terms of air-conditioning and so on.

It also provides information on customer services where people can ring for complaints. If you have a problem with your hot water service it provides a help number. It also contains very helpful hints on home security and safety. For example, one I picked out was, 'If you are away for any length of time leave your fridge on.' Many people will turn off their refrigerator, and the reason why it should be left on is that a thief may check the meter box to see whether or not power is being used—an example of the method by which such people in the community can determine whether or not a person is at home.

Another example we hear of quite often in the community is, 'Don't go out and leave the porch light on': that is a dead giveaway, in my opinion, and we see here that the use of infra schemes is recommended, which I would commend to anyone. I have one fitted in my home and it is an excellent way of detecting people who come onto a property. There are other hints, such as kitchen hints, keeping comfortable, meter reading made easy, and information about the account.

Again I commend ETSA and those responsible for this excellent kit. I believe it is one that every senior citizens club in South Australia should have and, if seniors are lucky enough, they themselves may be able to obtain a copy. I will be disseminating this information to different groups in my electorate, particularly the seniors groups, my area having one of the highest ratio in South Australia. It is a very important document, and I commend ETSA and those responsible for their efforts in producing this Seniors Information Guide.

Mr GUNN (Eyre): I rise this afternoon to express my concern at the misleading and grossly inaccurate campaign which has been launched by the South Australian Institute of Teachers. A constituent of mine yesterday advised me of this matter and today provided me with a copy of this misleading and inaccurate letter which I understand has been sent to the private address of all SAIT members in South Australia. The letter, dated 13 February, states:

I am writing to you as a matter of urgency in response to the recent announcement that a Federal election is to be held on 13 March. This election will certainly be a crucial one for education. For SAIT there are three key issues: industrial relations... quality of education... equity.

It goes on to say:

Under a Liberal Government the situation would be far worse. It would, by cutting Federal funding to the States, force our State Government to further cut resources to public education... It is because the outcome of this Federal election can so profoundly affect the future of our education system—because our welfare and that of our students is on the line here—that I am taking the unusual step of contacting you directly in this way... It is, however, the considered opinion of both the Australian Teachers Union and SAIT executives that it is in members' interest to put the Liberals last.

If SAIT wants to be taken as a serious organisation, an organisation that prides itself on the fact that it provides accurate information to it members, if it is wants to be taken seriously in the future by the Liberal Party both in this State and federally, it will have to prove to Liberal Party members that it is not an agent of or an unpaid campaign office for the Labor Party. We know it will spend $750 000 campaigning, and this campaign is just a trial run for what it will try to do in a State election.

I challenge the SAIT executive—and this letter was signed by that well-known left wing extremist Clare McCarty and that little bunch of left wingers who have control of it—and say to them that if they believe in fairness, justice and having a constructive debate on education they will provide the correct information about Federal and State Liberal Party policies. They have already received assurances by the Leader of the Opposition in this State but they choose deliberately to deny that or to provide the correct information. I challenge the executive and Clare McCarty to use their facilities to provide accurate information to all members of that organisation in South Australia, thereby letting them then make a judgment as to who is telling the truth.

The Liberal Party and I have no problem with people making a judgment based on fact and truth. However, I do have a problem when an organisation uses its facilities in a blatant way to provide to its members inaccurate and unfair information based on the assumptions of a few ill informed political activists. They are the facts, and I issue that challenge. If they are not prepared to accept that challenge we will know that they are not interested in the truth; we will know that Clare McCarty and others only want to use this campaign as a vehicle to further their own political activities. Is it to get into this place? Is it to get a seat in the Legislative Council, a seat in the Senate or in the House of Representatives? We will

know, and we will know when we are in Government that they are not interested in constructive dialogue, because their campaign will not be successful. They will not win. We all know that.

This is a last ditch attempt to mislead, to confuse and to endeavour to justify the expenditure of a large amount of their members' money. Obviously, the Institute of Teachers has plenty of time and after the election will be able to collect its own union dues. If they want to play this game, two can play it. Perhaps they would like to collect their own union dues, and see if they then have time to engage in this sort of scurrilous activity. Two can play it rough and do a number of other things. All we want to see is fairness and a constructive debate so that we can improve the standard of education in this State on behalf of the students.

The DEPUTY SPEAKER: Order! The honourable member's time has expired. The honourable member for Unley.

The Hon. M.K. MAYES (Minister of Environment and Land Management): I wish to take the opportunity to draw to the attention of my constituents a matter of interest regarding the activities of the Liberal candidate for the seat of Unley. I think it is important for me to do so, because there have been some interesting political gymnastics from the candidate over the last few weeks. Mr Deputy Speaker, I want to highlight—

The Hon. Frank Blevins interjecting:

The Hon. M.K. MAYES: I think even more, because he has an interesting approach to how he sees his role and functions within this Parliament, particularly within the responsible committees. An interesting issue has been drawn to my attention through the media, both the print and radio media, about the activities of the member who is the Liberal candidate for the seat of Unley.

Mr Brindal is a member of the Economic and Finance Committee, having taken up that task in 1992. It is interesting to note that in a recent report of the Economic and Finance Committee the honourable member was involved in that and was part of the unanimous vote in regard to the West Beach Trust. As a consequence, I refer to a 5AN radio interview broadcast at 9.5 on 12 February and to part of the transcript of that interview in which Mr Ron Kandelaars was reporting on the weekly roundup of State politics and being interviewed by Mr Keith Conlon, the program presenter. I quote from Mr Kandelaars, as follows:

> There has been a number of issues raised about the way in which you could say publicity has been managed by the committee—

referring to the Economic and Finance Committee and the report into the West Beach Trust—

> It was interesting during the week that one of the committee members, Liberal member, Mark Brindal, who had actually agreed with the findings of the committee report, came out afterwards and said that in his view the trust should have been disbanded, there should have been a ruling that the trust should have been disbanded or abolished.
>
> CONLON: But he signed the report which said, 'You've been very naughty but don't take the sack.'
>
> KANDELAARS: Exactly, so it smacked of having a bob each way really— that, you know, while agreeing with the terms of the report as it goes so far, he came out afterwards to say that it didn't go far enough. Well, you know, there's always a possibility to put in a dissenting view.

Of course, Mr Deputy Speaker—

Mr Lewis interjecting:

The DEPUTY SPEAKER: Order!

The Hon. M.K. MAYES: The situation is quite clear, because the *Advertiser* article of Thursday 11 February, written by Mr Nick Cater, referring to the Economic and Finance Committee's report on the West Beach Trust makes the substance of the report quite clear and states:

> While the report stopped short of recommending the trust be abolished, a Liberal member of the committee, Mr Mark Brindal, said yesterday he believed the body should be scrapped.

It is interesting that he should make those comments, given the overall recommendation of the committee. The article continues:

> Mr Brindal said he accepted the views expressed in the report 'in so far as they go' but he was 'opposed to the continuation of the members of the West Beach Trust'.

I draw members' attention to recommendation 5, page 17, of the Economic and Finance Committee report on the West Beach Trust, as follows:

> The committee recommends that the trust should continue to exist, to undertake its present functions and to continue to develop the recreation reserve to meet its charter.

That is a very interesting summation, yet the member for Hayward, the Liberal candidate, decides of his own volition, having been a member of that committee, to publicly come out and try to distance himself from a recommendation to which he has been party. I wonder how the other members of that committee feel when they have had his obvious support in these recommendations. I think it puts a very poor light on the role and function of the member for Hayward, and it is important that my constituents in Unley understand exactly how this individual, this Liberal candidate, operates within the confines of the Parliament, and how it reflects on his activities as a candidate for the seat of Unley in endeavouring to represent South Australians in this place. I think it is a very poor representation.

The DEPUTY SPEAKER: Order! The honourable member's time has expired. The honourable member for Newland.

Mrs KOTZ (Newland): Last week—

The Hon. J.P. Trainer interjecting:

The DEPUTY SPEAKER: Order! The honourable member for Newland.

Mrs KOTZ: Last week, on Wednesday 10 February, I asked a question of the Minister of Education, Employment and Training relating to staffing reductions in one of my local schools. In my question I mentioned that I had received calls that morning from parents and staff concerned about the disruption to students caused by transfer notices from the Education Department at that time, almost five weeks into the first school term for the year. From the reaction of Government Ministers at the time of my question, it would appear that they considered I was exaggerating or that in fact I might have been downright untruthful. First, I will not be judged by the standards set by these Government

Ministers who have continually retarded the integrity of this House and its members. In fact, my statement was most accurate.

Throughout the rest of the day, my electorate office received 53 different phone calls, which is quite exceptional for one day. Even at the time of my question to the Minister, irate and concerned parents were personally calling into my electorate office to protest, and phone calls were received throughout the rest of the day. Not only were parents of Ridgehaven Primary School up in arms at the disruptive practices meted out by the Education Department on behalf of the Minister, but another local school, the St Agnes Primary School, was dealt a similar blow causing further distress amongst parents, staff and students of that school. Of course, there were further phone calls and personal visits by irate parents at my office the following day.

I must advise the Minister that choosing to simply ignore this problem will not make it go away. In fact, these current problems only compound the practice of disruptive programming of staffing allocations which have become inherent in this Labor Government's education system. I have been advised by school council members that, in the case of Ridgehaven Primary School, the Education Department had been advised last year that the student population would decrease by nine students this year, and thereby they acknowledged the fact that the staffing formula would release one staff member from that school. There again, for practical administrative purposes, Ridgehaven Primary School was prepared to allocate students to classes taking into account class sizes would be larger in some areas, but that minimal disruption would be eliminated, which means that teachers could be confident in the knowledge of class allocations and students could immediately be designated to set classes.

The Education Department chose to ignore its own staffing formula policy and ignored the advice given by the school administration and allocated staff on the 1992 student population. Four weeks into term one, the Education Department did a complete about face without due consideration to the students or staff, and transferred a staff member out of the school. The administrative practices of the Education Department require an immediate investigation. The gross inefficiency that perpetuates massive disruption to student learning is totally unacceptable. It is not good enough for the Minister to stand in this place and procrastinate with wild and woolly answers that do not address the issue at hand. The Minister suggested that, as the member for Newland, I should do her the courtesy of giving her the details relating to this situation.

I would be the first to adhere to courtesy and convention, but in this case courtesy had nothing to do with the situation. The Minister's office has already been contacted; therefore it has full knowledge of the situation. The Education Department had already been contacted and made aware of the problem, and therefore had full knowledge of this situation. As the Minister has the responsibility for that department, further procrastination or denial of knowledge of this issue is totally irresponsible and unacceptable. The Minister should reflect on the 1 200 teachers cut from schools in South Australia and the 50 schools closed in this State since 1986 by the Labor Government.

The SPEAKER: Order! The honourable member's time has expired.

Mr QUIRKE (Playford): There are many occasions on the calendar when we have cause to reflect on the contributions that people make not only in this place but also in the other place and in Canberra, as well as in the community at large. In the past couple of weeks, some anniversaries have taken place, including the 80th birthday of ex-Senator Reg Bishop, a Minister in the Whitlam Government and a long and true friend of those on the Labor side of politics here in South Australia. The other surviving South Australian member of the Whitlam ministry, the Hon. Clyde Cameron, who served in Canberra for many more years than Reg Bishop, also celebrated his 80th birthday within the past couple of weeks. The achievements for the State of South Australia of these two men should be noted.

Reg Bishop was elected to the Senate in 1960, taking his seat in 1961 and occupying it for almost 20 years. In the Whitlam Government he was Minister for Defence Support and also held other minor portfolios. However, he will be remembered for his contribution as the last Postmaster-General in Australia. It was Reg Bishop who put in train the events that split off the post office from the telecommunications arm of the PMG. In the 1960s and the early 1970s, the postal arm of the PMG lost a great deal of money and was subsidised by the telecommunications arm. We now have two extremely profitable organisations which were the result of those changes made in 1974-75.

Reg Bishop was also a former Secretary of the UTLC here in South Australia, prior to his entering the Senate, and was a well-known official in the Australian Railways Union. He made an enormous contribution not only to the Labor Party but also to the trade union movement. Reg Bishop is a very close friend of mine. I think he is a friend of almost everyone on this side of the House. I have never heard anyone on this side of politics say a bad word about him. He is a man with a great deal of compassion. He has gone out there and, in many respects, been one of those people who changed the generation of the Labor Party in the 1960s that made it so successful in the 70s, the 80s and, hopefully, the 90s.

The Hon. Clyde Cameron has also reached this milestone in his life. Many members in this House know of the work of Clyde Cameron and of the many years he represented the people of Hindmarsh in the Federal Parliament. For the 31 years that he occupied that seat, from 1949 until 1980, he brought a great deal of distinction to the House of Representatives, and it is my view that he represented the electorate of Hindmarsh very well.

Here in the Chamber now I note the member for Ross Smith who, as I understand it, was a principal staffer for Clyde Cameron during the Whitlam years. Many people on this side of the Chamber can testify to the influence of Clyde Cameron, who is arguably one of the most important figures in the South Australian Labor Party this century. I conclude by saying that the Labor movement owes Reg Bishop and Clyde Cameron a great deal and thanks them for their contribution here in South

Australia. We wish them many more years of health, happiness and contribution to the Labor movement here in South Australia.

ENVIRONMENT AND LAND MANAGEMENT MINISTER

Mr BRINDAL (Hayward): I seek leave to make a personal explanation.

Leave granted.

Mr BRINDAL: During his grievance debate today, the Minister of Environment and Land Management misrepresented me and I seek to explain this to the House. In the matter of the recent report of the Economic and Finance Committee, the Minister clearly alleged that I was at some variance with the Economic and Finance Committee. That is clearly untrue. As the Minister said in his contribution, I willingly signed the report that appears before this Parliament. It is true that I do not believe the report went far enough, so I did not put in a dissenting report.

I believe that everything the committee said and all the conclusions arrived at are valid. I would have arrived at another conclusion, which I will canvass at the appropriate time in tomorrow's sitting of the House. The Minister should know parliamentary procedures, and for him to use a journalist as his source and to allege that I am somehow having two bob each way and dissenting from the views of my colleagues on the committee is grossly unfair. It misrepresents me and I think it ill becomes a Minister of the Crown.

SITTINGS AND BUSINESS

The Hon. R.J. GREGORY (Minister of Labour Relations and Occupational Health and Safety): I move:

That the time allotted for—

(a) completion of the following Bills:

Workers Rehabilitation and Compensation (Declaration of Validity),

Public and Environmental Health (Review) Amendment,

Consent to Medical Treatment and Palliative Care,

Motor Vehicles (Wrecked or Written Off Vehicles) Amendment,

Statutes Amendment (Motor Vehicle and Wrongs) and

(b) consideration of the report of the Select Committee into the Organisation of Health Commission Services—

be until 6 p.m. on Thursday.

The House divided on the motion:

Ayes (23)—L.M.F. Arnold, M.J. Atkinson, J.C. Bannon, F.T. Blevins, G.J. Crafter, M.R. De Laine, M.J. Evans, D.M. Ferguson, R.J. Gregory (teller), T.R. Groom, K.C. Hamilton, T.H. Hemmings, V.S. Heron, P. Holloway, D.J. Hopgood, C.F. Hutchison, J.H.C. Klunder, S.M. Lenehan, C.D.T. McKee, M.K. Mayes, J.A. Quirke, M.D. Rann, J.P. Trainer,

Noes (23)—H. Allison, M.H. Armitage, P.B. Arnold, D.S. Baker, S.J. Baker (teller), H. Becker, P.D. Blacker, M.K. Brindal, D.C. Brown, J.L. Cashmore, B.C. Eastick, S.G. Evans, G.M. Gunn, G.A. Ingerson, D.C. Kotz, I.P. Lewis, W.A. Matthew, E.J. Meier, J.W. Olsen, J.K.G. Oswald, R.B. Such, I.H. Venning, D.C. Wotton.

The SPEAKER: There being 23 Ayes and 23 Noes, I cast my vote for the Ayes.

Motion thus carried.

WORKERS REHABILITATION AND COMPENSATION (DECLARATION OF VALIDITY) BILL

Adjourned debate on second reading.

(Continued from 11 February. Page 1925.)

Mr INGERSON (Bragg): Again in this session we have another instance of the Government's hastily bringing before the Parliament a Bill to correct its errors. Since this Bill was initiated by you, Sir, and brought before the Parliament some time early in November, we thought that we should at least have been given the opportunity to take the Bill back out into the community to have the argument of why it needed to be validated properly aired. In the past two months I have received more questions and more letters from individuals in the community over changes to workers compensation—on this one single issue—than on any other. The reasons we have it are the haste in which it was drafted initially and in which it was put through Parliament and, I believe, a major cover-up, manipulation and misleading of the Legislative Council by the Government and by other people in this House.

Mr LEWIS: I rise on a point of order, Mr Speaker. I notice that the daily program states that we are debating the Workers Rehabilitation and Compensation (Declaration of Validity) Bill. I recall that the measure was introduced into the Chamber; however, I have never seen a copy of the Bill and it is not on my file—

The SPEAKER: I will undertake to do what is necessary to get the honourable member a copy. Has the member for Bragg a copy?

Mr INGERSON: I have a copy, because it was given to me last Thursday as part of the tabling of the Bill.

The SPEAKER: I am sure copies will be distributed. I have no knowledge of why a copy is not on the member for Murray-Mallee's file.

Mr INGERSON: Our concern about this Bill involves the haste, first, with which it went through the Parliament initially and now, more importantly, with which it has been brought back into the Parliament not just to correct a minor clerical error, as stated in the Bill, but to effect a major change in the understanding of the Bill as it was before the Legislative Council. The method used by this Parliament whereby the Clerk of the House was involved in the correction of the Bill once it left the Legislative Council resulted in a very distinct and deliberate change, making the Bill different from that debated in the Legislative Council. There is no doubt that we believe—and the Hon. Mr Lucas as the Leader of the Liberal Party in the Legislative Council said this clearly on 4 December last year—that the Government and the Parliament were manipulated to change that part of the Bill. The alteration would not be of major concern to this

Parliament if it did not change totally the effect of the Bill on the community.

This amendment—and we have been told that it was made on the basis of a clerical error—has meant that a large number of people in the community who rightly believed, given their reading of the Bill as it left the Legislative Council, that there would be minimal retrospectivity have now found that all the cases which were in the system and which were affected by this amendment have been held up. A letter given to me this morning by the Minister stated that some 1 500 cases have been affected by this change.

The SPEAKER: Order! The Bill does not refer to specific clauses in the original Bill. This measure reinforces the intention of the Houses regarding the original Bill.

Mr INGERSON: On a point of clarification, I request that, as part of the argument that needs to be put as to whether we support this Bill, we canvass the effect of the Bill, not to argue whether the points were right or wrong, because the Bill has been passed by the Parliament, but to debate the effect of the Bill as passed by the Parliament and the consequences of this change once the Bill has been assented to. As you, Mr Speaker, would be aware, there is a significant difference in the wording of the Bill as it left the Legislative Council and when it was assented to by the Governor. As you, Mr Speaker, would be aware, the words 'this Act' were changed to 'the principal Act'. There is a distinct difference in wording and in effect in that the words 'this Act' refer to the amending Act whereas the words 'the principal Act' refer to the principal Act that was passed in 1986.

It is important in this debate that we as an Opposition in opposing this measure are able to put down clearly where we stood on the Bill, because it is the effect of where we stood that is now before the Supreme Court. Validation of the action of the Clerk as part of the process of Bills going to the Governor is being questioned in the Supreme Court. As a consequence of that, we ought to be able to talk about the process, our position regarding retrospectivity, and so on.

Clearly, we do not accept that the sort of change that was made by the Parliament through the Clerk is acceptable, because there is a significant difference in wording. We believe, as Mr Lucas stated in early December, that there was an understanding involving the Government, and we also believe that the process of Parliament, given that it was known that changes could be made, was used to make sure that the Bill did not come back from the Legislative Council in an amended form. There was a community understanding that you, Mr Speaker, had said of your own volition that, if the Bill were amended, there might have been one or two options before you, one being an election and the other to throw out the Bill altogether. So, a tremendous amount of pressure was put on the Government, which did do a back flip from its position in this House.

We believe that, in that process, Parliamentary Counsel, other members and the Government knew that this clerical change would have to be made. We believe they were aware of that prior to the Bill's leaving the Legislative Council and, as a consequence, we make the very strong statement that there was manipulation by the Government and the Parliament in this area. We do not like it, and we expressed it publicly through the Hon. Robert Lucas as the Leader of the Opposition in the Legislative Council.

From discussions that I have had today on this process, it is apparent that the Opposition is concerned that changes of this note should not be made by the Clerk or by the Committee Chairman without the Parliament itself being notified. That would put us into a much safer position whereby a Bill can be properly debated and argued. There is no question about what the Parliament passed or about the legislative amendments but there is a significant question about how an amendment of this type was made. I understand that it could have been made in the royal assent stage.

As I said previously, it is our belief—which provides the basis for our accusation—that there was an understanding, well before the Legislative Council voted, that this change needed to be made. We understand that; we have argued it publicly; and we will continue to argue in this House that the whole process of that Bill was a shemozzle. It was just rammed through the Parliament very quickly, and the Government knew that it was in difficulty, but it did not understand the ramifications of the Bill. However, it did understand the ramifications of this change. We are cross about it; we think it is one of the most despicable things that has happened in this Parliament in the short time that I have been here. It seems to us that this whole process could have been avoided if the Bill had been brought back to the House of Assembly, because it is a very significant change to the Bill.

In support of our comments—and Mr Lucas said in his statement in December that we would get legal advice—we went to the only independent legal group in this State, that is, the Law Society, which can give a general view, not a specific individual's point of view. The society believes that this is a major change and that it should not have occurred. It believes that at least it should have been brought back and debated by the Parliament, and we obviously support that argument. We, too, said that soon afterwards. We are not suddenly making these statements two or three months down the track: we made them early in December, once we realised, based on the advice that we had been given, that there was a significant change.

That is important because, if we had known at the time that this change needed to occur, we would have requested that the matter go back to the Legislative Council, and it is my understanding of the procedures in another place that often, after a vote has been lost by the Opposition, there is an understanding, or a discussion, between the Government and the Opposition to have these minor errors or issues adjusted and corrected.

That did not occur in this instance. It tends to back up our argument that there was manipulation in respect of the parliamentary processes whereby the Bill was amended through the royal assent process, removing the need to bring the Bill back to the House of Assembly.

Since then we have had many submissions from individual lawyers explaining the difficulties faced by their clients because of the current amendments. In the past few days we have had a submission on behalf of the Law Society again pointing out the difficulty of the

retrospectivity clause that has now been created by the simple but small change made by the Clerk in the royal assent process.

We are concerned about the process. I raise this matter today, because we do not want any confusion at all about where we stand. We want to make clear that we believe the whole process was manipulated. I refer to the drawing up of the Bill and those who were involved in it—the whole parliamentary process of the Clerks in both Houses—because we believe there was an awareness that the change had to be made, yet it was not pointed out to the Parliament. That is not acceptable and, so that it does not recur in future, we believe that there ought to be a major investigation by the Parliament itself into the sorts of processes that ought to take place at the level of the Clerks in both Houses.

I understand that a strong statement was made by the Solicitor-General about the ways in which this process should take place. In Committee I intend to question the Minister on the comments of the Solicitor-General, because I understand they are not public as this stage. It would be interesting to have put on the public record what the Solicitor-General advised the Government about how the process was handled and about what should have occurred.

The Opposition is opposed to this Bill. The Government's argument is based purely and simply on a clerical change, and it ought to be tested in the courts. If there is a major problem with the Bill, the Government ought to have the guts to bring it back and have the matter fully debated again. I believe that some of the retrospective clauses that have been put into the legislation were totally misunderstood by you, Sir, in introducing the Bill. That is my impression. I do not believe there was an intention to achieve the measure of retrospectivity that has resulted. The general direction was one that you, Sir, supported and argued for strongly, but I do not believe that you intended to achieve the degree of retrospectivity and the effect of the clauses. I question whether the Bill reflects the understanding and the intention of the Houses.

As I said when I began my speech, I have not had as many people ring me about a workers compensation issue as I have had about this issue, because a huge number of people whose cases are currently within the system are being affected by this change. It is tragedy that we have to see Supreme Court action within two months of any legislation passing this House just to test what we have been told is a change in terms of clerical direction.

As I said, the Opposition wants a review of this process. We believe that too many people in the system knew about what was going on and that the system and the process were used to prevent the Bill's coming back to this House so that whatever was to happen might happen. That is a serious but genuine accusation from the Opposition, and we make clear that, in opposing the Bill, we also want to make sure that in future the process that we have been through is properly investigated and changed.

Mr S.J. BAKER (Deputy Leader of the Opposition): The Opposition opposes the Bill. We oppose the highjacking of accepted parliamentary procedures and practices in which we have been involved over a long period and which require us to reach agreement on those pieces of legislation that come before the House earlier than normal, that is, without the desirable minimum of two weeks between the introduction of a Bill and debate on it.

We oppose the original proposition of retrospectivity and we oppose the process that has been followed here to validate the retrospectivity contained in the Bill. My colleague the member for Bragg has set out the case particularly well. The rights of this Parliament have been subverted by the processes that were followed and the changes that were made consequential on the debate relating to workers compensation.

There is no doubt in the minds of the people who have some interest in this matter that there was an understanding from the Government that the Bill that you, Sir, introduced, was flawed, but the Speaker of this Parliament threatened that, if the Bill was not passed in totality, never to be seen back in the House of Assembly, there would be consequences that might have meant the bringing down of the Government or a complete repudiation of any reform of the WorkCover system.

That was never tested. Your ultimate desire or what action you would have taken was never tested, because the Bill did not come back for amendment, as it should have done. The Bill should have been returned to this House. The whole process of debate in another place was controlled. We did not have the capacity for amendments to be moved to improve the Bill. The principles of the Bill could be adequately debated but its content could not be debated, because a threat was hanging over the Parliament and the Government.

It is up to every individual member of this Parliament as to how he or she should conduct themselves, but it does no good to the standing of this Parliament if the legislation before it cannot be amended to improve it. Having read the debate, I note that at least one more so-called clerical error had to be adjusted in the Upper House because there was a mistake. I do not refer to a clerical error at all: I refer to a matter of principle. The original Bill before this Parliament referred to the Act, and any person reading that Bill would have said that the procedures and changes contained in the legislation related only to that Bill.

That means that all those people who had already claimed against the workers compensation scheme would be treated according to the existing Act and that the changes contained in the Bill would apply to all people coming into the system after the measure was assented to. The Government has clearly argued that it was really just a clerical error and that the Clerk was quite entitled to change the words.

Let me remind the House that the Clerk is only entitled to correct minor errors, whether they be in spelling, syntax or the numbering of clauses. No Clerk of any Parliament is allowed to make a change in such a way as to alter the sense, construction and intent of the legislation. That was clearly understood, and we argued vigorously against any retrospectivity in that legislation. The Government knew, because of the way in which the provisions were constructed, that there would be difficulty in applying them to those cases that were already in the system. Yet somehow the legislation was

changed quite fundamentally—not just in a minor way—and I think it reflects poorly on this House.

We have not seen the Solicitor-General's statement on this matter or had the benefit of his advice, but I suspect that he would have been scathing of what the Parliament had done. I suspect that the Solicitor-General would have said that what has happened in this Parliament not only is inappropriate but places at risk the parliamentary procedures leading up to the measure which eventually becomes an Act of the State.

These are quite extraordinary circumstances. I have been here for 10-odd years and I have never seen anywhere in legislation a reference to that which we have before us today, namely, 'the text of the Act as certified by the Clerk and the Deputy Speaker of the House of Assembly is the authentic text of the Act'. I have never seen that before. Since this Parliament first operated in 1857, I do not know whether it has ever seen such a description contained in a Bill it has been considering. There must be a good reason for that, and the good reason is that if you get it wrong you bring it back.

I know that over the past 10 years this Parliament has got a lot of things wrong and that we have had to redebate them because the courts have interpreted them differently from the way the Parliament intended: that the courts have interpreted the words not the intent. The courts have taken the words of the Parliament and have interpreted them, and sometimes it has not been to the liking of the Parliament, so we have brought the legislation back to the Parliament and amended it to reflect Parliament's intention.

We are not doing that in this case: what we are doing in this situation is compounding a wrong. The Bill provides, 'the text of the Act as certified by the Clerk and the Deputy Speaker of the House of Assembly is the authentic text of the Act.' I do not know where that leads us. Does it mean that the Clerk has a free, unfettered right to be able to change pieces of legislation in any way he or she thinks fit?

Mr Holloway interjecting:

Mr S.J. BAKER: The member for Mitchell says, 'Come on!' There has been a clear understanding, according to my experience of how Parliaments operate, that the senior officers of this Parliament are allowed to make only minor amendments to improve the legislation. We know that when amendments are made to Acts by either this House or the other place we have to go through a rewording—some 'ands', a comma or an 'or' have to be added occasionally. A number of changes have to be made to ensure that the final legislation presented for assent actually makes sense. But that is not what we are doing here. This is not about sense, getting the English or the numbering right: it is about ratifying an unconscionable act and an act I do not believe that this Parliament should stand by and allow to go unchallenged.

I believe that the Parliament should have the advantage of the Solicitor-General's statement on this issue. I believe that the Parliament should know exactly what he thinks about the procedures that were followed. It is important. It is not just a matter of changing a word, it is a matter of changing the whole direction of the Act. It is absolutely inappropriate that that be done by a senior officer of this Parliament, and it is up to the members of this Parliament to change it.

The justification for rushing through this piece of legislation is that over 1 000 cases are awaiting determination or cannot be considered unless this matter is clarified. I think that a number of other changes probably have been made over the years, when we have found that the courts have not interpreted them in the way we wished and that has affected perhaps tens and in some cases hundreds of people, and we did not go back and say, 'What we should have done under the circumstances was get the Clerk to insert a few extra words to make it clearer.' We brought those Acts back to the Parliament for further consideration.

The Opposition is not amused by what has occurred in relation to this matter. It is not amused that the Government has deliberately subverted the Parliament in the way it has handled this issue. The Opposition is not amused that a deal has been done to ensure that no amendments are accepted. The Opposition is not a amused that this wording may set a new precedent for the actions taken by Clerks of this House. The Opposition is not amused that the changes that were made were quite fundamental and should have been debated to the fullest at the time and that the Bill, in whatever form, should be presented for assent without further alteration. The Opposition is not amused that the Government always appears to be in chaos, that it always appears to get things wrong and that it always appears that someone has to come along behind it to clear up the mess it has created.

It is not a particularly happy occasion, as far as I am concerned, to be considering what has happened following the passage of the measure and, if there are some lessons to be learnt from this process I hope they have been learnt properly, because if it ever happens again appropriate action will have to be taken.

The Government will be mindful that the Opposition opposed bringing this matter on; it opposed the guillotine motion, because we did not believe that this Bill should be debated, or that another matter shortly to come before the Parliament should be guillotined. I hope that sense will prevail but, if I ever see this happen again in the Parliament—if I see some fundamental changes being made which have not been approved by this Parliament—action will be taken and that action taken will not appeal to those previously involved. The Opposition opposes the Bill and opposes everything done beforehand which has brought about the consideration of this measure at this time.

Mr LEWIS (Murray Mallee): This Bill is entitled an 'Act to put beyond question the validity and textual authenticity of the Workers Rehabilitation and Compensation (Miscellaneous) Amendment Act 1992' and by virtue of its very title skates on thin ice, since it is not possible to bring in two measures of the same nature in the same Parliament. It is constitutionally questionable, if not unsound, in its current form. We have already had this measure through last November. That is the first point I want to make.

The second point I make is that I am reminded of my childhood and adolescence in describing what has happened in this instance. When, in those days, I saw

animals in the dim light of afternoon or dusk skittering about, keeping close to the walls and dodging into nooks and crannies to avoid observation and discovery as to their presence and purpose in being there I knew, I was dealing with rats, and that is what I am dealing with here. I am dealing with rats.

The important consideration here is that the Government knew it was on a hiding to nothing if it had to amend this legislation for no other reason than the fact that one member of this place, who is not a member of the Opposition, had said that if the amendments did take place then at that member's discretion he would decide simply to vote against the Government in any motion involving confidence in the Government, bring the Government down and send it to the people. So, the Government was running scared. The Government was afraid that it could not survive for sufficient time to ensure that it could bring its parlous reputation back into control— damage control—to try and recover the lost ground that its incompetence had brought upon it— the odium with which the public treated it at that time. It had barely one in four people in South Australia supporting it, because of the way in which its incompetence had been demonstrated.

That is serious enough, is it not? The Government is fearful of its position. It dare not do anything which might upset that predicament. It is rushing this legislation through because it wants to try to claim that it does not have incompetent legislation and inappropriate administration of the workers rehabilitation and compensation laws which it has introduced and trumpeted to the world, not just South Australia, as being history-making and of momentous proportions in its political direction, as well as the guile the Government showed in getting the measure through the Parliament for what it said was the benefit of South Australia. I will leave the argument of the benefit to South Australia to one side, because we have had that debate already, and the pros and cons, the pluses and minuses, are on the record from the position of prejudice taken by the Government advocates and the position of realistic assessment made by the Opposition.

Suffice to say it means that, if each job costs more, there will be fewer jobs because the output will be less competitive in price. That is exactly what has happened. We have seen this State losing 158 equivalent full-time jobs per day, day in, day out, over the past couple of years. I will not go into that argument again as to the definition of benefits—

The Hon. T.H. Hemmings: Why?

Mr LEWIS: Because it is not part of this Bill. I have just put on the record the background of how we come to have this Bill before us. It is not the first time that the Government has done this in the past 12 months. I know of at least two other occasions, so it is the third at least, and there might be others. First there was the conscience matter concerning the legalisation of poker machines, electronic gaming devices or whatever they are called. The Government botched that up. It stacks the legislative program too full. It then tries to make deals late at night and into the early hours of the morning to cobble together the numbers to get its legislation up. It has not given adequate consideration to the implication of the changes to which it agrees just to get the legislation on the statute book. As a result, we see pages and pages of amendments to that legislation.

Then there was another occasion, the most startling of all in constitutional terms, when the Government was able to secure the compliance of the Legislative Council. God knows how that happened, because a significant number of members of that place said previously that they would not do anything to interfere with a money Bill. However, they decided to rearrange the State's budget, the most important document passed by the Parliament. Then they sent it back to us as a message, and we were expected to not even stand in this place but simply accept that it was legitimate for the Government to get itself off the hook by simply saying, 'The budget as we introduced it is not the way we will spend the money. The information we gave you during the Estimates Committees for two weeks was just a pack of untruths.' Of course, outside this Chamber it is permissible to call it 'lies', and it is honest to call it that, but not so inside because that word is considered unparliamentary.

It was so untrue, it is not funny. The Ministers just sat there day after day saying that they would engage in this or that expenditure, that this would be the cost and that would be the benefits, and so on. However, no sooner had this process been completed the Government changed Premiers and said to everyone, 'Well, the honourable member for Ross Smith, the little "JB" as he is known, is a wicked lad; he has done things wrong. Now we have a new boy and he is great. It is Clark Kent, Superman from Ramsay, and, by jove, isn't he great.' Suddenly, the PR machine of the Labor Party and its paid apparatchiki who have been put in the ministerial offices and appointed to Public Service posts in the senior policy development areas of all departments rushed around to tell a number of journalists what a great bloke the new Premier is and how they will have flair and light in the future.

The Hon. T.H. HEMMINGS: On a point of order, Mr Speaker, the contents of this Bill are fairly narrow, and I fail to see that the changeover of the Premiership in this State and the Estimates Committees have anything to do with what this Bill is all about.

The SPEAKER: I uphold the point of order with respect to the Premiership of this State. It has no relevance at all to this Bill. It is a fairly tight Bill with only two clauses. I understand that the member for Murray-Mallee wishes to make his case, but I would ask him to be as specific as possible to the matter before the Chair.

Mr LEWIS: Of course, I take the advice you have given me, Sir. I will assist the House to understand the significance of the situation by again referring to the fact that the current Government would have fallen if this legislation had been amended at the time to rectify the huge fault in the Bill before us, where the block of words and the proposed law we were supposed to be debating and contemplating were referred to as 'this Act', when in fact what we were supposed to understand was that it is meant to be 'the principal Act'. That is the big difference. The fact is that the Premier, who sits here today, would not be here, and neither would the Government. They would have gone to the people and would not have been just defeated but slaughtered. There

would not have been the necessity to introduce this trumped up piece of theatrical rearrangement for the sake of the convenience of the Government, which is really interfering with the process of law in the courts that is otherwise known as *sub judice,* and that is the third point I wanted to make where the Government is skating on thin ice.

The Government is now legislating to retrospectively change actions which are already entered in the courts, and this House should not be engaging in that. It knows that what it is doing is a breach of yet another fundamental principle of the role of Parliament. The role of Parliament is not to debate matters which will affect the outcome of existing actions in the courts already there entered by citizens, taking the expense, time and trouble to do so in the naturally sincere belief, in the Westminster system of law-making and constitutional framework, that they can do so knowing they will be given justice in the courts. But that expense, time and effort will be subverted by this legislation to the detriment of the interests of those citizens who could not have known in all conscience that they were wasting their time when they began to expend their money and time to take advice and prepare cases to go to court.

That is the other disgusting, stinking part of this legislation which is abhorrent. It is the third major occasion in less than 12 months, that I can call to mind immediately, in which the Government has chosen to simply say, 'We will do it now and fix it later.' It is typical of Ministers on the front bench. We have seen what that scurrilous person, the member for Unley, has done in the way he uses legislation to suit his own parochial political ends, and likewise the member for Mawson, and that is exactly what the Government collectively decided to do when it introduced this Bill. In fact, the Government said, 'Yes, it is minor; we will tell the Clerk to fix it, no problem, and God help you if you don't.' I just wonder what coercive power was used in that instance. I will think about that.

I do not need to put anything more on the record, given that I have mentioned the fact that I have contemplated what must have transpired to compel this to occur. The last thing I want to draw to the House's attention in the time left to me is yet another instance in which the Bill is on thin ice, because it provides that the Deputy Speaker has signed. Clause 2(2) provides that the text of the Act as certified by the Clerk and the Deputy Speaker of the House of Assembly is the authentic text of the Act. Standing Order 262 provides:

> Chairman of Committees to sign copy of Bill and amendments. The Chairman signs a printed copy of every Bill to be reported, with the amendments legibly written on the copy. The Chairman also initials any amendments made or clauses added in Committee. The Bill so signed is given by the Chairman to the Clerk when the Chairman reports to the House.

It says nothing about the Deputy Speaker, yet the Bill clearly refers to (and this is where the Government has stuffed it up again) 'the Deputy Speaker'. The Chairman of the Economic and Finance Committee may be the Chairman of another parliamentary committee or have some other parliamentary office. From time to time the Speaker may be the Chairman of the Joint Parliamentary Services Committee. In any instance, when any member of this Chamber exercises a responsibility, it is under the specific title of the office they hold that they do so, and that is spelt out in either a principal Act or the Standing Orders. We look at Standing Order 262 and we find that it is the Chairman who has to sign. When we look at the Bill we find that it is the Deputy Speaker who has to sign. It is not the person holding the office of Chairman acting as Chairman at all.

I wonder why the Government got that wrong and whether or not we will need another Bill to amend the Bill that we have before us now, because it will be fun in the Supreme Court when it is discovered that this is another botch. I wonder how long it will take this Government to get its act together. Nowhere in any legislation or in our Standing Orders is there a statement that provides that the Deputy Speaker shall be the Chairman of Committees or that the Chairman of Committees shall be the Deputy Speaker—nowhere. That is a matter of convenience for this House, Parliament to Parliament. It may have been traditional, but it is not a fact in law.

Altogether then, the Government has clearly illustrated what I tried to warn it about in its behaviour several months ago—indeed, years ago—namely, that it took the process of Parliament not just too much for granted, but totally for granted. The Government has always had the view that its wisdom, so determined in the fights and the factions and then behind the locked doors of Caucus, is all the wisdom that needs to be brought to bear in the determination of what should occur in legislative terms, and that this place and the other place are merely theatre; that this is a charade and does not matter.

Let me tell members opposite, Mr Speaker, as I am sure you have told them, since it must have caused you considerable embarrassment in the time you have been in the Chair—and you must have told them not once but many times—this is the place where decisions are made and this is the place in which we as representatives of the people should conscientiously apply ourselves to their best interests as we pray at the beginning of each day's proceedings and as I hear the member for Napier, and frequently the member for Henley Beach, saying (as I say silently to myself at the end of prayers) 'Amen to that'.

Instead of being hypocritical about it, they ought to pay attention to the fact that this Chamber is here for a real purpose, as is the other place, and that the proceedings and events in this place are more important than anything that goes on in the Minister's office, their factional brawls or their Caucus room. It is here where the final imprimatur is placed, and that objectively, not subjectively, we ought to consider all the points that are made in debate here in determining the kind of legislation that we will let pass through this place when we vote. We ought to accept first our responsibilities as elected representatives of the people in each of the electorates we come from before we lay down and sacrifice that responsibility on the altar of convenience of membership of the Party. It is the Labor Party that is getting this Parliament into trouble, and it is bringing all of us into disrepute and wasting the time of this Parliament because it cannot get it right first time, yet it would be so easy if it would just listen.

Mr BRINDAL (Hayward): I was very interested in the thoughtful and thought provoking contribution just made by my colleague the member for Murray-Mallee, and he indeed raises some interesting points. Like him, although for slightly different reasons, I believe that the fact that this Bill appears before the House at this time is a mark of the degeneration and denigration of this place in our community generally. Like the member for Murray-Mallee, although for slightly different reasons, I believe that this Bill should not appear before this House.

An honourable member interjecting:

Mr BRINDAL: The central argument in the debate on this Bill is fundamental, and if the member opposite cares to listen he may be able to make a contribution himself later on. At the basis of this Bill is the very doctrine of the separation of powers and the right of this House to pass legislation. Today I have consulted a number of people who are eminent in this type of area and they are all of the opinion, as I have been, from the reading that I have done, that it should be sufficient upon certification of a Bill for that Bill to be assented to by the Governor and that their honours of the Supreme Court should look at the Bill as it comes from this Parliament and as it is assented to by the Governor on the signature of the Speaker, without then having to examine our procedures. That is because, under the doctrine of the separation of powers, it is for the courts to interpret our legislation; it is not our place to question the courts.

In that context I was very upset recently to see a number of prominent politicians criticising the courts. It is not for us to criticise the courts and their interpretation of our legislation but, equally, it is not for their honours in the Supreme Court to question the procedures of this Parliament, and I think that is a long and established practice. The only reason I can see for the Government reintroducing this Bill is this line in the explanation, which reads:

> The Government believes it is inappropriate that the propriety of parliamentary procedures should be exposed to questions in the court.

I believe the member for Murray-Mallee has recently had a personal experience with that. I concur in the Government's sentiment: it is inappropriate that the propriety of parliamentary procedures be exposed to question in the courts. However, for my part, rather than bring this Bill back here, I believe it would have been more appropriate for the Government to instruct counsel to appear before the court and to set this matter to rights. If their honours of the Supreme Court have some interpretation that does not seem to be in accordance with established usage of law in democracies such as our own, perhaps it would be appropriate for this Government to bring legislation before this Parliament that makes it quite clear to the Supreme Court of South Australia what are the rights and sovereignty of this Parliament—the sovereign nature of our procedures—and sets it for all time in this legislature that there is a separation of powers, that is, that the courts have one power and this Parliament has another, and that the power of the Supreme Court does not extend to questioning the procedures of this Parliament or the authority of the officers who send Bills for certification.

The member for Murray-Mallee is correct: it was certified, according to the report—and I believe it is a typographical error—by the Speaker. The Bill provides, ' ...certified by the Clerk and Deputy Speaker of the House of Assembly'. That situation arises because, when a measure leaves this place to go to the Governor for assent, it can go to the Governor for assent only under the certification of the Speaker and the Clerk. I am reliably informed that in the case of this Bill you, Mr Speaker, were absent and your duties were thus performed by the Chairman of Committees in his capacity acting as Deputy Speaker in your absence. So in your absence this Bill was certified by the Deputy Speaker and by the Clerk and went to the Governor for assent, and that is how this issue arises. There is a small semantic point that generally the House is informed when the Speaker is absent. I know that could not be done because the House was not meeting, but it is an interesting point for debate later on.

Nevertheless, I return to my central premise that this Bill should not be appearing before this Parliament, because the Government should be sorting out with the courts their rights and those of this Parliament. It is a cop out by this Government to bring back this Bill to seek to pre-empt itself from some decision the court might make. If the courts are going down the wrong path in terms of encroaching on the rights and prerogatives of this Parliament, let them do so, and then let us do what is appropriate to this legislature, and that is to pass legislation to make quite clear to them where our power ends and their power begins, and sometimes that may well have to be done.

This sort of legislation, which runs away from that responsibility, is inappropriate and I believe denigrates the correct procedures which were adopted according to the usages and customs of this place and which have been imbued over time. That this Bill is brought into this House is a reflection on officers who seek only to perform duty for this Parliament and who in some cases have done it for a very long time, and on other officers who are elected to this Parliament, for the term of this Parliament, to perform that duty. Therefore, it brings no credit to this Government that this Bill is brought back in its present form.

I also contend that, if the Government was to bring back this Bill, rather than seeking to ratify what was, after all, an act of administration by the Clerk and the Deputy Speaker, it should more properly have recommitted for alteration in this House those clauses which needed alteration. It is not appropriate for this House, which is a legislature, to be asked in a Bill or otherwise to ratify an administrative act: it is the province and duty of this House to pass legislation. If this legislation is flawed, if this legislation does need amendment and if the Government is not satisfied that the amendment was properly made—and I hasten to add that I am satisfied that the amendment was properly made—the Government should bring into this place those clauses which it does not think will stand scrutiny in the courts and have them amended by this Parliament. What it should not do is to bring into this House a Bill which seeks to ratify an administrative act. That is contrary to the usages and customs of this Parliament. It sets a new precedent in this Chamber, and I do not think it should be countenanced.

For those reasons, I am appalled that the Bill comes back into this place at all. It is squibbing on the part of the Government that it did not challenge this matter in the court for, as I have said, if we had lost this matter in the court, it would have been a simple matter for the legislature to amend the Act and pass such other Act as was necessary to explain to the court where Parliament believes its powers end and the powers of the court begin. It is a most important principle at stake and I, therefore, oppose the Bill.

The Hon. R.J. GREGORY (Minister of Labour Relations and Occupational Health and Safety): I have listened with some interest to the contributions of members opposite, and I want to make quite clear that the actions of the Clerk were undertaken on my advice in good faith. Allegations have been made in this House that it was done in connivance with the Government. I refute that.

Mr Brindal interjecting:

The Hon. R.J. GREGORY: The member for Hayward interjects that he was not the only person speaking in the House today and, when he has the opportunity to read *Hansard,* he will realise that other people have made that allegation. They have also made it publicly. I refute that. The Government did not connive with anybody. The Clerk, acting within what he believed were the powers and precedents that have been established in other Parliaments and in decisions in other places which have a parliamentary system based on the tradition of this Parliament, believed that he had the powers to do it.

We have undertaken this course of action, as outlined in my second reading explanation, because our advice is that the court actions which could begin in the period between 1 March and 11 March would place in jeopardy the legislation as it is now. We are not prepared for that to happen, and that is why we have introduced this Bill. It is a perfectly proper thing to do. It is not the first time it has been done, and I venture to say that it will not be the last time it will be done. I commend the Bill to the House.

The SPEAKER: Order! It is most unusual for a Speaker to participate in a debate but, in view of some of the remarks made about the process undertaken in the assent process, it may be useful for me to enlighten the House on how necessary corrections are made to Bills after they have passed in both House and before presentation to Her Excellency for assent. Erskine May (pages 509 and 510) states:

> Any alterations in a Bill which are necessitated by the renumbering of clauses or by a change in the date of the citation title, and in marginal notes and headings, which are not technically part of the Bill, and any printing corrections which are not of substance, are made by the Public Bill Office before the Bill is reprinted at any stage.

Bennion's *Statutory Interpretation* (page 109) provides a formal list of rules for changes which may be made by the clerks at Westminster. Rule 4 states:

> Where the text of the House Bill contains a misprint, and it is clear what the correct version should be, it is for the Public Bill Office to correct the error. If it is not clear what the correction should be the error must be allowed to remain (unless, there being further stages of the Bill's progress to come, the error can be put right by an amendment).

Finally, an article in the New Zealand *Law Journal* of October 1989 (page 346) states:

> In England it is a well established practice for the Clerk to make a variety of alterations to Bills both before and after the royal assent in order to settle the final form of the published text. Such alterations must not of course amount to any substantive amendments to the legislative text—although, as will be seen, they may almost appear so. Essentially, they constitute a last tidying up of the text, the intention being to give full effect to the will of Parliament.
>
> The Clerk, for instance, has a discretion as to where new clauses or new schedules are to be inserted. Where the text of the Bill obviously contains a misprint, this may be corrected. Similarly, if alterations in the numbering of sections becomes necessary owing to the addition or deletion of material from the Bill, again the Clerk may make the required alterations.

I come now to the Workers Rehabilitation and Compensation (Miscellaneous) Amendment Bill 1992 and the three changes made by the Clerk to clause 22. It was the Clerk's view after Parliamentary Counsel drew his attention to subparagraphs (b)(i) and (ii) that references to 'this Act' were misprints. The text referred to claims for compensation already made under this Act—an impossibility. The only possible meaning was a reference to a claim for compensation made under the principal Act. Accordingly, the Clerk made the necessary changes. Without them the subparagraphs are meaningless. The intended meaning was obvious. The Clerk also removed a comma in subparagraph (2) between the figures 10 and 11 and replaced it with an 'and'—a simple grammatical improvement.

The Clerk informed me of the changes he had made after the event. In view of newspaper speculation suggesting Government interference, he has asked me to indicate that he did not discuss the issue with any member of the House or any of their staff prior to the Bill being assented to. Incidentally, the reference to the Deputy Speaker is simply explained. During my absence interstate on parliamentary business, the Deputy Speaker was deputed to take the Bill to Her Excellency. A consequence of that action was that he signed the Bill on my behalf.

Finally, I want to say that there is no doubt that the House itself is the final authority on the form of any legislation which is passed. Inevitably in the hurly-burly of the process, the 'i's' and the 't's' will need to be dotted and crossed when we have gone home. The alternative is for us to spend twice as long here arguing about commas and full stops. Within the very tight constraints which I quoted at the beginning, the Clerk and his staff have the unenviable task of ensuring that what we do here each day does not become a nonsense.

Of course, the House can change the practice of 137 years, but I suggest that we will be the poorer for it. However, if that is the wish of the House, I suggest a substantive motion will be the appropriate way to resolve the matter.

The House divided on the second reading:

Ayes (22)—M.J. Atkinson, J.C. Bannon, F.T. Blevins, G.J. Crafter, M.R. De Laine, M.J. Evans, D.M. Ferguson, R.J. Gregory (teller), T.R. Groom, K.C. Hamilton, T.H. Hemmings,

V.S. Heron, P. Holloway, D.J. Hopgood, C.F. Hutchison, J.H.C. Klunder, S.M. Lenehan, C.D.T. McKee, M.K. Mayes, J.A. Quirke, M.D. Rann, J.P. Trainer.

Noes (22)—H. Allison, M.H. Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, H. Becker, P.D. Blacker, D.C. Brown, J.L. Cashmore, B:C. Eastick, S.G. Evans, G.M. Gunn, G.A. Ingerson (teller), D.C. Kotz, I.P. Lewis, W.A. Matthew, E.J. Meier, J.W. Olsen, J.K.G. Oswald, R.B. Such, I.H. Venning, D.C. Wotton.

Pair—Aye—L.M.F. Arnold. No—M.K. Brindal.

The SPEAKER: There being 22 Ayes and 22 Noes, I cast my vote for the Ayes.

Second reading thus carried. In Committee.

Clause 1 passed.

Clause 2—'Declaration of validity and textual authenticity.'

Mr INGERSON: This clause is comprised of two subclauses. The first declares that the amending Act is assented to, and we do not have any concerns about it. As to the second subclause—

The CHAIRMAN: Order! The member for Victoria will please take his seat. It is against Standing Orders for a member to have his back to the Chair, and I ask the honourable member to take his seat.

The Hon. R.J. GREGORY: Mr Chairman, I rise on a point of order. The member for Murray-Mallee has his back to the Chair, and I request that you draw that to his attention.

The CHAIRMAN: I ask the member for Murray-Mallee not to have his back to the Chair.

Mr INGERSON: Subclause (2) provides:

The text of the Act as certified by the Clerk and the Deputy Speaker of the House of Assembly is the authentic text of the Act.

This subclause is the Opposition's major concern about the Bill. What were the Solicitor-General's comments about the changing of the text? As members would be aware, the Clerk changed the words 'this Act' to 'the principal Act'. I understand that significant comment was made by the Solicitor-General about that change. If the Minister cannot advise the Committee of the Solicitor-General's comments, can he table the document?

The Hon. R.J. GREGORY: I am advised that it is a long-standing practice of this Chamber that opinions from the Crown Solicitor are not tabled in the Chamber. Further, as Minister I have written to the member for Bragg outlining to him the reasons why we are debating this Bill today. The section in the Act, I thought, clearly expressed the Act's intention. When this measure is implemented it will put beyond all doubt the authenticity of the amending Bill (No. 84 of 1992), which was passed in the House last year.

Mr INGERSON: I understand that the advice the Government has been given is that if this Bill is not passed the technical changes made by the Clerk may be invalid. I think it is important for this House to know whether that was the case so that in future, if this type of text change is made, the Clerk, and more importantly the Parliament, is aware of the type of changes that can be made. I ask the Minister whether there was any question in the advice given to the Government that the changes were to be or might be challenged.

The Hon. R.J. GREGORY: During the second reading debate the Speaker read to the Assembly the position as he knew it based on the advice he had received. My advice is that there is some argument as to what minor corrections can and cannot be made to Bills. The Government is not prepared to gamble with extensive hearings in the courts. We need to put beyond doubt the meaning of the Bill that was passed last year. I think it is a perfectly proper thing to do to avoid the extensive litigation that goes on. I do not believe that we should engage in long and interesting arguments in the Full Court so that somebody can clarify something when it is within the means of Parliament in a few short minutes to ensure that its intention is carried out.

Mr S.J. BAKER: Mr Chairman, are you aware of a similar clause being inserted in any Bill that has ever been before this Parliament?

The CHAIRMAN: It is not my intention to answer questions. The honourable member may address his questions to the Minister.

Mr S.J. BAKER: Sir, you signed the document. Were you aware of the changes that were made or were to be made at the time you signed that document? Were any discussions held on that matter prior to that happening?

The CHAIRMAN: It is not my intention to break the tradition of this House and have the Chairman answering questions.

Mr S.J. BAKER: I understand that this is the third time, Sir, but I do not have answers to my previous two questions. As you have played a major role—

Mr Hamilton interjecting:

Mr S.J. BAKER: I beg your pardon?

The CHAIRMAN: Order! I ask the honourable member to address the Chair, and I would ask the member for Albert Park to cease interjecting.

Mr S.J. BAKER: Sir, I know that you have answered questions before. I have put questions to you as Chairman of Committees and you have answered those questions. I would like to know on this occasion why you refuse to reveal the circumstances surrounding this particular debacle, as you are a major player in the whole matter.

The CHAIRMAN: I refer the honourable member to my previous answers.

Mr LEWIS: The way in which the Government behaves in these circumstances is something to behold. It is quite astonishing. I understand that the measure went to the Governor on 2 December. Given that there was such a substantial change—or at least members on this side of the House without consultation among themselves saw it as such—and the disquiet we feel about that, we think that it is fairly significant that it happened to be when the Speaker was away momentarily. Of course, now that the meaning of the amended legislation is to be challenged in the courts it is found to be convenient to make these alterations and enforce the notion that what is said is said out of administrative expediency.

I wonder why, given the controversial nature of the legislation, the decision was made by the Deputy Speaker to sign it and trot it off over to the Governor post haste at the time. I wonder whether the Minister did not have

some motive for getting it done on that day separately from simply having the legislation proclaimed, because the date to which it relates is not the date of proclamation. Therefore, I ask the Minister, through you, Mr Chairman, why did the Government choose to do it on a day when the Speaker was out of town?

The Hon. R.J. GREGORY: I have no idea what the honourable member is wailing on about.

Mr LEWIS: Quaint, isn't it, Mr Chairman! The Minister does not even know what is happening to his own legislation. It is typical. There are other examples and I have mentioned them: I do not need to go back over that ground. The Minister chose in his answer, I presume, to accept responsibility for the lesser of two evils in the course of deciding to take the action he took. Mr Chairman, he said that he did not know why it happened. So, he was not taking an interest as the responsible Minister in getting the Bill proclaimed. He decided that it would be best not to be seen to be aware of that procedure, and simply left it, presumably, to the Deputy Speaker to decide to grab the legislation and trot across to see the Governor with it while the Speaker was out of town.

It would not have hurt for it to have waited for the Speaker to return, given the controversial nature of the situation and the way in which the Speaker had a personal, explicit interest in the matter. I am therefore astonished that, in order to ensure that justice was being seen to be done, the Minister did not direct that the measure wait until the Speaker himself could initial it and take it to the Governor. What an incredible state of affairs. The plot thickens even further. Which of the two evils the Minister wants to be condemned on I do not know. The Minister behaves in much the same way, I suspect, as all his colleagues have in these matters—not the least bit interested in anything other than what he wants to get done with the minimum amount of fuss and bother, with a minimum amount of public scrutiny and a minimum amount of accountability. That, to me, is a measure of the contempt with which the Government treats this Parliament and a measure of the lack of understanding the Minister has of the way in which things happen in Parliament in regard to the making of laws.

The Hon. R.J. GREGORY: The member for Murray-Malice does not know the procedures of this Parliament, otherwise he would not have made any reference to my directing when a Bill should be taken to Government House for the Governor to sign. It is purely a procedural matter that is handled by parliamentary officers. I want to make it quite clear, in case the member for Murray-Mallee was not listening, that I had nothing to do with what happened about the slight adjustments that were made to that Bill—nothing at all.

It has been made quite clear by the Speaker; it has been made quite clear by myself earlier: the Government had nothing to do with it. If the member for Murray-Mallee has other views about the matter he is entitled to hold them, but I have told him that twice today and I would expect him to listen. If he thinks I am misleading this House he can take appropriate action, or he can go outside publicly and not hide in here.

Mr LEWIS: When did the Minister first become aware of the botch?

The Hon. R.J. GREGORY: I cannot give the exact date but I was advised that there were some differences of opinion about the validity measure; it was only after the matter was taken up within the courts that the Attorney-General advised us accordingly, and on that advice we undertook a certain course of action which culminated in what is happening here today.

Mr INGERSON: Will the Minister advise the Committee when he was informed about the change in relation to this particular wording? Was he informed after the Bill left this House and before Executive Council considered it?

The Hon. R.J. GREGORY: The matter being debated at the moment is clause 2 of the Bill, referring to the declaration, situation following assent, and also the validity question. The advice we have from the Attorney-General is that there is some doubt as to whether or not the court case will be successful in the Full Court. I have made it quite clear to this Committee that in my view it is in the best interests of Parliament and Government, when Governments know that there are doubts which are contrary to the intentions of the Parliament, that they should be clarified, and we are doing that right now.

Mr OLSEN: On which date was the Minister informed of the change?

The Hon. R.J. GREGORY: Which change?

Mr OLSEN: The change to the text. The Minister knows full well what I am talking about.

Dr ARMITAGE: The Minister indicated in response to the member for Murray-Mallee that he could not recall when he was first informed that there was a botch in this legislation, to quote the member for Murray-Mallee. Will the Minister, through consulting his diary and various memos and so on, perhaps tell us at some later stage when he was first told that there was a botch in this legislation?

Mr OLSEN: Is the Minister going to treat this House with the utmost contempt by refusing even to respond to Opposition's questions, which are legitimate, important and relevant questions to this Bill and to the procedures adopted relative to legislation passed by this House on a previous occasion? The Minister's silence and refusal to answer the questions is a damning indictment and demonstrates guilt on his part.

The Committee divided on the clause:

Ayes (22)—M.J. Atkinson, J.C. Bannon, F.T. Blevins, G.J. Crafter, M.R. De Laine, M.J. Evans, R.J. Gregory (teller), T.R. Groom, K.C. Hamilton, T.H. Hemmings, V.S. Heron, P. Holloway, D.J. Hopgood, C.F. Hutchison, J.H.C. Klunder, S.M. Lenehan, C.D.T. McKee, M.K. Mayes, N.T. Peterson, J.A. Quirke, M.D. Rann, J.P. Trainer.

Noes (22)—H. Allison, M.H. Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, H. Becker, P.D. Blacker, D.C. Brown, J.L. Cashmore, B.C. Eastick, S.G. Evans, G.M. Gunn, G.A. Ingerson (teller), D.C. Kotz, I.P. Lewis, W.A. Matthew, E.J. Meier, J.W. Olsen, J.K.G. Oswald, R.B. Such, I.H. Venning, D.C. Wotton.

Pair—Aye—L.M.F. Arnold. No—M.K. Brindal.

The CHAIRMAN: There being 22 Ayes and 22 Noes, I cast my vote in favour of the Ayes.

Clause thus passed. Title passed.

The Hon. R.J. GREGORY (Minister of Labour Relations and Occupational Health and Safety): I move:

That this Bill be now read a third time.

Mr INGERSON (Bragg): In speaking to the third reading I am very disappointed that, in the final stages of the Committee, the Minister refused to provide information on a very important question. The matter relates to when the Minister became aware of this whole issue of change as it relates to this Bill. The fact that the Minister was not prepared to answer that question leaves in doubt the whole area of conspiracy and whether in fact the Government conspired with others in this Parliament to enable the Bill to pass through this House. We object to the way that we as an Opposition have been treated—

Mr Olsen: And the way Parliament has been treated.

Mr INGERSON: Yes, and the way Parliament generally has been treated. We hope that, when it reaches another place, the Government will come clean and advise the Parliament of when it was informed of the changes before it went to the Governor for her assent. We oppose the third reading.

Mr S.J. BAKER (Deputy Leader of the Opposition): I join with my colleague the member for Bragg and reflect upon the trampling of the traditions of the Parliament in the way that this Bill has been processed. We had the situation where the Minister was asked direct questions as to the circumstances surrounding the change to the text of this Bill, and he refused to answer. Of course, I believe he is guilty of complicity which—

Mr Olsen interjecting:

Mr S.J. BAKER: Silence is guilt, as the member for Navel says. We believe that the Minister is guilty of complicity in the rearrangement of the text to assist the processing and assent to that Bill when he knew that the legislation was flawed. I do reflect upon the statement which heads this Bill as follows:

An Act to put beyond question the validity and textual authenticity of the Workers Rehabilitation and Compensation Miscellaneous Amendment Act 1992.

The only thing that has been put beyond question is the involvement of the Government and the scandal associated with the changes that we see here today. I believe that the Parliament has been treated in an appalling fashion and I trust there will be an opportunity in another place to demonstrate that further.

Mr LEWIS (Murray-Mallee): I am tempted, under Standing Order 280, to move that we delete the words 'read a third time' and insert in lieu 'postpone indefinitely' to give the Minister time to consult his records and come back to the House, restore the measure to the Notice Paper with the consent of the Opposition and provide that information. That would put beyond doubt the propriety with which he and the Government acted in all these matters. I do not raise any new matter in this third reading debate that was not canvassed in the second reading debate or is not contained in the substance of the measure before us. Accordingly, I make it plain that, because yet again we have a large amount of legislation guillotined as the business of the Chamber for this week, and time is therefore against us to pursue the matter further on this occasion, I am compelled to accept that the Minister will be what he is and that the Government will in honour, if it has any of that left, provide a statement of the sequence of events and dates of what occurred, to put beyond question what happened.

I believe that the Minister, out of common decency, should make a statutory declaration to that effect so that the public—

Members interjecting:

Mr LEWIS: The member for Napier and the member for Albert Park may laugh, Mr Speaker, but they are not spending tens of thousands of dollars—

The SPEAKER: Order! The honourable member for Napier has a point of order.

The Hon. T.H. HEMMINGS: My point of order is that the member for Murray-Mallee mentioned my name. I was sitting here quietly listening, and I would like that recorded.

The SPEAKER: The honourable member will resume his seat. The member for Murray-Mallee.

Mr LEWIS: That is the reason I am raising these matters: I know there are members of the Government who treat this place with contempt. I regret that the member for Napier chose to take umbrage at my observations. I do not wish to pursue that. The substance of my remarks to the third reading—

Members interjecting:

The SPEAKER: Order!

Mr LEWIS: The substance of my remarks—and the member for Napier again laughs—is to get the House to understand that there are honourable, decent and innocent citizens who believe the law to be as they understood it to be and different from what we would now proclaim by this measure. They have spent tens of thousands of dollars in that sincere belief and the Government knows that their case is likely to succeed. It is already in the courts and by this measure it will simply compel them to accept in their own pocket the costs of their actions, taken in good faith and with no compensation, by changing the law retrospectively.

Having suffered a similar consequence myself, I think that, in those circumstances, the least the Minister could do is put 20, 50 or 100 words on paper and swear under oath that that is exactly how it happened. At least the Minister could give those people the satisfaction of knowing what happened for the tens of thousands of dollars they have spent in the preparation of their argument to go to court. I am appalled that members of the Government see it so jocularly that they can simply write off that money from those citizens, otherwise spent in good faith, and laugh about the fact that they are doing it. It appals me.

The SPEAKER: Did the member for Murray-Mallee move that amendment?

Mr LEWIS: I did not move it, Sir; I was tempted to do so, but I leave it to the Minister to be honourable and decent, as he claims.

The House divided on the third reading:

Ayes (23)—L.M.F. Arnold, M.J. Atkinson, J.C. Bannon, F.T. Blevins, G.J. Crafter, M.R. De Laine, M.J. Evans, D.M. Ferguson, R.J. Gregory (teller), T.R. Groom, K.C. Hamilton, T.H. Hemmings, V.S. Heron, P. Holloway, D.J. Hopgood, C.F. Hutchison, J.H.C. Klunder, S.M. Lenehan, C.D.T. McKee, M.K. Mayes, J.A. Quirke, M.D. Rann, J.P. Trainer.

Noes (22)—H. Allison, M.H. Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, H. Becker, P.D. Blacker, D.C. Brown, J.L. Cashmore, B.C. Eastick, S.G. Evans, G.M. Gunn, G.A. Ingerson (teller), D.C. Kotz, I.P. Lewis, W.A. Matthew, E.J. Meier, J.W. Olsen, J.K.G. Oswald, R.B. Such, I.H. Venning, D.C. Wotton.

Majority of 1 for the Ayes.

Third reading thus carried.

PUBLIC AND ENVIRONMENTAL HEALTH (REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 November. Page 1720.)

Dr ARMITAGE (Adelaide): In addressing this Bill I signal to the House that in essence the Liberal Opposition agrees with the Bill, certainly in its thrust and in most of its clauses. We will seek to have a number of questions answered during the Committee stage, but I would point out to the House that, as was indicated by the Minister in his second reading explanation, this Bill attempts to strengthen the Public and Environmental Health Act 1987, following consultation with the Public and Environmental Health Council, which is set up under that Act and, indeed, the experience of local government in the actual functions of the legislation. In my view it is another case of what occurs so often, namely, that what is clear to legislators as Bills and amendments are debated in the House is not clear as the fruits of our labour to the people who actually produce the goods at the end of the day. Indeed, it is a pity that so frequently what we as legislators intend in all good faith does not produce what we expected once the legislation is utilised in the community.

As an example of that, I would point out that one part of this legislation is to strengthen local government powers to make quite clear that the whole Act applies or that local government is empowered under the whole Act rather than just under one particular part of the legislation. Clearly, that was never the intention of the original legislation but, unfortunately, once it has left the House and been to Government House and becomes law, the situation alters. The Bill results from a need to increase the responsibilities of local government, but one of the major inputs that I have had in relation to the Bill is that local government states that here is another example of their being given greater powers, but they are given no greater resources. This is an oft repeated cry, not only about this legislation but about many other Bills as well. As I said, this clarifies the powers of local government.

One of the things that local government is empowered to do under this Bill is to delegate authority. It is unfortunate that the Bill makes no mention of any specific qualifications necessary for a person to whom responsibility is delegated. A number of councils have pointed out to me that for financial reasons they make appointments to their staff of people who are perhaps less qualified because they wish to have a smaller wages bill. Of course, this is fine, provided those people are not expected to do work beyond their capacity or qualifications. There is nothing in this legislation to indicate the necessary qualifications for a person who ends up with the responsibility for that delegated authority.

The principal Act (and I wonder whether I should call it the principal Act given the deliberations of this House of the past couple of hours) indicates that it is the function of the South Australian Health Commission to provide for measures to ensure the public and environmental health in non-local government areas. This Bill does not do that, and I signal to the Minister now that the Opposition will ask what will happen about non-local government areas, given that so many important diseases are covered by this legislation.

The Bill also provides that councils are expected to take 'reasonable' steps to prevent the occurrence and spread of notifiable diseases within their areas. The notifiable diseases under this legislation include such things as measles—and I would ask that at some stage the Minister might clarify what are reasonable steps for councils to prevent the occurrence and spread of measles. Mumps and food poisoning are also included. I make the point that the first schedule of notifiable diseases merely reflects the NH&MRC classifications, but I would ask what disease is food poisoning: food poisoning is a classification of diseases, rather than a disease, and it does not make sense as it is at the moment. Whilst occurrences of food poisoning, measles and mumps are notifiable and in some cases have the potential for extremely dire consequences, it is in relation to illnesses such as acquired immuno deficiency syndrome (better known as AIDS) that one must ask what responsibility the council has to take reasonable steps to prevent the occurrence and spread of AIDS within its area. I would ask, 'What indeed are reasonable steps to prevent the occurrence and spread of AIDS, brucellosis, HIV infection, polio, syphilis and viral hepatitis?'

Given that it is the responsibility of a council to take reasonable steps to prevent such occurrences, the Bill makes no mention of penalties, if any apply—in fact, there are no penalties if the council does not take reasonable steps. The penalty, as I read the Bill and as the Opposition sees it, is that the council will be denied this level of responsibility—of having to take reasonable steps. I put to the House: so what? If a council has not taken reasonable steps to prevent an outbreak of plague, malaria or legionellosis, why should it not be penalised in some way? The patients who have to suffer those diseases certainly face a penalty.

I speak with personal experience of legionellosis, because my sister-in-law had a very severe case of legionella longbeachii several years ago and very nearly died. If it were not for the excellent care and ministrations of Dr Grant Simmons and workers in the intensive care ward of the Lyell McEwin Hospital, my sister-in-law would have died. What penalty should the council which has not taken reasonable steps to prevent

the occurrence and spread of legionellosis as a notifiable disease be expected to bear? Surely the penalty should be more than just a removal of its responsibility to take those reasonable steps.

New division III behoves local councils to take reasonable steps to 'prevent any infestation or spread of vermin'. Vermin is added to the list of definitions under clause 3, the definition of vermin including lice, fleas and mites. For those people who may not know, lice, including head lice, is an absolutely perennial problem. I would put to the Minister that, for a council to have to take reasonable steps, wherever it may be, to prevent the infestation and spread of lice, including head lice, is quite outrageous. Someone ought to take responsibility for it, but I am not sure that councils are the right bodies to do it, particularly when the cost of eradicating head lice is so dramatic, indeed often prohibitive.

I would remind the House that the treatment for head lice in many instances involves all members of the family having to be treated twice, the cost being approximately $9 for 100 millilitres—an expenditure of $27 or more per treatment. In this economic climate, the expenditure of $27 or more for outbreaks which recur several times, often because of reinfection, is more than families can bear. It is an unfortunate fact of life that many people wrongly identify head lice as something to do with cleanliness or social and financial circumstances and they feel ashamed to take the proper remedial action and identify themselves as having had the problem.

I put to the Minister that the previous voucher scheme, which offered assistance to at least concession card holders for medication for head lice at a reduced price, ought to be high on the agenda for reinstatement. Indeed, I have had discussions with the Pharmacy Guild, which indicated that it too would be happy to make some concessions. I believe that negotiations ought to involve the manufacturers as well so that the best possible price can be given.

Members interjecting:

The SPEAKER: Order! The member for Napier is out of order. The member for Adelaide.

Dr ARMITAGE: Thank you, Mr Speaker. I am sure that the member for Napier is vitally interested in the facts and figures I am providing to the House about head lice and the cost of treatment. My point is that, if it is to be a responsibility of local councils to take reasonable steps to stop the infestation and spread of head lice, it is only fair to expect that society might make some concession to the people who are to be paying the dollars and, unfortunately in many cases, because the therapy is not on the so-called free list, that is difficult for families.

I also indicate that there might be a minor drafting error, because new part III repeals division 1 of part 111 and there is no subsequent renumbering, but we will deal with that in Committee. Clause 10 provides increased powers for inspection. It amends the principal Act and provides:

> at any reasonable time, enter or inspect any premises or vehicles;

Previously, under the principal Act, people had to give notice of inspection, and that led to a quick fix of a potential problem and, immediately after the inspection, the problem would just as quickly recur, because people had an intention not to fix the problem but to pass the inspection. The ability to enter or inspect any premises or vehicle at any reasonable time is a major move forward and will see a great increase in public health. Paragraph (b)(2a) provides:

> An authorised officer may use force to enter any premises or vehicle...

As I mentioned before, no qualifications are stipulated concerning the people to whom power can be delegated, and I must confess to some anxiety about people with no specific qualifications being legally empowered to use force to enter any premises or vehicle. It would seem to me that some qualification such as their being a licensed or qualified health surveyor or the like should be included in the legislation so that there are some fall back safeguards. What force would an unqualified person regard as their responsibility to use when entering any premises or vehicle to inspect for health reasons?

Paragraph (a) provides that someone may enter at any reasonable time or inspect any premises or vehicle, and there is some degree of concern as to just what may be inspected. Does this mean that at any reasonable time someone may enter or inspect a vehicle for exhaust emissions, or is this provision to be related specifically to vehicles delivering foodstuffs or perishable goods, to make sure that they are in a state of proper hygiene and sanitation?

The provision of a power to inspect any vehicle, for instance at a random breath testing operation in association with the police doing an exhaust emission check, would have other implications. Clause 11 provides a power to require information and, if the Bill is to have any teeth, people must have some expectation that they will be able to get the required information. It is an interesting concept that a person who gives information under this clause cannot be held to have breached any principles of professional ethics. That is a particularly dangerous area of quicksand upon which we enter, because professional ethics, in my view—

Mr Atkinson interjecting:

Dr ARMITAGE: I do not think so. I thought about it as I said it and thought it probably was not tautological. Whether or not it be tautological, it is a mine field. This area that we enter is dangerous, because professional ethics are not legislatable. It is my view that mentioning them in a legislative framework is fraught with danger. Professional ethics are matters for professional bodies. They are jealously guarded traditions. I understand the intent of clause I1 as it amends section 41, but I am not sure that to mention professional ethics in this context is the right way to go. As I said previously, I believe quite a dangerous precedent could be set.

The Bill also talks about persons infested with vermin having to take every reasonable measure to prevent transmission, and the parent of a child infested with vermin must do similarly. As I said, vermin includes lice, mites and fleas. Given that a division 9 penalty is provided if people do not take reasonable measures, how will this provision be policed?

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

Dr ARMITAGE: Immediately prior to the dinner break I was saying that, under this Bill we are considering tonight, a person infested with vermin must

take every reasonable measure to prevent transmission of that vermin, as must the parent of a child so affected, with the penalty set at a division 9 fine, and I was asking how this will be policed and about 'reasonable measure'? If the parent of a child has not performed the treatment for the head lice and if the instructions on the bottle are not followed, does this mean that the parents are liable for a division 9 fine? I take it that a reasonable measure to prevent transmission is by following the specified treatment instructions. So I think there are a lot of potential dilemmas in that.

When I ask how will this be policed, I do so because in many instances regulations are now in force under this Act, the Food Hygiene Act and so on which are simply not enforced. There is a real problem for society where we, in good faith, legislate for particular outcomes—and that is really the end of the process. I draw to the attention of the House a matter that was brought to my attention by a Mr Steven Miller of Commercial Bin Cleaning Specialists and involving a series of correspondence with both the present and former Ministers of Health in relation to industrial and commercial waste bin cleaning. The substance of Mr Miller's argument is that commercial bins, often outside restaurants, are left in an appalling state and clearly are a danger to public health. I quote from a letter that was written by the present Minister of Health to Mr Miller as follows:

> As the regulations under the Public and Environmental Health Act and the Food Act exist, the onus lies upon the user to adequately contain the refuse and ensure the refuse bin is kept in a clean, sound condition. The Public and Environmental Health Act has stringent provisions and provides penalties of up to $10 000 for discharge of waste into a public place. It is believed these provisions are more than adequate to deal with persons washing out bins and allowing the waste water to discharge into local government stormwater drainage systems... Given the role that local councils have in relation to enforcement, I would suggest you seek to have discussions with Mr Jim Hullick, Secretary General the Local Government Association...

Indeed, on 13 October 1992 a circular to councils, to chief executive officers and environmental health officers, was sent by the presiding officer of the Public and Environmental Health Council, and I quote the last paragraph:

> The Minister of Health, the Minister for Environment and Planning and the Public and Environmental Health Council have expressed concern regarding this unacceptable practice—

which is the non-cleaning of foul bins and the disposal of the waste and waste water into the ordinary waste water outlets—

> and have requested that this be drawn to your attention for the appropriate action as necessary.

That is all very well. There is a lot of drawing to the attention of people, a lot of identifying problems and a lot of acknowledgment that there is indeed a problem, but the problem still exists. My point in highlighting this is to indicate that we can legislate until the cows come home but there is little point if there is no enforcement of what we legislate. I refer to a letter presented to me by Mr Miller from the then Minister for Environment and Planning to the then Minister of Health dated 11 August 1992, and I quote:

> At the present time the bins are removed for cleaning by the respective contractor on a regular basis although I might suggest this is in many cases an *ad hoc* arrangement. There is a charge for the respective shop owner to have these bins removed and cleaned and I am concerned that to avoid paying this charge many shop owners are hosing their bins out. This water carrying with it associated debris is then discharged into the storm water drain polluting our environment.

Further, the then Minister for Environment and Planning states:

> Might I suggest that, as the Public and Environmental Health Act 1987 is the relevant legislation, it may be timely for the Public and Environmental Health Council to draw to the attention of local government the need to ensure that provisions of the Act, with particular regard to the control of refuse, are adhered to and the fact that there are private companies which will clean these bins on site and remove the resultant waste water.

Despite what I consider to be genuine attempts and genuine concern nothing has been done, and I have seen a video taken by Mr Miller of various commercial bins outside restaurants and it is fair to say that those bins are absolutely filthy. There are all sorts of examples of vermin there and one particular restaurant had a dead dog in the bin. The point that I am making is that the Minister and Parliament—

An honourable member interjecting:

Dr ARMITAGE: Indeed, I might. The Minister and the Health Commission cannot slough off the responsibility by saying these regulations are here. How can we deal with the problem? It is not how we can legislate for public health matters; the problem for the Health Commission and the Minister of Health is how they can ensure that public health is maintained. I put it to the House that we can have all the legislation in the world but unless it is policed it is totally worthless. Regulation 21 of the Food Hygiene Act states:

> A proprietor of a business that manufactures or stores food for sale or sells food must ensure:
>
> (a) all waste is stored in sound and impervious waste containers with close-fitting lids;

That is perhaps observed in some cases. Further:

> (b) all waste containers are maintained in a sanitary condition.

Clearly they are not. The regulations continue:

> (c) that all putrescible waste placed in industrial type waste bins is placed in those bins in sealed, sound and impervious containers.

Clearly that is not the case. It also states:

> (d) the provision is made for all waste to be removed at sufficiently frequent intervals so as to prevent the occurrence of insanitary conditions.

This is all wonderful stuff and totally supported by the Opposition, but it is absolutely ignored by the people whom we really ought to be looking at. There is example after example of instances whereby, in serial, (a), (b), (c) and (d) of those regulations are ignored. If our responsibility is to provide for the public health we have to do something about it.

This is an important Bill because there are very few things of greater import than public health. It is a matter of concern, particularly in a time of economic duress, that people may not be able to look after their own health as well as they might. It is the Opposition's viewpoint that it is the responsibility of the Government and of the

Parliament to provide an environment which provides the greatest opportunity for the public to enjoy their lives with indeed the least possible chance of being inflicted with illness which, of course, is what public health is all about. Having made all those points, the Opposition supports the legislation.

Mr S.G. EVANS (Davenport): My colleague has said that the Opposition supports the legislation. That is true, but I wish to raise one or two points about which I have some concern. First, my colleague said that quite often people are appointed to carry out the role of inspector above their capabilities, and that councils cannot afford to pay the full price for professionally qualified people to carry out these duties or be given the opportunity to carry them out. In the main, I agree with that, and I can understand my colleague's strongly supporting that view as a professional person himself; but, being a person without any academic qualifications, I know of instances where quite often those who are qualified do not have the capabilities to put into practice what they are paid to do. That is one of the problems that we have in society.

I know of a President of the Architects Society of South Australia who at one stage allowed a house to be built under his own supervision which it cost him about $40 000 to have rectified. That is an example of a professional person not having the capabilities to carry out work for which he is supposed to have had the qualifications. The same will apply in this matter. My main concern is that, if we sent a copy of this Bill to every elected member of local government in this State, along with a copy of the second reading explanation, and asked if they knew anything about it, we would be lucky if 5 per cent could respond positively. In the main, it is not the elected members who have made the representations and put forward the point of view but it is the staff employed by the council. They have a personal interest—really a conflict of interest—to gain more power to make it easier sometimes to do the job, at times to the detriment of the small business operator or the individual.

No penalty is provided in the Bill if a council or its officers fail to carry out their duties. The Government's response to that, and even that of the officers, would be that, if they are professionally negligent, they could be sued. They have given advice and requested changes to the Act, and in that regard I take it they have said, 'We don't want to carry the responsibility of having to do it if we don't feel like doing it.' In other words, there is no penalty if it is not done according to the Act. If a person believes they have been aggrieved and contract a disease because of a lack of proper application of the so-called expertise of the individuals concerned, all they can do is attempt to fight it at common law. How many people in our community have the money to do that? Most of us have to run away from it and say, 'Well, I know I have a chance, but if I go to the lawyers they will say, "On the one hand you might win and on the other you might lose"'; they know there is a risk that they could be up for legal costs and no compensation.

So, I find it amazing that we have had all this representation from local government, which wants the opportunity to spread its areas of power but will not accept the fact that a penalty applies if it goes wrong. However, if the inspector says, 'You need to fix this within a week or else', and the work is not carried out, the individual could pay a penalty. That really is a double standard, and we should all be conscious of that.

Because the Public and Environmental Health Council had the responsibility in certain areas, in this case it passed two back to local council, one relating to diseases and the other involving a matter to which I will come back later. The responsibility was passed back to the local council, and then at the same time local councils are saying to us out in the community that, because Government is giving them more and more areas to operate, they need more and more money to carry out those operations.

This Bill provides for the council to apply fees. That sounds quite appropriate but, given the way local government has gone in recent years, we know what happens and see what fees are involved when we try to get a building permit or apply to the Health Department about a septic tank or other method of disposal of waste. We say in this country that it is paramount that one of our goals should be to provide one's own accommodation, yet we penalise people through applying minimum rates on blocks of land, applications for buildings, applications for inspections by health officers, and so on. So, we as Parliamentarians and those in local government practise a double standard. When councils get this power, not only will they employ more qualified people, as my colleague suggests that they should, but also they will employ more people in the area, and the fees will be increased.

There is no way the ordinary citizen can get an opportunity to protest, because at any one time the number paying the penalty is small, and their voice is insignificant. It means nothing in the community. Politicians do not bow to it and the elected members of local council do not bow to it, because quite often these people have recently shifted into the area and have not become part of that community, so their voice means nothing, but the penalty means a lot to them. That is what it is: a penalty. I would only wish for what it was like when I was a lad, when I could say at 15 that I would own my first home at 21 and, without inflation or great charges imposed by councils and others, be able to achieve that goal. Young people today cannot do that. I did that on wages, not on a business income or anything like that. It was with straight wages.

I have a concern about the responsibility we pass to councils, and they seem to be concerned about it once they get it, because their officers seem to be fighting for it and the elected members are not looking at what will be the end result for their constituent residents, who in some cases are living in rented properties and in other cases are ratepayers living in their own home. The end result (and it is already happening) will be that councils will get so many responsibilities that they will say (as they can rightly say now) that it is no longer a part-time thing to do after they finish work to read all the minutes of council subcommittees and so on, where the responsibility has been passed down from the elected member to committees and then to officers. They say, 'We do not have the time, so we have to allocate some of our work time to do it.'

The only category of people who will go to the council will be those who have retired, who do not wish to work, who are rich enough or who are the partner of someone who is rich enough so that they do not have to work—or, as I said, they will want to be paid. I do not deny those people the small payment they get to cover their costs. But it will not stop there; this is another part of the process of paying local government. When you do that, the argument to get rid of smaller councils and get regional councils becomes stronger. I repeat: this is part of the process.

I have said to this House and to everybody in South Australia that, if ever it looks as though there will be regional governments and no State government, sell everything you have quickly, get out and go east or west, because you will be a forgotten backwater. MPs, regardless of whether they are from this Parliament or other Parliaments, in the main respond to those who make the complaints to them, their own constituents. If an MP lives at Port Adelaide, he will not be concerned about what happens at Oodnadatta, and *vice versa.* Given that 14.5 million of the Australian population live on the Eastern Seaboard, we can see what will happen. I come back to my concern of this continued passing of power down to local councils and with it a responsibility, but then when it comes to penalty, no penalty—except if you go to court.

The legislation gives the power for officers to force entry. They will have to go to a magistrate and get permission so that they can force entry. They must justify that by saying that an offence is likely to have occurred, has occurred or is occurring, and that seems a reasonable provision. But if an officer who is a bit more aggressive than others says, 'Look, if you don't let me in, I will break in after getting some advice,' the situation becomes dangerous. Never in the history of the Public Service, after some time has past, has it not occurred that some of the new officers have not got power hungry. They are educated as to how far they can go, and some want to go a step further. My colleague the member for Eyre can give many examples of where power is abused by officers who find it hard to work within constraints that are placed upon them, because they believe they are God Almighty in the area and that they should be able to take that extra step. That is human nature, and it could happen to us, too, because we are all egotists to be in Parliament—some greater than others. But that is part of the human process.

This Bill provides that a waste control system is any system that provides for the collection, treatment or disposal of human, commercial or industrial waste, and then it refers to a sewage drainage system and a few other things associated with it. What is waste? Mr Speaker, something that may be waste to you may not be to your brother, a relative or another person. The matter becomes difficult. For example, some of the methods of composting are unsatisfactory. Some of the materials that are put into compost should not go in there because they will allow the breeding of flies if the top is left open. Some of the latest methods of composting have an open top. So, we are looking at inspectors moving into this field. However, it concerns me that the department has had and still has the power to inspect every method of disposal of human waste. It has had that power.

Today in the Hills it is installing units—units distinct from septic tank disposal—that are more satisfactory to deal with the disposal of such waste, and they are proving to be successful. Such units reduce the amount of potential pollution that could result, be it inside or outside the water catchment area. However, there are thousands of septic tanks in the Hills that are not working effectively inside the catchment area. Are such septic tanks inspected? Of course not. Authorities presently have the power to enter a property and say, 'This unit is not working effectively.' That is not done at the moment, but under this Bill we will give the Health Commission or local councils greater power, even though they are not effectively using their existing powers.

I refer again to what happens when someone applies to build a house. I wanted to pick up on this matter earlier in respect of responsibility and who decides the type of waste disposal system for sewage. That power is to go back to the council whereas previously it was the responsibility of the Health Commission. I hope the new system ends up being better. My point is that in the past, if one applied to build a house, the application went to the department and it took ages, sometimes months, to make a decision. Clearly, it is not the department's money that is wasted—it is someone else's. Some innocent couple or individual who hopes to build a home has their money wasted because of the time it takes for a decision.

People might even have bridging finance and the confounded department is concerned that the waste area may be within 50 metres of a stream. I mentioned recently that sometimes these so-called streams never run, and some of them would not run for four weeks of the year. They are negligible, yet departmental officials walk around exercising immense power. The member for Eyre refers to the 'Gestapo', but I will not use that term. They walk around with immense power and are not concerned about the time it takes to make a decision. I come back to the basic question: whose money is it? It is an individual's money that is tied up.

Time is money. Previously when one applied to build a house it took 12, 16 or 18 weeks at the most but now in some parts of the State it can take 12 months or more for an application to be processed because of professional humbug and nothing else. Now that this power and responsibility is going back to local council to decide on the method of disposal of human waste, I hope the system improves immensely. Commonsense should prevail.

Finally, the provision gives local council powers in respect of all aspects of waste and waste control. I refer to the Minister responsible for the E&WS the question of the effluent that flows from the treatment works at, say, Hahndorf or at the Oakbank races when sometimes raw sewage flows over the paddocks. Will that come under the jurisdiction of the local council? Will the department pay a penalty or will that be just another forgotten issue?

What about Joe Bloggs in his corner store who is fined for having four cockroaches on his premises? Where will this power begin and end? What about those people who front up and pay the penalty and what about Government departments which avoid the penalty? I support the Bill but I hope people take note of my

concern that, in the end, this move is another step toward regional government, even though it may not be the Minister's intention at the moment. That is the way we are going. If we are not aware, we will be paying local councillors just as MPs are paid and then there will be an argument that one of the levels of government has to go.

The Hon. M.J. EVANS (Minister of Health, Family and Community Services): I thank members opposite who have spoken in this debate for their support in principle of this legislation; and I thank the principal spokesman, the member for Adelaide, who has indicated his substantial support for most of the provisions although he has indicated a number of areas about which he would like to ask some questions during Committee. It is not my intention to cover those areas which we could properly go into during Committee, but it would be appropriate at this stage to cover some of the general areas that have been raised by the member for Davenport and the member for Adelaide, much of which covered the general question of local government and its involvement in the health area.

It is certainly true that progressively the State Government is devolving a number of functions to local government. Indeed, local government has a long and honourable history in the health and public health area. It has always been involved previously through local boards of health. I had the privilege to serve as the chairman of the local board of health for Elizabeth for a number of years when I was Mayor of that city and a member of its council. So, local government's involvement has been with us for some time.

This legislation seeks to clarify and quantify some of those areas with greater particularity and follow through the process of devolving more responsibility to local government so that it can better discharge the functions of public health at a local level. Members opposite have noted that finance is not part of this package; that, although this Bill restates a number of the provisions of the existing law and takes some of those provisions slightly further, in the vast majority of cases it simply restates in a better form existing provisions.

It is also true that, unrelated to this Bill, local government and the State Government are discussing this question of the devolution of powers and are almost as we speak negotiating questions of financial responsibility which the two sectors of government need to ensure are in place so that the whole process of the demarcation of powers between the State Government and local government can take place on a sensible financial footing. While those matters are not part of this Bill, they are the subject of general discussion at a very serious level between local government and the State Government. My colleague the Minister of Housing, Urban Development and Local Government Relations is discussing those matters with local government with a view to ensuring that it has a sound financial base from which it can undertake the wide range of duties of which health is an important one in the local community. While it is not covered in this debate, I think the matter is being addressed generally and, as far as we are concerned, can be left to that more general debate.

Councils, as members opposite have observed, do not always fulfil all their obligations all the time in precisely the manner in which we might seek to have them do. Of course, the same is often said of Governments and Oppositions of any political colour and governments of any level, be it Federal, State or local, and that sometimes is because of a difference of ideology, a difference of opinion and sometimes because those governments, local councils or officers within them have failed to fulfil that duty. Where that occurs at the local level in the area of public health the system enunciated in this Bill does provide a mechanism whereby the power can be taken from that council, after appropriate consultation, and vested back in the commission.

Dr Armitage: Big deal!

The Hon. M.J. EVANS: It is a big deal. To remove significant powers, as the member opposite has observed, from a local council is a very substantial step. If one is to take seriously the contract between local government and the State Government, which I understand is broadly supported in the Parliament—the concept of an agreed basis, an agreed contract, if you like a social contract, between State and local governments and to define who is to undertake what functions and with what powers—it is a very important step. It helps to eliminate wasteful duplication of public services which have to be funded by taxpayers and ratepayers who, although they might be wearing different hats at the time they write the cheque, are still footing the bill.

The obligation is on this Parliament and local councils to ensure the funding is there but that the services are not duplicated; indeed, that decisions are taken at the most appropriate level where this can be arranged, and in many areas of public health the most appropriate level is at the local level. This Bill seeks to ensure that indeed the majority of that option is there for local government but that where in isolated events or incidences they fail to discharge that function properly a mechanism exists to lift that back to the State level. I think that is a sensible way to go. We cannot be certain that every council will discharge all its functions at all times, so we must have the reserve power for the State but indeed we ought to accept that local government is a responsible third tier of government in this State. I have assumed that members opposite did accept that responsibility that lies with local government and that they can in fact be trusted to act responsibly in accordance with the duties which the Parliament imposes on them. I believe that is a very reasonable supposition to make. We are entitled to expect that they will discharge their public duty and responsibility; just as we do as elected members, so should local government.

In relation to any talk of penalties, I am not quite sure whether it is contemplated that one would prosecute individual members of council, individual officers or the council as a whole. What would you do? Would you provide some exemptions for those council members who voted the other way? I suspect that it would not be a workable proposition.

Councillors undertake their public duties, as the member for Davenport observed, with very small payment. They put substantial time into the affairs of their council. They make substantial contributions for no

return or reward from their local community, and I think they are entitled to expect that we will trust them to discharge those duties appropriately.

Where a council has a public duty I am sure that this Parliament would expect that it would carry it out, and that any concept of penalties is indeed quite the wrong approach. Much rather we should have a mechanism which allows us to ensure that those functions will be discharged, notwithstanding some temporary problem on the part of a council.

A number of other issues, including the question of authorised officers, were touched on by members. Of course, under the principal Act authorised officers are required to be qualified, and I think that councils on the whole would certainly undertake to appoint such qualified people in accordance with the principal Act.

Of course, this State is particularly renowned for the system of public health education which we have here and which has produced some highly qualified officers within the areas of local government. Of course, the word 'reasonable', does indeed, as the member for Adelaide observed, often appear in this Bill—as it appears in many other items, especially when dealing with the question of public health, which can range from very trivial breaches—

An honourable member interjecting:

The Hon. M.J. EVANS: Well, the honourable member quite correctly draws attention to the issue of definition of 'reasonable'. This has been something which has been fought out in the courts over decades, if not generations, and has indeed provided substantial work for the legal profession throughout history. I am confident that it will continue to do so. However, the reality is that where one expects people to exercise discretion, where there are individual cases which must be taken on merit and individual circumstances which must be examined in the light of all the other factors that impinge on them, I am sure that the Parliament would not wish to insert precise and specific definitions but would much prefer competent and qualified people to exercise a judgment on the ground about what constitutes 'reasonable or appropriate steps', and of course there is always recourse to the courts where one challenges their definition at the time of 'reasonable'.'Reasonable' equals 'reasonable'. It does so with all of the circumstances of the case, and this is as it has always been, and no doubt as it always will be.

The professional ethics question is one which the member for Adelaide raises quite properly in this debate. It is indeed a very difficult question, and he quite properly draws attention to the fact that this should not be undertaken lightly to legislatively offset the obligations of professional ethics. Of course, however, not to do so in some specific circumstances would negate the other legal provisions of the Act, because a medical practitioner or a legal practitioner who could be disbarred or prevented from practising would of course lose their whole livelihood, and on the basis of that professional restriction, notwithstanding the legal provision, they would of course then be unable to provide that information. Yet, in public health it is often essential to acquire information about individual people in order to prevent harm to the vast majority of population through the spread of infectious disease, for example.

There are a number of circumstances where, in the interests of public health generally, it is essential that some of those otherwise clear-cut and unambiguous rights of an individual must, of necessity, be set aside. But there are, of course, confidentiality provisions under the Act which ensure that that information is contained within the system and is used only for the purposes for which it is sought, and that is proper. So, while I understand the point, I believe that, in the circumstances which the Bill provides, it is not possible to proceed otherwise.

As the member for Adelaide observed in relation to the issue of a person using force to enter premises and the like (and the member for Davenport reflected on this as well), while obviously it is desirable that such powers should be exercised as little as possible, this is a significant advance in public health, because it is the only way that we can ensure compliance. The honourable member cited the case of a parent in relation to the control of head lice on a child and, while there are technical offences created here, the purpose of those is simply to create the circumstances, the scenario, where steps can be taken. Obviously, it is much more desirable that we should educate people in the control of these things, that steps should be taken to prevent the occurrence of them, and that people should be assisted to rectify the condition themselves and with professional attention.

It is not the case that we wish to create offences in order to prosecute these people, as if they had committed some wrong: the reality is that one has to create circumstances in which action can be taken, and this is the appropriate way of doing it. I do not think we will ifnd too many cases where the officers are seeking to pursue these matters through the courts: rather they are seeking to help people in a constructive approach. I am sure there are many other issues that can be raised in Committee, and I think that is the most appropriate way of proceeding. I thank the Opposition for its support of the measure and I look forward to discussing some of those other matters of detail in the subsequent stages.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Powers and duties of relevant authorities.'

Dr ARMITAGE: As I said in my second reading speech, the principal Act provides under section 13(1)(b) that the Health Commission should supervise the observation of the principal Act in the parts of the State not within local government areas. Clause 5 of the Bill amends section 12a (1)(a) to provide that it is the duty of the commission to promote proper standards of public and environmental health in the State generally. There is a specific omission in that it is not the responsibility of the Health Commission to make sure that the Act is observed within local government areas but, indeed, the non-local government areas make up a significant area of South Australia in which vermin may well be a problem for public health. Clearly, the propensity for vermin to spread means that someone has to control them in non-local government areas, and I would be interested in exactly how that is to be handled under this legislation.

The Hon. M.J. EVANS: I am pleased to advise the member for Adelaide that section 3 of the principal Act refers to 'the authority', and then goes on to refer to those who have the function to perform throughout the rest of the Act. The definition section provides that, in relation to a part of the State that is not within a local government area, 'the authority' means the commission. So, under section 3 of the principal Act the commission is defined as the relevant authority in those parts of the State that are not part of the local government area. I therefore believe that that question is covered.

Dr ARMITAGE: I take the Minister's point, but section 13(1)(b) of the principal Act specifically includes non-local government areas, and that is much more specific than the Bill, which is why I asked that question. The Minister mentioned adequate measures and reasonable steps being taken because they are traditionally defined. I understand that but, given that a local council is being required by legislation to take those steps to prevent the occurrence and spread of AIDS, HIV, chlamydia, hydatid disease, legionella and so on, I would like those measures to be further defined, as specific measures can be taken to prevent the spread of those diseases.

Public health concerns about the spread of HIV are well recognised. Surely, the methodologies by which the spread of that disease can be prevented are no secret to members of the House. In most instances, people religiously observe those methods of prevention of the spread of HIV infection, but does this mean that, if councils do not promote those measures or, for instance, if a council does not have a needle exchange program, that is not taking reasonable steps, because it is well recognised that needle exchange programs are a reasonable way of stopping the spread of some diseases on the notifiable diseases list? So, I ask the Minister to be more specific in defining what are reasonable steps.

The Hon. M.J. EVANS: What is reasonable depends upon the local government area that we are discussing. Obviously, what may be a reasonable step for a country council with limited resources but a far-flung empire with very low population density may well be different from, for example, what is a reasonable step in my own district of Elizabeth, which has a higher population density. That is why words such as 'reasonable' are used, because every area must be taken on its merits. What is reasonable in one district may not be in another, because the resources, the community and the population density are different. All those factors come into play, as well as a whole range of diseases, which the honourable member has mentioned.

Obviously, HIV is something which councils, apart from some limited steps such as needle exchange and the like, which will often be run also by State Government agencies, find quite difficult to control, whereas other diseases with much simpler vectors are something that councils can address. So, what is reasonable will depend on the council and on the disease.

The commission, in its responsibility to promote public and environmental health in the State generally, will obviously encourage councils. The function of the commission in this context is to provide education, encouragement, standards and protocols which local councils can follow, but, because every area is different, because every disease will require different procedures to be followed, obviously it will not be possible to define what constitutes a reasonable step. One of the advantages of having local government involvement, as it has existed traditionally over the years, is that councils are able to respond to local needs and provide a different solution in each different area according to local requirements. That is something that we cannot do from North Terrace.

The honourable member should read the provisions relating to notifiable diseases in the context of sections 35 and 36 of the principal Act, which provide the steps that the commission is required to take when it becomes aware of danger to public health from the spread of what is stated in the principal Act as 'a controlled notifiable disease' but which after the passage of these amendments will be known simply as 'notifiable disease'. So, where a much more serious situation evolves, obviously it is contemplated by the legislation that the commission would step in and assume that responsibility. So, this legislation provides for an appropriately measured response in relation to both the district and the disease, and to the nature of the outbreak and occurrence, and that is probably the appropriate measure for the Parliament to take.

Dr ARMITAGE: I do not dispute any of the facts under those sections of the principal Act but, under section 12a(2), it is the duty of a local council to take reasonable steps. It does not matter what is the commission's duty or whether it is a good or bad idea. I put again to the Minister that something like a needle exchange is a reasonable way. I am not saying that every local council should have such a scheme, but it is a reasonable step to prevent the occurrence and spread of HIV. We are legislating to make it a duty of a local council to take that reasonable step. I fully accept that far lfung councils, with disparate groups of people, may well not have a need for a needle exchange program, but we are legislating to say it is the duty of a local council to do that. Bearing in mind that this is a very large clause, I ask the Minister to address that again.

I noted from the Minister's reply to the second reading stage—I hesitate to say it—a degree of sanctimonious putting down of my regard for local government; I certainly did not intend that in any way. I fully expect that local government will uphold its expectations. Indeed, I have the most explicit trust in local government, particularly in my own local area, but I put to the Minister that, under clause 5, by altering section 12a(3), we are referring to a local government failing to discharge its duty under the section, so we are in fact acknowledging that there are occasions where local government, for whatever reason, fails to live up to expectations.

I fully agree with the Minister that that is a rarity, because it is my experience, particularly in the public health area, that the purveyors of public health within local government are absolutely dedicated to their job, but we are acknowledging in legislating that sometimes things will slip through the net. So, I would not want it to be suggested by any misunderstanding that in any way I was expecting that local government would not grasp the nettle firmly to uphold its fine traditions in the provision of public health. I draw again the Minister's

attention to the duties of a local council, as I mentioned previously.

The Hon. M.J. EVANS: With all due respect, the honourable member has in a sense answered his own question, because he said he has accepted that not every council would need a needle exchange program. That is the point: what is reasonable in one area might not be reasonable in another. By acknowledging that, and by acknowledging the fact that local councils will respond to the local needs of the area, he accepts the point that the Bill makes—that there will be a different requirement in each area and that the magic of the local government system is that local governments can respond to local requirements. Clearly, that is the purpose of this clause. When one is judging the performance of a local council, one will do so by reference to its area and to the nature of the disease it is seeking to address. The honourable member is quite right: some councils would need a needle exchange program in this context, others would not.

I think in the first instance it is best for them to make that judgment. Where subsequently we form the view, at a State level, that the council has not necessarily complied appropriately with its duties, then one needs to come back and re-examine that matter and if necessary adopt the unfortunate but occasionally requisite approach of taking that power from them. But in order to ensure that there is an obligation on them to take those reasonable steps we do have to define their duties under the Act and indeed that gives them the wherewithal to proceed to discharge their functions. This Act adopts the approach of saying, 'You have certain duties and we will give you certain powers to fulfil those duties. If you fail to exercise them we, at the State level, will monitor your activities and lift that power from you in the event that in an individual case you do not exercise the power'.

It is essential that the Bill creates the duty so that we can hold them to the obligation. The Bill must empower them in appropriate ways to exercise those functions and then, as with all responsible managers and coordinators of a centralised function, we must monitor their activities and, where necessary, if they fail, we must take action to alleviate the public risk from that failure. I think that the honourable member in his own remarks has addressed the very basis on which this Bill is formulated. All areas are different. What is reasonable will differ from area to area. In fact, I think that that scheme is the appropriate model to adopt in relation to ensuring that public health is relevant to the individual areas and not over-regulated by the heavy-hand of State bureaucracy, if you like.

Clause passed.

Clause 6—'Repeal of Division.'

Dr ARMITAGE: This may be a somewhat pedantic point but I think it should be done here rather than elsewhere: I understand that Division III that we have just passed is, in fact, Division III of Part II. Clause 6 of this Bill eliminates Division 1 of Part III and it does not go on to re-number the other divisions. We ought to get this right.

The Hon. M.J. EVANS: Mr Chairman, I understand that in such matters it is traditional to simply delete that clause and one does not re-number the remaining clauses. In fact, if one looks at reprinted Acts there are sections which simply have a row of asterisks, which indicates that that part has been deleted and that the normal procedure in these matters is not to actually re-number remaining paragraphs because, of course, people subsequently refer to them on an historical basis.

Clause passed.

Clauses 7 to 9 passed.

Clause 10—'Inspections, etc.'

Dr ARMITAGE: As I mentioned in the second reading debate, clause 10, which amends section 38, gives the power to, and I quote:

> ...at any reasonable time, enter or inspect any premises or vehicle;

I am fully in favour of this increasing of powers, for the reasons that I mentioned before, and I shall not dwell on those, but will the Minister say which vehicles it is intended the provisions of this clause might catch? In other words, is every vehicle able to be inspected and investigated at any time for any measure under this legislation?

The Hon. M.J. EVANS: The clause, of course, relates to section 38 of the principal Act, which provides:

> An authorised officer may for purposes connected with the exercise, performance or discharge of any power, function or duty under this Act...

It then goes on as the member has noted. So, any vehicle is subject to the Act but the intention of the officer in stopping and searching the vehicle would have to relate to the exercise of a power or function under the Act and therefore it is limited and restricted only to issues which arise from public health functions. Any issue which was outside of that, for example, if he suspected that the driver was driving under the influence of alcohol, would not relate then to an issue under this particular legislation. Other people have powers to exercise in relation to those areas. So, the authorised officer would have to comply with the requirement that it had to relate to a power or function or duty under this legislation.

Dr ARMITAGE: It has been brought to my attention that there was a media story late last year (I did not see it but I was told of it) about a particular council health inspector who went along to a random breath testing station to test each vehicle for vehicle emissions. Would this legislation enable that? Clearly, that has occurred, but is that the principle that we are legislating for, or are we looking for vehicles to be inspected, as I would assume is reasonable (there is that word again), to stop a vehicle that may be purveying perishable goods?

The Hon. M.J. EVANS: There are other legislative provisions that relate to vehicles which are emitting noxious fumes and which are not properly tuned. That legislation operates to allow those vehicles to be dealt with. The Public Health Act does not. I am not familiar with the media article to which the honourable member alluded, but one would have to use the powers only within the confines of this Act, so the officer would have to form the view that some public health issue was associated with the vehicle.

Dr ARMITAGE: Again I raise this matter of force to enter any premises or vehicle which an authorised officer may use under this legislation, and ask the Minister whether he would like to wax lyrical at some stage about what measures may be taken in order to fall under the definition of 'force'. By that I mean whether such things

as utilising methods to break windows to get in to ascertain whether vehicles are hygienic purveyors of food and so on is envisaged under this definition. What measures can the authorised officer utilise under this definition?

The Hon. M.J. EVANS: I dread to use the words 'reasonable measures', but the reality is that an authorised officer would have to use appropriate and proportionate measures. They would relate to the degree of resistance offered. Clearly, if the premises were not occupied and it was not possible to find the occupiers and the officer secured a warrant to break in, he could simply smash a lock off the door or whatever. If he then moved in with a bulldozer and demolished the building, clearly that would be excessive force, and I am sure the courts would rule accordingly. So, the use of the force has to be proportionate to the threat perceived by the officer and justifiable retrospectively in a court of law if he was required to do so. I think that probably answers the question.

Clause passed.

Clause 11—'Power to require information.'

Dr ARMITAGE: We have previously discussed the principle of professional ethics, and I understand exactly the reason for amending section 41 to insert subsection (4), as in this Bill. However, I ask the Minister: given the importance of the legislation that we are enacting (and the Minister utilised that in his second reading response), what would happen to someone who for reasons of professional ethics decided not to disclose facts?

The Hon. M.J. EVANS: Presumably, if the authority found the information to be essential, they would be prosecuted pursuant to this section.

Clause passed.

Clause 12 passed.

Clause 13—'Insertion of s.43a.'

Dr ARMITAGE: Again, I wish to ask about the words 'reasonable measures'. I accept all the jocularity with which we have talked about them before, but I do think that, in relation to the obligation to take reasonable measures to prevent transmission of vermin to others, we must be more certain as to exactly what this means. Is a reasonable measure for a parent of a child with head lice the observance of the instructions on the bottle? It is clearly important from the point of view of the treatment, but is it important from this legislative point of view that the exact instructions be followed? To me that would seem reasonable. If a diagnosis of head lice had been made and treatment recommended, it would seem quite reasonable to expect that treatment to be carried out to the letter.

The Hon. M.J. EVANS: It is very unlikely that someone would be prosecuted. The offence is created to establish the scenario, to ensure that there is an obligation on people to do these things, and it is important to set out these duties and principles in law. You have to do that in order to create the offence, but the reality is that what is sought here is public education, public responsibility in relation to the issue of these things, and the issue of the offence provisions as a last resort.

Clearly, if you followed the instructions on medication, you would be taking some reasonable steps in that regard. Provided that was enough to deal with the issue, that would be fine. I do not think that it is rational to raise the spectre of someone using 499m1 of lfuid when the instructions said 500ml and, therefore, you have committed an offence. Courts expect the prosecuting authorities to act reasonably in these matters and not to raise trivial or frivolous breaches of the law. Where someone failed to use the medication and has not taken appropriate or reasonable steps, having followed the medication in the way in which all normal people would do, they probably would not use a micropipette to determine the amount of the fluid but rather would pour it into a standard measuring cylinder, for example, which probably has an accuracy of plus or minus 5 per cent.

If someone is not particularly qualified in its use, perhaps it is plus or minus 10 per cent, whereas the honourable member and I, given our professional backgrounds and training, could perhaps reduce that to 2 per cent. What is reasonable again would be fairly apparent in the circumstances of the case. Certainly, I do not believe that our courts would entertain a frivolous prosecution in relation to these things and seriously doubt that any rational and responsible local government officer would seek to bring such a prosecution.

Dr ARMITAGE: I am delighted to hear that because, in fact, the treatment for head lice is two treatments: one on day 1 and one on day 8 or 9, a week apart. In no way am I expecting that 499m1 rather than 500ml would be regarded as not taking a reasonable measure, but not to apply the second dose, given that that is clearly indicated, may well be not fulfilling the letter of the law. I accept that it is highly unlikely that we would ever go ahead. That is the point that I am making. I just think that clause 13 is totally unworkable.

The way to educate the public as to the proper methodologies of treating this is not to legislate with a division 9 fine if you do not wash your hair a second time a week later, and then to say to people we are never going to do it anyway is crazy. The way to treat education in public health is far from using this big stick approach. That is why I am raising the issue, and I am sorry to be pedantic but would the non-application of a second treatment a week later, as is quite clearly indicated on the bottle, in other words only doing half the treatment, be regarded as not taking a reasonable measure to prevent transmission of the vermin to others?

The Hon. M.J. EVANS: The relevant point here is that I said not that we would never use it but that it was a last resort. Clearly, the overwhelming majority of people will want to take the necessary, appropriate and relevant steps to cure the problem, and they will be totally cooperative with any officer, public health official or school teacher who says, 'Use this on two treatments eight days apart.' Using it on days 7 or 9 would not in my view constitute grounds for prosecuting such people, whether or not it constitutes a technical breach of the law. The reality is that some provision must be used as a last resort where some person, for reasons of their own unbeknown to you and me, chooses to ignore and indeed continues to expose other people to a threat from such vermin when they quite easily could have eliminated the problem.

One must have that kind of ultimate provision to protect the balance of the community from the those,

fortunately, rare or isolated instances involving people who deliberately choose not to act in relation to these matters. Ultimately, some sort of offence is required to create the duty and to deal with that last remaining person who will not cooperate. But in almost all other cases one will find ready compliance with the spirit of the law, and indeed I am sure that people would take all the appropriate and reasonable steps to cure that problem. They are highly motivated to do that.

Dr ARMITAGE: It is quite clear that the Minister has never had to re-dose a 7-year-old screaming child one week later when the previous week has been a series of traumas of, 'Don't you ever do that again to me.' But, nevertheless, I do accept that most people in fact would wish to be rid of the disease: it is the therapy by which that occurs that is sometimes not quite so easy to adopt. Given that we are putting the onus on parents of children and indeed on persons infested with vermin to take all reasonable measures to prevent the transmission of vermin to others—and the first thing you must do to prevent the transmission of vermin to others is to eradicate it from oneself—would the Minister in any way contemplate revising the previous voucher scheme whereby patients with pharmaceutical and pension cards were in fact able, with a contribution from the Government, from pharmacies and from manufacturers, to get the medication more cheaply?

As I indicated in my second reading speech, there are people I know for whom the standard reasonable treatment for head lice is a large financial burden, given that once it is in a school, in particular, it tends to fester there for such a long time. It is not at all unusual to see the heading in newsletters—and I am sure every member of the House in reviewing school newsletters sees this almost routinely—'Head lice breakout yet again; please treat your children.' Part of the reason why this occurs on occasion is merely the financial imperative for families in these straitened times to be unable on every occasion to treat as optimally as they may wish.

The Hon. M.J. EVANS: The previous scheme does not operate any longer, as the honourable member is aware, and there are indeed some difficulties with providing that. I understand that some of these appropriate preparations are available through schools, purchased through the supply system and available at a discount to parents. Obviously, that mechanism is one that is in place now. I am not aware that people find that unsatisfactory or that indeed it would result in a better arrangement or deal financially than the scheme which the honourable member contemplates, given the costs of administration and dealing with that kind of issue. So, while I am certainly sympathetic to the question of making these substances available at the lowest possible cost, it is worth examining the operation of the present system on the school based system, and if indeed that does not function satisfactorily the issue can be re-examined.

Clause passed.

Clause 14 passed.

Clause 15—'Regulations.'

The Hon. B.C. EASTICK: Can the Minister indicate to the Committee how equitable or reasonable is the charging process directly associated with these waste systems, specifically in relation to septic tanks? At present, if a person lodges an application for a septic tank, they expect to pay a fee and the Bill's clauses go into some detail of the continuance of that arrangement.

Many people might not recognise that compounding the fee is a fee for the septic tank, depending on its capacity and based on up to $4 000 of equipment to go with it, that is, the sink, the basin, the toilet and any other article built into the home. For amounts beyond $4 000, on what basis can the Government expect an additional $12.50 for each $1000 in the cost of equipment built into the home? A toilet is a toilet, is a toilet, is a toilet, and a basin is a basin—

Dr Armitage: A rose is a rose, is a rose.

The Hon. B.C. EASTICK: Exactly, as my colleague indicates when he takes a shower each morning. At present we have a ridiculous circumstance where a person is charged more for a licence if he installs gold plated fixtures inside his home. Why? Where is the equality in that? Where is the rationale when the number of units connected to the system could be the same but the cost of the equipment may be anything from $1 000 to $7 000, if one wants to work it that way or even greater if a person wants to install gold plated plugs.

I hope the Minister does not take this as a foolish question: to my way of thinking, and to others out there who are required to meet these costs, this involves an unnecessary sum and there is the suggestion that the Government is interested only in raising funds.

The Hon. M.J. EVANS: The member for Light correctly alludes to the existing fee arrangement. That is now subject to renegotiation with local government, because local government will be setting the fees under this scheme and there is a joint State—local council working party examining this issue at the moment. I would be happy to draw that committee's attention to the honourable member's remarks so that, when it is considering the new fee scales and arrangements under this Act, it can take into account the issues raised. The whole fee scheme may well change significantly when it is reviewed in the context of local government setting the fees.

The Hon. B.C. EASTICK: I would like to believe that what the Minister has said will come to pass, but I know that, in taking over many of these Government activities, local government is questioning how it will make it pay and questioning whether ratepayers in general will be forced to pay more in rates to provide State Government services. I shall certainly make sure that the matter is drawn to the attention of the Local Government Working Party. Is the Minister able to indicate on what basis this rather unusual method of charging up was evolved by the Government of the day—whilst it was in its control and remains there until this Bill is passed and proclaimed?

The Hon. M.J. EVANS: This interesting historical anomaly predates my time as Minister. I am sure the honourable member and I could sit in the library and look up the historical basis of it. I am sure it would be interesting to do so. I am not able to advise him on that at the moment. Given that the fee system is to be re-examined by the local government working party, it probably would not be appropriate to detain the Committee at this time to examine that historical context.

I am certain that the honourable member and I can look at that privately and come to a conclusion.

Clause passed.

Remaining clauses (16 to 18) and title passed.

Bill read a third time and passed.

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 1734.)

The Hon. JENNIFER CASHMORE (Coles): After more than two years of hearing evidence, consulting with people, arguing, thinking, debating and negotiating, it is a pleasure to address this Bill. When I moved, on 6 December 1990, for the establishment of a select committee to examine the law and practice relating to death and dying, I said words to the effect that if any legislative reforms resulted from our deliberations I believed they would be of a minor nature.

In some respects the reforms embodied in this Bill are small but they are nevertheless significant. There is, I believe, nothing radical, yet some of the reforms could have and I hope will have profoundly beneficial consequences for those who require medical treatment, particularly for those who are dying and who require medical treatment. Some of the reforms do nothing more than give statutory effect to common law governing both patients' rights and doctors' responsibility. Other reforms recognise the strong desire of many people to continue to exercise autonomy and personal judgments even when they themselves are no longer capable of doing so.

Questions arise and will no doubt be asked by members during the course of this debate. Why legislate when the common law, with all its safeguards, is sufficient to protect patients from having unwanted treatment forced upon them? Why legislate for immunity from prosecution for doctors who are providing palliative care which may have the incidental effect of hastening death when there have been no prosecutions for this reason in South Australia?

My answer to those questions is that I believe we need to legislate to clarify patients' rights to refuse treatment and to give informed consent to treatment because legislation puts beyond doubt a very important moral and legal principle. We need to legislate for immunity for doctors practising palliative care because there is evidence—and I believe quite strong evidence was given to the select committee—that fear of prosecution is influencing and distorting medical practice to the detriment of proper, compassionate care of the dying. By this I mean that doctors who fear they will be prosecuted if they withdraw treatment or administer pain relief that has the incidental effect of hastening death will continue to provide treatment that is burdensome and futile and will withhold truly effective doses of pain relief.

The select committee heard sufficient evidence to that effect to make the majority of its members, including me, certain that we need to remove that sword of Damocles hanging over the heads of the medical profession and enable them to practise palliative care based on clinical judgments and free of fear of prosecution. Both of the fears that I have mentioned—the fear of prosecution if treatment is withdrawn and the fear of prosecution if pain relief is administered and it has the incidental effect of hastening death—are inimical to the concept of dying with dignity. To me, that is the fundamental import of this Bill. It is the reason for the select committee, and it is the reason why I hope that my advocacy for the Bill will be convincing.

To understand the import of the Bill we need to understand something of society's attitude to death and dying. To summarise that I would like to quote from page 34 of the second interim report of the select committee. In it was quoted an excerpt from evidence given by the Southern Community Hospice Program, Palliative Care Unit, at the Daw House Hospice at the Repatriation General Hospital, Daw Park. It states:

> Many individuals within our community today are desperately terrified of death and only confront this life—fact when terminal illness afflicts a family member. Once confronted, however, many make extraordinary sacrifices to care for a dying relative. After the demands of caring are finished, however, and given the unwillingness of our society to accept loss, individuals and families are often ill-equipped to deal with the accompanying grief.

Further down, on the same page, it states:

> ...a recognition of dying as a part of living as a time for confirming past life and relationships, for completing 'unfinished business'. In dying, one seeks to round off, to complete, to give final form to one's life. Thus, care for the dying must take this into account.

Whilst great progress has been made in South Australia to give effect to those worthy goals of recognising dying as part of living, and in being willing to let go, nevertheless a daily and a nightly struggle probably takes place in this State in which doctors strive to keep alive people who would prefer to be allowed to die peacefully and naturally. There are also situations where families place pressure on the medical profession to fight to the last to keep a particular family member alive, and they do so for reasons which have not a lot to do with compassion but sometimes have quite a bit to do with guilt. None of those emotions is beneficial to the dying.

I would like to express to the House something of my personal reasons for moving for the select committee. I expressed them in a sense in an essay entitled 'On Death and Dying' published in my book A *Chance in Life. I* said:

> The bereavements of some people close to me resulted in intense continuing grief. It seemed to me that such grief was often linked with sudden or extremely painful death; without an opportunity to say goodbye; with being kept in hospital when the patient really wanted to be at home; with intensive treatment, but ineffective control of pain; and with a pervasive feeling that the wishes of the patient and the family were subordinate to the controlling interests of doctors and the health 'system'.

I repeat two of those specific reasons which I have observed as exacerbating grief—'with intensive treatment but ineffective control of pain', which is absolutely shattering not only for the patient but for the patient's family who have to endure the suffering of someone they love; and 'with a pervasive feeling that the wishes of the patient and the family were subordinate to the controlling interest of doctors and the health system'.

It is that combination of factors which I believe is justification for the provisions of this Bill because what

this Bill does is clarify and enlarge the notion of patient autonomy—of individuals' rights of self-determination—over their lives and their bodies. I think the view was well expressed in much of the evidence before the committee, but I will quote one piece from the Victorian Social Development Committee Report of its Inquiry into Options for Dying with Dignity. The St Vincent's Bioethics Centre equated the right to refuse treatment with being able to control one's own integrity. I quote:

> The right to refuse treatment is a right in the sense of a freedom to control one's own integrity. It is not a right which makes a demand or places an obligation on others but a right to be left alone, a right against interference; thus it places a limitation on the activity of others rather than an obligation on them to provide a service.

In developing the provisions of this Bill the select committee heard much evidence about the deaths of cancer patients and the role of hospice and palliative care in making such deaths tolerable and as free of pain as possible, and enabling patients to have the opportunity to come to terms with their own lives and with their relationships with their families and others who are important to them.

The increased incidence of cancer and the treatment of pain in cancer patients has focused attention on a number of controversial matters including medical, social and moral issues. Those issues have been addressed in this Bill. In identifying them I quote from a paper from the *British Medical Journal.* Entitled 'Cancer pain relief', the article was written by Dr Michael Ashby of the Royal Adelaide Hospital and the Mary Potter Hospice, and Dr Brian Stoffell of the Flinders Medical Centre, an ethicist. They wrote:

> The everyday practice of oncology—

that is the treatment of cancer—

> and palliative care raises complex moral issues. Examples include—

and these examples, given by Dr Ashby and Dr Stoffell, were all examples that the select committee had to address—

> when should radical curative treatment be stopped or rejected from the outset as an option? Do measures for the relief of symptoms shorten life? When should active drug treatments, for example, antibiotics and steroids, be stopped? Similar questions can be asked about the support of physiological systems, blood transfusions, ventilation, renal dialysis, intravenous hydration and nutrition ... What steps should be taken when food and drinking can no longer be taken by mouth? How should we deal with differences of opinion about management arising among patient, family and carers? What is the relation between euthanasia and palliative care?

Each of those questions which are addressed in this medical paper was addressed by the select committee as legislators in close consultation with medical practitioners and others engaged in palliative care and hospice care.

I believe that the Bill gives effect in a very precise and careful way to the conclusions of the select committee which addressed those dilemmas and tried to resolve them to the best of our ability. The interesting thing is that in attempting to resolve them we found very solid agreement among all witnesses. One group of witnesses (the South Australian Voluntary Euthanasia Society) wanted the committee to go further than it went in terms of a really radical reform to the law, but on all other aspects of the Bill I believe the Voluntary Euthanasia Society was at one with the churches and the medical profession in seeking to improve the rights of patients to exercise autonomy and, if not able to do so themselves, to pass that responsibility, if necessary with directions, on to someone else, and the ability of doctors to practice palliative care without fear of prosecution.

Having said that I believe that the Bill addresses the select committee's resolutions or attempts to resolve those dilemmas, I would like to look at the provisions of the Bill. Before doing so, I express my pleasure at the fact that both major Parties have identified this Bill as one deserving a conscience vote. That invariably leads to interesting debate, because each one of us has the opportunity for advocacy to convince all other members of the Chamber by intellectual and moral argument of the merits of the case we are propounding. I only regret that the imposition of the guillotine and the Government's refusal to exempt this Bill from the guillotine may mean that not every member who wants to contribute to the debate can do so, and that not every member who wants to participate actively in the Committee stage will be able to do so. If that is the outcome, I will be sorry, because those of us who served on the committee have had more than two years to deliberate and consider, and it is only fair that the House should have more than half a day or a day to do the same.

I refer now to the decisions of the select committee. The committee came to many conclusions, but I will deal with five principal questions. First, the committee concluded that people over the age of 16 should be able to decide freely for themselves on an informed basis whether or not to undergo medical treatment. So, this Bill enshrines in basically the same form but within a new framework existing provisions of the law regarding consent to medical treatment. Secondly, the committee concluded that people should be able to appoint agents to make decisions about their medical treatment when they are incapable of doing so for themselves. The committee placed one exception on this right, and that involves the right of an agent to refuse water, food and pain relief. The committee felt that the power to do that should be restricted only to an individual, because the power of such refusal requires enormous powers of self-discipline, which the committee felt could only be exercised by individuals acting consciously on their own behalf.

The committee felt also that that power—the power of an agent to consent to or to refuse medical treatment on behalf of another—should not be exercisable jointly with another person. It is important that members understand why the select committee came to that conclusion and why clause 6 of the Bill provides that that power can be exercised successively by various people if the first, second or third person is not available but that it cannot be exercised concurrently.

Much of the evidence we received indicated that the arguments which can arise around a deathbed among family members who dispute the way in which a patient should be treated—whether treatment should be continued, withheld, withdrawn or what should happen—do not assist doctors in the carrying out of their duties and do not enhance the dignity of the person who is dying. On the contrary, they have precisely the opposite effect. They create an atmosphere of strain and

tension, whether the patient is conscious or unconscious, that inhibits proper standards of care.

So, it was our unanimous conclusion, I believe, that the power of the medical agent to consent or refuse treatment should be exercised by one person only. To those who say, 'I would like all my children (or all my sisters, brothers, family—whatever) to have a say,' I say, 'If yours is a happy, consultative family, that will happen in any event,' and one person is deputed by the authority of this power of agency to give instructions to the doctor to consent or refuse consent.

If it is not a happy family or a group of friends, it will not improve the situation by appointing more than one person with equal powers and requiring them either to come to a common decision or leave the matter in the hands of the doctor. The agency power cannot be effective unless there is a common decision. It is important that members understand why this specific provision was included.

The third conclusion was that doctors have a duty to explain the nature and consequences of treatment. That is the common law. It is proper professional practice. Nevertheless, it is honoured perhaps more often in the breach than in the observance. The fourth conclusion was that doctors who decide to withdraw or not commence treatment that is intrusive, burdensome or futile should be able to make those clinical decisions free from fear of prosecution, as I have mentioned.

The fifth conclusion was that doctors who administer treatment for the relief of pain or distress with consent, in good faith and without negligence, and in accordance with proper standards, should be protected from civil or criminal liability, even if an incidental effect of treatment is to hasten the death of the patient. Finally, we concluded that voluntary euthanasia should not be legalised. Does the Bill give effect to these conclusions? I believe that it does.

I would like now to deal specifically with the clauses. Clause 3 deals with the objects of the Act which are to make certain reforms to the law regarding the administration of emergency medical treatment as well as consent to medical treatment, to provide for medical powers of attorney and to allow for the provision of palliative care in accordance with proper standards.

The definitions clause in this Bill is a very important clause, as such clauses always are. There has been much debate and deliberation about what constitutes a terminal illness. The definition in this Bill provides that 'terminal illness' means an illness or condition that is likely to result in death and from which there is no real prospect of recovery. When that definition is read in concert with the clauses that deal with the care of the dying, it is realised that immunity for doctors practising palliative care depends upon the patient suffering from terminal illness. It has been alleged seriously, although it is perhaps a lighthearted statement, that life itself is a sexually transmitted terminal disease. Technically speaking, one cannot argue with that philosophical proposition.

It has been alleged that cancer detected in a 50 year old could be identified as a terminal disease, and it may be a terminal disease, but at what point does the disease become terminal and at what point should the curative model cease and the palliative care model start to come into effect? Therefore, knowing that the Minister intends to move amendments to this Bill and believing that one of the Minister's amendments will clarify that definition of terminal illness, I can only, at this stage, urge sympathetic consideration of the House for that excellent proposed amendment which, in my opinion, overcomes the objections to this definition of terminal illness.

The medical powers of attorney have been opposed by some who say that they are open to abuse by people who have an interest in the estate of the person whose treatment they are either refusing or accepting. There are very careful safeguards placed in this Bill which would deter and certainly penalise anyone who, by dishonesty or undue influence, induced another to execute a medical power of attorney or who is found guilty of an offence under the clause. In respect of the first—exercising undue influence to induce another to execute a medical power of attorney—the penalty is imprisonment for 10 years and, in the case of the second, a person found guilty of an offence forfeits any interest that that person might otherwise have had in the estate of the person improperly induced to execute the power of attorney. I think those who expressed fears about abuse of power of attorney should find comfort in those safeguard clauses.

Clause 8 deals with the medical treatment of children and effectively reiterates existing law. Clause 9 deals with emergency medical treatment and also effectively reiterates existing law. I have heard said that it is wrong to give agents the power to exercise decisions on behalf of patients who are incapable of doing so when emergency medical treatment is required. People say that that agency power should be reserved either for a pre-existing condition or for the last of the terminal phase of a terminal illness. To that I say that all the evidence the committee received—and my own personal view coincides with the evidence—is that what most of us want is to be relieved of the fear that, if we find ourselves requiring emergency medical treatment and we are incapable of consenting or refusing consent to such treatment, we do not want to be left at the mercy of dedicated, enthusiastic doctors who are determined to preserve our life if the quality of life thus preserved is to be worth nothing.

The inclusion of emergency medical treatment as a power that can be exercised—the consent to it or the withholding of consent as part of a power that can be exercised by an agent on behalf of a patient—is to me a very important part of this Bill. It is an extension of the concept of autonomy; it is something that more and more people are concerned about as lifesaving measures become more and more effective, notwithstanding the fact that life itself may become burdensome and intolerable for a patient who is kept alive under those circumstances.

Clause 10 deals with the medical practitioner's duty to explain to a patient the nature and consequences of a proposed medical procedure and the likely consequences of not undertaking the procedure and any alternative procedures or actions that might reasonably be considered. That duty to explain is profoundly important when one is faced with a life threatening illness.

However, it is equally important for the simplest procedures, in my opinion. It is particularly important for women (or men, for that matter) who may be given

drugs, the side effects, consequences or risk of which can be adverse. I believe that those consequences are not always sufficiently explained, and this clause requires such an explanation. Interestingly, since the Bill was tabled, the High Court has made a judgment in the case of *Rogers v Whittaker* which reinforces the duty of a medical practitioner to explain not only the nature, consequences or risk of treatment but also the consequences or risk of their not undertaking treatment as well as alternative treatments, so we are clarifying what was taken to the High Court for clarification. It is fortuitous and perhaps it might convince some that the select committee was prescient as well as wise.

Clauses 11 and 12 provide immunity for medical practitioners so they do not incur civil or criminal liability for acts or omissions made or done with the consent of patients in good faith, without negligence and in accordance with proper professional standards of medical practice. Incidentally, the High Court has defined medical negligence, and therefore, in my opinion, as it stands this clause is watertight and could not be used as a defence against murder. Nevertheless, I know that amendments are proposed which would further clarify and tighten the requirement of doctors to exercise every effort either to preserve life or to improve the quality of life when they are treating patients. If we can find a way of ensuring—particularly in respect of the dying—that there is no possibility that a doctor can violate his or her oath of care to a patient without using clumsy and crude methods that are part of the criminal law, we should do so, and I believe a way can be found and an amendment to that effect can be moved.

There are some who have argued that section 13a of the Criminal Law Consolidation Act, which makes assisted suicide a criminal offence, should be embodied in this Bill also. To that I say that it would be entirely inappropriate; it is bad legislative practice to be repetitious in one Act and to incorporate the provisions of another Act in an Act that may be seen to be related. It is not something that is done by this Parliament and it is not something that should be done. I regard that as a crude instrument and one that would distort the proper effect of this Bill.

Clause 12 is a critically important clause, because it provides the opportunity for doctors to practise palliative care with protection. Earlier in my speech I mentioned that there is a pervasive fear among doctors that inhibits the practice of palliative care, particularly, I might add, in institutions. Evidence given at Glenside Hospital was very compelling that clinical decisions were being influenced by fear that doctors could be involved in prosecution. I cite as an example a patient who is suffering from dementia (let us say, aged in their 70s or 80s) and who contracts pneumonia. It would be a clinical decision not to treat that patient, because there is no quality of life for that patient.

However, fear of prosecution is prompting the administration of antibiotics and the keeping alive of those people when death could come (as it used to before medical technology was advanced to the point where it now is) as a welcome friend. This clause will enable doctors to practise palliative care freely without fear. The safeguards are there, so I do not believe that this immunity will be abused. But the fact that the immunity is provided will act as enormous encouragement to the medical profession. I want to conclude by referring to one or two other arguments against provisions in the Bill, or against provisions that are not in the Bill, perhaps more particularly.

One is that some maintain there is a need for an avenue of appeal either to the Guardianship Board or to the Supreme Court against an agent's decision not to consent to treatment; in other words, if the doctor thinks, 'The patient ought to be treated and I will not agree with the brother, the sister, the husband or wife saying that that patient ought not to be treated.' To that I say that the select committee really agonised over this question of autonomy. I for one concluded that if I can give or refuse consent when I am conscious, then I should have that same right when I am not conscious and, therefore, incapable of giving or refusing consent; therefore while I am conscious and can appoint someone to act for me and direct that person according to my wishes, that person can be an extension of myself and my own autonomy. It is what I want and, according to the evidence given to the committee, it is what many if not most people want.

To place restrictions on that right by providing for avenues of appeal to the court is really to render that right futile. It is, in effect, to give back to doctors the power they already have to exercise their own judgment without consulting patients, and that is something that I cannot accept and I do not believe that the law should provide for it. There is also, as I mentioned earlier, no provision in the Bill to indicate that the power of medical attorney should relate to the current condition of the patient. I hope that I dealt with that effectively in speaking to clause 9, the clause that deals with emergency medical treatment.

The select committee wanted to be certain that people could appoint someone to act for them in emergency situations, and I believe that that power will be widely welcomed in the community and hope that it will be widely publicised and widely used. I do not think there is much more I can say other than to commend the Bill to the House, and to urge members who are speaking to it to consider the evidence in the select committee and to consider the very detailed and difficult ethical questions that the committee had to face. I can only express my immense gratitude to the previous Minister of Health (who was Chairman of the Committee) and to the present Minister of Health for their skill, their patience and their willingness to continue to consult even when we thought and believed that we had arrived at correct conclusions. That is something for which I commend the member for Baudin and the present Minister of Health. It is something that should be emulated by more Ministers more frequently because it leads to better outcomes.

Finally, I say that if this Bill, as I hope it will, makes dying what it should be, and that is, an act which enhances our individual dignity and rounds off in a complete way a life, however it has been lived, then the grief that the survivors naturally experience will be considerably eased. That has been one of my goals, and I think it will be one of the effects. It will improve medical practice, and it should lead to a much more enlightened attitude in our society to dying. I believe that, with the proposed amendments, the Bill is an excellent outcome and will reward every member of the

committee who worked so hard for what I believe will be a benefit to the State.

The Hon. M.J. EVANS (Minister of Health, Family and Community Services): I move:

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

Motion carried.

The Hon. D.J. HOPGOOD (Baudin): I am quite eager to enter into this debate, although I do not think I will take up all my time. First, I support all that the Minister has said in his introduction of the Bill. I also support all that the member for Coles has said in her speech in support of the Bill—and, of course, we recall with gratitude that the member was the catalyst for the setting up of the select committee. I have already said a good deal publicly in this place and outside about the select committee and therefore, in a sense, a good deal about the contents of the Bill. Since I abhor repetition, that perhaps gives me an opportunity to say one or two other things which are cognate to this debate rather than focusing very specifically on the contents of the Bill which have already been admirably outlined by the two members who have already spoken in the debate.

One is conscious, standing here, that one is not only speaking to one's parliamentary colleagues but indeed everyone who either now or in the future will read the *Hansard* records. So be it a PhD student researching the record in the year 2050 or be it a farmer out there in the Mallee who still has a backyard dunny and drills a hole in the top left-hand corner of *Hansard* and hangs it on a piece of string I say to those people: if you want to know all of my attitude to this you should read not only this section of the debate but look up 'Hopgood' in the *Hansard* index and what he has already said in other contexts.

Mr Atkinson: How are they going to find that in the dunny?

The Hon. D.J. HOPGOOD: Usually there is electric light, in these enlightened times! Because this Bill brings it up, I want to say one or two things about the relationship between ethics and law, because it is something that is often misunderstood—particularly by other members' constituents, who write to me from time to time about these matters. I refer to the constituents of other members, because for the most part my constituents do not write to me about these sorts of things but write to me about other sorts of things. However, there is a sort of simplistic attitude in the community in relation to ethics and the law: if it is wrong you ban it. Yet, of course, it is a far more complex set of matters that we have to sift through as elected representatives of the people.

I refer briefly to the area of adultery. We would have to scratch fairly deeply in our community to find people who would be prepared to argue that the condition of adultery was an ethically desirable state to be in. Even those who may not have the tender solicitude for monogamy nonetheless would have to agree that the lies and deceit that are associated with that sort of lifestyle are something that really could not be tolerated in the best interpretations of our standards of ethics.

Yet, we find that the law is silent on that matter. It was not once and it may still be in one or two jurisdictions around the world. In ancient times it was proscribed with very severe penalties, as those who know their New Testament would well know. Not only is it not proscribed in the law but also the matrimonial law is silent on that matter now.

When Lionel Murphy amended matrimonial law so long ago, I guess he put a good deal of private investigators out of business. The point is, not only would most people in our community regard adultery as being immoral—and this is the point—they would also regard any attempt to proscribe it in the law as being, at best, misguided and, at worst, immoral in itself. There is an inappropriate connection sometimes between particular ethical standards and the way in which one tries to legislate for them.

The Americans found to their chagrin during the 1920s and early 1930s that the concept 'if it's wrong, ban it' did not necessarily pan out in the law. In an excess of enthusiasm at the end of the First World War the American legislatures banned the consumption of alcohol, and we know that that in turn, as noble an experiment as it may have been, brought the whole corpus of law into disrepute and spawned an illegal industry which still has its echoes in organised crime in the United States to this very day.

So, there is a sense in which law has to be moral but at the same time law cannot simply slavishly reflect a particular set of ethical opinions, like trying simply to legislate for the Ten Commandments, pure and simple. Sometimes the law runs ahead of public opinion. Sometimes the law lags behind public opinion. In those two circumstances there is a tension which can be resolved, by either public opinion or public practice, which is perhaps a better way to describe it, amending itself or alternatively by the law amending itself. What are the circumstances in which members as legislators would see public practice being amended as being desirable and when they would see the amendment of the law as being desirable?

It seems to me that what the law should reflect is the opinions and practices of people of goodwill. Goodwill in what sense? Goodwill in the sense of being goodwill towards their fellows. It is possible that we can discern when we are dealing with attitudes that are attitudes of goodwill and when we are dealing with attitudes that are attitudes not of goodwill, and this more often than not transcends the Party-political boundaries. It can transcend Party ideologies and national loyalties and things like that.

Where we find that there is a consensus or something that is very near to a consensus held by people of goodwill and people who by the very nature of their profession are forced to think on these things, then it seems to be eminently and ethically desirable that the law should reflect those practices and opinions.

We believe—those of us who had the privilege of serving on our select committee—that this is something we were able to uncover, that there is, if not a complete consensus in our community, certainly an overwhelming preponderance of opinion or set of opinions about the way in which we should approach our responsibility to those who are dying, which is sincerely held and which

is an outgrowth of people's feeling of goodwill towards their loved ones and fellow citizens generally. It is a matter of ethics, a matter of morals, for these people, and not simply a matter of convenience, but rather something that they hold as part of their deeper sets of beliefs about what is right and wrong in our community.

That, therefore, is why the select committee has put this Bill before the House, or at least has urged that such a Bill be prepared. Although it has been prepared by the Government of the day it is based very much on what the select committee suggested. I could go further and say that we also uncovered not only that there was this very strongly held belief about what was appropriate but also that the law did not altogether reflect those beliefs and current practices. As the member for Coles has already pointed out, this led to a great deal of anxiety on the part of professional people of goodwill in the caring professions who were concerned about exactly where they stood under the law. Not only was it desirable that we should recommend these changes to the House, it also seemed to us that it was desirable that these changes should occur with some degree of urgency, given that we had been very thorough in our deliberations and had taken quite some considerable time in those deliberations.

So, we recommend the Bill to the House. Of course, the committee also canvassed a number of other matters which are largely matters of administration or are matters to be taken up if not by Government by the professions and institutions responsible for the training of people in those positions. We also held up the hospice model as being one that was very worthy of support and encouragement. However, we make the point that it is very much about choices: it is about a range of options being available to the individual who is in a terminal condition or to those people who have the care of that individual.

There is a member of this Parliament who almost certainly will be enthusiastically supporting this Bill and who nonetheless said to me in relation to hospices that he did not want to die in a hospice; that he wanted to die in a general hospital if his condition was such that it dictated there should be some form of institutional care; that he wanted to be surrounded by the noise and bustle of hospital, the clanging of the tea trays, of visitors coming to visit the person in the bed next to him—all those sorts of things. Well, fine. The select committee is not saying that dying in a hospice is the only way to go, as it were, in both senses of that term.

Indeed, the select committee supports that where a person can die in their own home that may be very appropriate. However, we have taken up the hospice model as one which is very much worthy of support and of continuing support, and we have written into the recommendations that there should be an ongoing review and audit—if you like, an annual audit—of the way in which those services are being provided in our wider community. That seems to me eminently wise and I commend those of my fellows on the select committee who urged that recommendation on us. I support the Bill.

Mr MEIER (Goyder): I oppose the second reading of this Bill for a variety of reasons that I will detail shortly. I recognise the legal complexities of administering palliative care. With our modern science and modern medicine it has become increasingly difficult to differentiate between when a person is on a life support system and will not be able to continue and perhaps will not come back to a normal life without it and whether they will come back to normal life if the life support system is removed. I would like to compliment the members of the select committee for the work that they have done, because certainly they have looked into a huge area. They have investigated it very thoroughly and sought to come up with answers.

Members may recall that I was opposed to the establishment of the select committee in the first instance and, if my memory serves me correctly, part of the reason for that was that I have an inherent fear that if we tamper in this whole area of voluntary death, or when a life should no longer have life support systems, we are opening up an area of great danger, and we have seen examples from other parts of the world where Parliaments have tampered too much and now have created fear in the minds of, particularly, elderly citizens. It concerned me then and it still concerns me now, but I give credit to the select committee for what it has come up with.

An honourable member interjecting:

Mr MEIER: The Netherlands is perhaps a classic example in that area. I acknowledge what the member for Baudin said, that it is a complex issue to consider ethics and the law. There is no doubt about that. In fact, I must say that I was very saddened that Dr Daniel Overduin, a person with whom I had quite an association over the years, passed away at the end of last year, and I am sure that he would have been giving considerable advice to members of Parliament if he was still with us.

In that respect I was pleased to be able to attend the seminar at the Luther Seminary shortly after Dr. Overduin's death, where this whole issue was discussed. Several of the select committee members were there that evening. If my memory serves me correctly, the member for Coles had hoped to be there and her apology was given. She was far from well on that evening. It was a very open and worthwhile meeting and I recall the discussion group of which I was a member, and most of the people in that discussion group seemed to be either medical practitioners or people involved in palliative care. In fact, I felt a little lost with the terminology they were using and the examples they were giving.

One thing I well recall was their concern at how they could continue to treat a patient who perhaps was continuing to have heart failure and that up to three, four or even more times in a day the medical experts would be called to that patient's bed and the patient would be revived with the appropriate treatment to get the heart going again. Things would be fine for the next few hours until the next heart failure occurred and then everyone gathered around and got the patient going again. I was not aware that that went on for day after day often, certainly over many weeks, and invariably those people were never able to recover.

I understand from the discussions that the medical practitioners, particularly, were very concerned as to the legal implications to them if they decided after, say, three resuscitations for a day that when the fourth one came they would leave the patient where he or she was, thinking they had done all they could for that patient. It

appears that under our law it would be a defence that the doctor, and perhaps the nursing staff, did exercise their full responsibility in seeking to keep that patient alive. So, I am well aware of the legal problems as opposed to the ethical problems that confront people in the palliative care area. We come then to value judgments, and the member for Coles raised the matter of what the quality of life was worth.

This is such a hard question to answer: who is to be the judge? I continually think back to an example that was highlighted on television where the husband in one family was left in a coma following a motor accident. He was on a life support system, and after some time the doctor said to his wife, and I assume to his family, and there were three children, 'Look, we can keep your husband on the life support system but for all intents and purposes he will be a vegetable. He will never be a normal person again. It is highly likely that you will never see him other than in this state on the bed—a vegetable.' It was the wife who said, 'No, you will continue to administer the life support system.'

It was, I believe, some months later that the husband started to come out of the coma, and a television documentary showed this fellow running and playing with his family, and he was very much a normal human being again. The irony was that this person said that he had perhaps drifted away from his family, that he had so many other commitments he was too busy for them, but, following the accident and after coming out of the coma, he is now much closer to his family than ever before and, in fact, it was almost a blessing rather than a curse that had befallen him. It would have been so easy for the wife, who one would assume could well have taken the power of medical attorney or been the agent, to have said, 'Doctor, if you think that person is going to remain a vegetable for the rest of his life, take the life support system away'.

I note that the Natural Death Act is to be repealed and that various clauses here give effectiveness to the original direction of the Natural Death Act. Again, members may recall that I was totally opposed to the introduction of the Natural Death Bill in November 1983 and, therefore, I cannot support the retention of that even though the argument can be put forward that it has been in operation now for almost 10 years. I still do not believe that human beings should be allowed to decide whether or not they live.

This Bill provides for medical powers of attorney under which those who wish to do so may appoint agents to make decisions about their medical treatment when they are unable to make such decisions for themselves. Perhaps I alluded to that in the earlier example when I mentioned that, under this legislation, the wife could have been the agent. I fully realise that there are many cases where people have no control over what they are in this life. For example, people who suffer from Alzheimer's disease certainly are tragic and, I guess, would never be able to give a direction to a medical practitioner. People in a coma are in a similar situation.

I have reservations about the power of medical attorney, but I recognise that in the palliative care system medical practitioners and some of the nursing staff recognise the need for it and, I guess, as a lay person, it is difficult for me to argue against it. However, I have a problem with knowing how that power can be reversed or taken away without any complications. I will be interested to hear the Minister's comments on that matter when he addresses members' remarks.

The Bill provides protection for medical practitioners who act in accordance with certain criteria. I see this clause as the thin end of the wedge. Clause 11 provides that a medical practitioner will incur no civil or criminal liability for an act or omission done or made (a) with the consent of the patient or of a person empowered to consent to medical treatment on the patient's behalf or, under paragraph (b), in good faith and without negligence. However, if one reads clause 11(a) by itself, I feel that the medical practitioner is not held to be as responsible as I would like. Likewise, clause 12 of the Bill provides proper standards for care of the dying and protects the dying from medical procedures that are intrusive, burdensome and futile. A medical practitioner who is responsible for the care or treatment of a patient suffering from a terminal illness is under no duty to use extraordinary measures in treating the patient if the effect of doing so would be merely to prolong life in a moribund state without any real prospect of recovery.

The word 'moribund' is not defined. The medical profession probably appreciates fully what that word means. However, I return to my earlier argument of a patient in a coma. I do not know whether that patient would be regarded as being in a moribund state. The doctor said that he would never be anything more than a vegetable and he could well have been said to be moribund. But how can anyone go along with the argument that the doctor is under no duty to use extraordinary measures to treat such a patient. I believe that duty still exists.

An area which causes me extreme concern and which I feel really is the thin end of the wedge as far as euthanasia is concerned involves clause 12 (3), which provides:

> A medical practitioner responsible for the treatment or care of a patient who is suffering from a terminal illness and is in a moribund state without any real prospect of recovery must, if the patient or the patient's representative so directs, withdraw extraordinary measures from the patient.

That is contained in the Bill that we are discussing now. It is in total opposition to what I believe in, but I note that in the foreshadowed amendments that clause disappears. So, I certainly will have an open mind if this Bill reaches the Committee stage—as I said, I will oppose the second reading of this Bill—and we will see what the Committee thinks about that amendment and other foreshadowed amendments which seek to improve the quality of the Bill. That is a worry in itself. I fully support the member for Coles in her concern for the fact that the guillotine will be applied on the last day of sitting this week at, I assume, 6 p.m. when, if we have not finished the debate, it will be cut off.

This is very much a life and death Bill, and I am very disappointed that the Government has decided that it will steamroll this legislation through the Parliament. It could not care less if the effects on the citizens of this State are not fully considered by 6 p.m. on Thursday. The Government is quite within its rights to extend the sittings of this Parliament beyond April, and I would hope that it would reconsider its attitude towards that

guillotine. There are also other parts in the Bill on which I will seek further information, little things like, for example, why the definition of 'dentist' is in the Bill when I have not seen any reference to dentist, even though it is defined as a person—

The Hon. B. C. Eastick interjecting:

Mr MEIER: The member for Light says it relates to the treatment of children, and other examples—

The Hon. B.C. Eastick: That's where the dentist comes in.

Mr MEIER: That is where the dentist comes in, yes. I guess I could refer back to examples before I entered the Parliament, when the abortion Bill came before this House, and it was meant to be strictly limited to a situation where the health of the mother was at risk and, I believe, one or two other conditions applied. Today we see the abortion legislation is such that it is literally abortion on demand. At the time the members who were in this House argued that it would never get to that stage, but it has.

Further, we could consider the Casino Bill, which has been introduced since I have been a member. It was introduced within a matter of weeks after I became a member of this House, and I well remember the then Premier saying that poker machines would never be introduced into the Casino while he was Premier. However, a matter of years down the track, while he was Premier, poker machines came into the Casino and we have seen them spread right throughout the community. So, there are areas that worry me in this Bill. There is a lot of good in it, and I recognise that. There has been a real effort to try to overcome some of the legal problems, but I believe there are still too many issues here that can and could be construed as the thin end of the wedge.

I will conclude by referring to an article in the *Economist* of 20 July 1991 which refers to the Dutch situation with respect to euthanasia. The article states:

> Their informal guidelines for euthanasia begin carefully enough. There must be a concrete expectation of death.

That sounds very realistic; I have no problems with it. In fact, clause 12 defines 'terminal illness', but to what extent will that open up abuse of the system and possibly people deciding when a person should finish their time here on earth? I oppose the second reading.

Mr ATKINSON (Spence): As I said in an earlier debate, I think the common law works well enough in this area. The common law gives patients a right to refuse treatment. The only problem we have is that patients seem unaware of that right, and I do not doubt that this Bill will help inform them of that right, but I would argue that we do not really need the Bill to do that. We can do it in other ways. So, I am not sure that legislation is necessary. The member for Coles said that the law is deterring doctors from providing sufficient pain relief for patients. The member for Coles said—

The Hon. Jennifer Cashmore interjecting:

Mr ATKINSON: Yes, the member for Coles said the fear of being prosecuted is deterring doctors from giving adequate pain relief, but my recollection of the evidence was that doctors were not so much afraid of the law as afraid of their patients becoming addicted to opioids, which is an absurd fear in the context of a terminal illness. I am not aware of any case of a doctor being prosecuted for hastening death by administering opioids.

The member for Coles said that a preamble or a savings clause in the Bill, which would preserve that section of the Criminal Law Consolidation Act which prohibits assisted suicide, would be bad legislative practice; it would be crude and repetitious, the member for Coles said. I cannot agree with that. This Bill, if it becomes law, will supersede the Criminal Law Consolidation Act in that it is a Bill which is passed later than the Criminal Law Consolidation Act and therefore, to the extent of the inconsistency, if there be an inconsistency, this Bill will take precedence.

The member for Coles says that it is not the intention of those who promote this Bill that the Bill supersede the Criminal Law Consolidation Act. However, it is not the intention that counts when the matter goes to court. It seems to me that a preamble or a savings clause in the Bill preserving the prohibition on assisted suicide would clarify the situation and we would not have unjustified suspicions of this Bill. I would therefore support such a savings clause.

It seems to me that the medical power of attorney proposed in the Bill is less rigorous than a power of attorney over property and I think that is a serious omission. The member for Coles said that to have an avenue of appeal against a medical power of attorney would put power back in the hands of the doctors. Well, perhaps that is so but, nevertheless, I believe that there should be an avenue of appeal.

Clause 6 of the Bill does not authorise a person who is a medical agent to refuse the natural provision or natural administration of food and water. I agree with the prohibition on an agent refusing food and water to a patient who is the subject of the agency for the same reasons as the member for Coles does, but I believe that the word 'natural' ought to be taken out of that clause because in my view naso-gastric tubes are by now a well accepted form of administering food and water and, unless the word 'natural' is removed from that clause, we will have wards in our public hospitals set aside for starving or dehydrating patients.

I agree with the member for Coles that the immunity in clause 11 for medical practitioners is not the danger which some people, including Right to Life, claim it to be. However, with no support from anyone else, I am of the opinion that clause 10 is in fact the greater danger to the public because it creates a statutory duty on medical practitioners to explain to patients the nature, consequences and risks of proposed medical treatments, likely consequences and any alternative treatment. It seems to me that, without its being the intention of the promoters of the Bill, clause 10 may be the foundation for breach of statutory duty actions against doctors that will lead to American-style litigation.

The speakers for the Bill so far have made the point that the heads of churches have substantially agreed to the Bill. That carries some weight with me, although the heads of churches are certainly not infallible, especially when they do not deliberate with Bishop Joseph of Arianzos, the Orthodox Bishop of South Australia, as I do not believe they did on this occasion.

I commend the promoters of the Bill on their tolerance in the way that they have gone about drafting, amending

and debating the Bill. I commend their willingness to consult the churches. I think the members for Coles, Elizabeth and Baudin could have put this Bill through Parliament quite easily without the extensive consultation they have undertaken. Indeed, I commend them on the amendments that they are foreshadowing, and I am happy with their attitude. I will certainly be voting for a second reading of this Bill so as not to inhibit the debate. I think the Bill is well worth a Committee stage, and I believe the members for Coles, Baudin and Elizabeth deserve no less than a Committee stage on this Bill.

The amendments foreshadowed for the Bill, especially to clause 12, go a long way towards making the Bill a useful and virtuous law. However, there remains one important clause which, if left in its present form, may well present occasion for mischief to be done. I refer to part 2, division 2, of the Bill, which provides for an appointment by any person over the age of 16 years of an agent who is to have a medical power of attorney. Clause 6 provides that the medical power of attorney authorises the agent to act in the place of the patient when the patient becomes incapable of making a decision on his or her own behalf.

The House should be clear that this power to act is not limited to the terminal phase of an illness or a terminal illness: it obtains in any circumstances when the patient cannot speak for himself or herself and is in medical care. The agent can prevent the doctor from applying any procedure whatsoever, even if that procedure is, in the opinion of a competent medical professional, necessary to preserve life and even to restore the patient to health.

The only two conditions to which the agent is subject are that the agent obeys any written directives given by the patient, no matter how long ago those directives were written into the medical power of attorney, and that the agent cannot refuse the natural administration of food and water or the administration of drugs to relieve pain. To be sure, the agent promises to do what is necessary, subject to the written conditions that he or she genuinely believes to be in the patient's best interests, but a genuine belief is no surety against stupidity or malice.

If the agent becomes disturbed in judgment because of the stress that emerges, say, in a motor vehicle accident, the conditions and directions are not sufficient to stop the agent making a bad decision. The agent may not understand the medical information being given by the medical professionals.

The conflict here is philosophical. In its present form the Bill seems to imagine that a patient's autonomy can be exercised by an agent. I believe this is wrong: autonomy means self government. The only persons who are autonomous are the mentally competent. When a person becomes incompetent and incapable of making a decision, that person needs protection, especially from those who might like to make decisions on his behalf which are not in his best interests. To quote local QC Jonathan Wells, the Bill:

> ...presents a philosophy of agency which places the incompetent patient under the power of the agent: the autonomy of the patient is subordinated to the complete and unfettered power of the agent.

An honourable member interjecting:

Mr ATKINSON: It is unfettered except to the extent to which I have already referred. To quote Wells again:

> At one moment, the patient may express wishes and interests which are acknowledged and respected; at the next moment, the patient being incompetent, those wishes and interests become subordinated to what the agent genuinely believes about the patient's best interests. The only 'control' that the patient can exercise is by the terms of the power of attorney—perhaps executed years before, without the particular illness in mind, expressed without any particular conditions imposed, and silent as to the patient's wishes, either generally or in particular. In the result, the medical agent, under this Bill, is subject to less control than the agent appointed over property.

In cases where an agent behaves maliciously or incompetently there is all the likelihood of litigation. This could involve the patient's agent, the patient's doctor and the patient's family, with each of these asserting that they represent the patient's best interests and claiming the ultimate right to decide. In cases where treatment is urgently needed and then refused by an agent, the patient's life may be lost and the unpleasant aftermath of recrimination may again lead to litigation.

A number of features are missing from this Bill which, if they were provided by amendment could, together with the other amendments already foreshadowed, give rise to a Bill that could serve the public better. First, the provision declaring the agent's duty to act at all times in the best interests of the patient should be located under this clause of the Bill, together with the now foreshadowed amendment that the agent is required to follow the patient's written directions, if any, and I refer to section 7 of the Powers of Attorney and Agency Act. I want the agent's duty to be not merely a matter of genuine belief in terms of the schedule but a duty of mature consideration and the exercise of a responsible judgment. Although this Bill will penalise one who dishonestly procures a medical power of attorney, it is silent on the agent who enters into a suicide pact with a patient and is also silent on the agent who pursues his own interest at the expense of the patient under the guise of carrying out the patient's wishes.

Secondly, the power of attorney should be recently given or confirmed to ensure that the agent is aware of the most up-to-date views of the patient. This should occur particularly when the patient becomes aware of a new and possibly lethal condition. Our views change over time and especially when a theoretically contemplated illness becomes a reality. There needs to be a mechanism whereby the patient updates his instructions or is even made aware of a power of attorney that he has forgotten that he made. This could be achieved in a number of ways, not least by having such powers of attorney lapse after a prescribed period of time.

Thirdly, to avoid the unpleasantness of litigation to which I referred earlier, there needs to be a provision enabling any person having a proper interest in the matter to apply to the court for an order reviewing the purported decision of a medical agent where it is apprehended or alleged that, first, the agent is not acting in the interests of the patient or in accordance with the patient's wishes; secondly, the agent is acting in breach of the terms of the medical power of attorney; and, thirdly, the agent is refusing to make a decision or unable for any reason to make a decision, revoking or

varying the terms of a medical power of attorney or appointing a substitute donee of the power. I refer the Parliament to section 11 (1) of the Powers of Attorney and Agency Act. If it is good enough for property, it ought to be good enough for life.

It is my view that the medical power of attorney should be subject to the same safeguards as any other power of attorney. The bio-ethical principle of autonomy does not speak of one person's exercising autonomy for another. That would be to speak in contradictory terms. The dangers that are apparent in this section of the Bill, even though one might think that those dangers would not occur very often, are sufficient to demand amendment. What we know of human nature should be sufficient for us to be alarmed at the prospect of placing one person's life in the power of another without adequate safeguards for that person and, therefore, for civil society.

The Hon. B.C. EASTICK (Light): I take up a point that was noted by the former Deputy Premier (the member for Baudin) who said that it was a privilege to serve on this committee. It truly was. We found ourselves walking through a minefield—a minefield of the unknown to so many in the community and a minefield that was created to be a more disastrous or a deeper minefield, if you like, by the excesses of the Dutch Government or the people directly associated with the euthanasia movement in Holland, who were making announcements during the course of the discussion before the select committee that caused great fear to the public. I do not want to delve any deeper into the system as it applies in Holland. Members will have read in the past two or three weeks that they have gone even further than before. My reading, from snippets of information and news by way of television and radio, is that the course of action has not been generally accepted by the world community.

Certainly, the arguments for euthanasia that were being placed before members of this Parliament and before the community of South Australia were not acceded to by the members of the committee, nor are they contained as an option within the Bill before us. With that background, we did have quite a task—to consider, as my colleagues have said, the diverse views on this complex subject, whether of a religious, legal or ethical nature, or whatever other mind set persons may have on the subject. I can recall, and a number of the older members of the House—older in the sense not of having been in here but of age—will know, that it was not long ago that death was virtually never talked about. Those involved with the undertaking industry were very staid persons dressed in black; there was not a woman in sight; and the subject matter of death was rarely discussed in the home, except when there was an unpleasant experience and somebody close to that home came face-to-face with the reality of death. Certainly, even when the Natural Death Bill was debated in this House, it was treated with kid gloves, because there was not a general community attitude towards those matters which are part of the world and which do need attention. So, during the time that I have been here, we have heard a number of discussions, in relation to both the Natural Death Act and to the use of body parts for those who still have a chance to live from those who have lost the opportunity to live, and so it goes on.

My colleagues the members for Goyder and Spence indicated a point of view about certain aspects of this whole issue with which I do not agree. I do not agree with their point, but I defend their right to state their opinion, and I would stand to defend that they be given every opportunity to make those views known. As has been pointed out, we are in a position where some members will fail to have an opportunity to express themselves in relation to this Bill and to the amendments which we will discuss down the track purely and simply because of the cussedness of the Executive Government. It is an unreal proposition to have put to this House that the guillotine be applied to what is a recognised and accepted conscience matter, one which deals with such a delicate but important subject. I believe that that sort of situation is an unreal one and one which this Government will come to regret in the longer term. My colleague the member for Goyder indicated that he had been to a seminar at which the late Dr Daniel Overduin had spoken.

Mr Meier: It was after he had died.

The Hon. B.C. EASTICK: I am sorry, it was after he had died. I can tell the member for Goyder and all other members that the committee had the opportunity of a very rewarding and extensive discussion with Dr Overduin, who was sent to the committee under the direction of the President of the Lutheran Church of South Australia, Dr David Paech. Dr Overduin is quoted in the interim report at page 6. I will read for the benefit of my colleagues an extract of that report. Quoting Doctor Overduin (oral evidence at page 390 and 391 of the transcript), he states:

> I believe, as does the church—

the Lutheran Church—

> that the right to refuse treatment should be upheld. Any treatment against the wishes of a patient is essentially wrong unless it can be proved that the patient does not know what he or she is saying regarding the treatment or unless the patient has no concept of his or her best interests.

I point out that it was that sort of expression from people like Dr Overduin that led to the determination of the committee that written into the Act would be adequate provision for the power of medical attorney on the part of someone whom the person trusts and to whom they are prepared to give directions when they are in a compos state and when they are able, and probably for a long time into the future, to determine their own destiny, but wanting to assist their own end by having shared the responsibility with a person they trust. This need not just be one person, as the provision exists for a series of people to be placed into that position; not all at once, but in a definite sequence. Carrying on with what Dr Overduin had to say:

> That is entering the area of those who are psychiatrically or mentally disabled.. .The first principle is sanctity of human life. Secondly, another bioethical principle upholds the autonomy of the patient. . .The doctor has no right to do anything of which I am not aware and to which I have not consented.

It extends the opportunity of that consent to a trusted person to assist in the dignity and the sanctity of that human life. They are important words from Dr Overduin and were deliberately stated, as was other information

that Dr Overduin gave to the committee. This was also expressed in the information that so many other people gave to the committee in the course of the evidence that was taken—and I refer to John Fleming, Nicholas Tonti Filippini, Father Laurence MacNamara of the Roman Catholic Church, and so it goes on.

I want to quickly pick up two other extracts which appear in the interim report, because I believe that they set the scene for members in realising some of the depth into which the committee went with the information that was provided. I refer to the evidence of Father Laurence MacNamara (page 407 of the oral evidence and at page 5 of the interim report) as follows:

> ...the way we care for the dying and those who are in great difficulty as they come to death really is a sign or a symbol of the sort of society we wish to be or wish to be known to be.

I refer now to page 21 of the written submission of Dr Tonti Filippini, as follows:

> The care a society gives to its weakest, most vulnerable and most dependent members is a measure of its worth.

That is a measure of the community's worth and those and similar principles have pervaded the deliberations of the committee through and through. They have been the reasons why some of our colleagues have gone to extraordinary lengths to meet with and to discuss the final aspects of this Bill, which will be reflected in amendments to be brought forward by the Minister later.

As recently as this morning the combined heads of churches gave an undertaking—not only the heads of the churches but John Fleming, as a member of a bioethics institute who was also present—to the Minister and to the member for Coles that they were more than satisfied with the endeavours that had been made to put aside fears and uncertainty that they had previously held relative to some aspects of the Bill. That was not to alter the thrust of the Bill but to spell out in finite detail what was meant so that there could be no ambiguity or misunderstanding.

Another point I would like to make for the consideration of members concerns clause 12 of the Bill. Before reading it I say to my colleague the member for Goyder that when you read a clause or subclause you have to relate it to the total Bill; and I say to my colleague the member for Spence that when you look at statute law you have to look at total statute law. Although I defend the right of the member for Spence to draw attention to which piece of legislation may be subordinate to the other, I question very seriously, on evidence which I have sought and which I accept, that this Bill will have superiority over the Criminal Law Consolidation Act. It is a moot point and one that could be argued, but I believe we have to look at the whole of statute law in making our final decision about this matter.

Clause 12 contains an important issue in the preamble to the various subclauses, as follows:

> A medical practitioner responsible for the treatment or care of a patient... or a person participating in the treatment or care of the patient under the medical practitioner's supervision...

Under the care of the medical practitioner's supervision is the important part of that provision. There had been a view abroad that this was opening the way to people in the health care area. There was a view that it was saying, in relation to nurses, you may do things within the hospital system that the medical profession do not necessarily need to know about. The nursing profession sought, in evidence before the committee, to require a status greater than that which the law today gives them, and much greater than we have provided.

It is quite deliberate that those words are in there, that it is the member of the medical profession who has the total control and say, and in many cases two members of the medical profession before certain decisions can be made: not somebody other than the medical profession. In other words, we picked up, and quite importantly, that the whole matter is to be checked and balanced for the dignity of all involved and for the important delivery of health care to those who are in need of the last health care they are going to obtain.

I want that to be understood. More particularly though (and in the couple of minutes that are left to me) I point out to members that the passage of this Bill will be of no consequence at all unless there is—and certainly the recommendations call for it—a major educational program for the community at large and that community at large is also of the medical profession. The evidence was very clear, as the committee went along, that a number of the members of the medical profession who had been out of university for some years do not understand, do not practise, and have a very guarded attitude to palliative care, hospice care and the latest technologies and assistance which can be given to patients.

So, it is important that we recognise that education will be a vital part of the total package, I trust in the amended form, without a great deal more loss of time. That education is very clearly brought to attention, because we have a Natural Death Act. It is to be repealed as a result of this Bill, except that any action taken under it will continue. The Natural Death Act has now been in place for some eight years, although very few people in the community are aware of its distinctive benefits to the medical profession or to the individual who may be involved and that person's family.

My colleague the member for Coles mentioned that a tremendous amount of the evidence we received related to the problems of cancer, and indeed the hospice care and palliative treatment at present provided are heavily reflective of treatment and assistance given to people with cancer. Whether or not the vaccines announced this week, and the various other scientific projects that are under way to look at cancer will be effective and reduce markedly the number of cancer patients in our midst, we can only trust that they will, but I point out that not only people with cancer are assisted by palliative and hospice care: we took evidence that people with motor-neurone disease are already in the system, as are people with acute kidney failure, and South Australian palliative care and hospice care providers have already treated the first of their AIDS patients. There is an expectation that the percentage of those using the system in the not too distant future will be heavily weighted towards people afflicted with AIDS.

So, we are talking about a problem which is likely to be advantageous to the community from here to kingdom come. As one disease or condition disappears another one tends to come forward to take its place, and a great number of those conditions are those which show up in

old age, because the community is protected from those diseases which used to be terminal, such as tuberculosis, which is now rare, and a number of kidney conditions, pneumonia and influenza, etc.

There is a marked change, and what we are setting up here today in the hospice and palliative care area may well benefit in the future a large number of people who have diseases which as yet have not been described or fully understood but will be directly associated with increasing age. I support the Bill.

Mrs KOTZ (Newland): In rising to support the Bill, I point out that this Bill represents over two years and many hours of deliberations by a select committee, including consultations with the widest range of members of the public, members of the medical profession, heads of churches and all interested groups or individuals who indicated interest in what is a very complex and sensitive subject.

The preliminary provisions of this Bill state the objects to be realised by legislation, the interpretations of terms used and a restriction applied to the application of this measure. Division I refers to the consent to medical treatment which applies to legally competent persons over 16 years of age. The minimum age of 16 years has caused some dissent by persons who have indicated to me their objection to people of this seemingly young age having the power to determine consent to their own medical treatment. In recognising their concerns, I point out that this Bill does not alter from already existing Acts the age of consent to medical treatment.

Division 2 of the Bill outlines new requirements for the application of medical powers of attorney. I would like to refer to the present law which covers death and dying in South Australia and is an amalgam of common law and two statutes: the Natural Death Act 1983 and section 13a of the Criminal Law Consolidation Act. The Natural Death Act 1983 provides for, and gives legal effect to, directions against artificial prolongation of the dying process. It enables a person of sound mind to sign a notice of direction that he/she does not wish extraordinary measures to prolong life if remission or recovery is impossible. There is no provision in that Act for an agent to act on behalf of a patient. Also in the laws of the present day, section 13a of the Criminal Law Consolidation Act 1935 makes it an offence to aid or abet suicide. Suicide as an offence was, of course, abolished in 1983.

Mr Atkinson interjecting:

Mrs KOTZ: I would like to pick up the comment that the member for Spence made with regard to this area where he suggested that this new Bill will, in fact, supersede the Act because I believe he stated that this is a new Bill. The Criminal Law Consolidation Act has not been repealed and section 13a is still intact and after this Bill has been passed it will still be intact. The member for Spence, unfortunately in this case, has interpreted this part of the Act quite incorrectly.

Part of the research undertaken by the select committee showed that only one person in five was able to say that the South Australian Natural Death Act enabled them to make a living will. A living will is a document that people can sign to indicate that they do not want to undergo extraordinary medical treatment to prolong their life should they lose consciousness or their wits in the course of a terminal illness. Only one in five knew that living wills were legal. Asked if they would ever think of making a living will 60 per cent said 'Yes' and 25.5 per cent 'No'. The reasons for saying 'No' were, and I quote:

> I would prefer things to take their course. I don't like to think about it. I don't know enough about it and I might change my mind.

Eighty-seven per cent thought it should be legal for patients to appoint, in advance, a relative or friend to take medical decisions for them should they no longer be able to do so themselves. The preference for leaving medical decisions to a doctor increased with the age of those that were taken in the sample, with 25 per cent of 55 and over feeling that a doctor was the best person to make medical decisions for them.

The right to refuse medical treatment became a key issue in discussions and in the deliberations, of course, with the select committee. Witness after witness, regardless of religious affiliation or ethical perspective, stressed the importance of patients being aware of their right to refuse treatment. I would like to quote from oral evidence that was taken from Dr Robert Pollnitz who is a member of the Care for Life organisation. He stated:

> There is no obligation to use measures which are useless because death is both imminent and inevitable or measures which are so burdensome that they are out of proportion to the benefit which they may achieve. In such cases withholding or withdrawing of these measures is neither killing nor euthanasia.

I would also like to quote a written submission that came, in part, from Dr Nicholas Tonti-Filippini who stated:

> The patient's right to relevant information and the opportunity to refuse the treatment offered is essential to respect for human dignity. That a competent adult patient is the proper person to determine whether a particular therapy offered by his or her doctor is to be applied is beyond dispute.

In the discussions about appointment of agents to make decisions about medical treatment for a legally incompetent patient, a number of witnesses, mainly doctors and nurses, referred to the difficulties that arise when patients are unconscious or for some other reason do not have the capacity to exercise choice about whether medical treatment should begin or continue. The difficulties are made worse when there are differences of opinion between family members about what should be done. Such differences have become more common with the increase in divorce and family breakdown. It was pointed out that there has been general support with qualifications for a provision in South Australian law similar to that contained in the Victorian Medical Treatment (Enduring Power of Attorney) Act 1990 to provide for the appointment of agents to make decisions about medical treatment for people who are not able to do so themselves.

The need to repeal the Natural Death Act and replace it with new legislation to clarify the rights of patients and the obligations of doctors has been addressed in this Bill. I think it is important to stress also that there is a very definite recognised need for palliative and hospice care in acute hospitals and nursing homes. Research undertaken by the select committee showed that, in 1875, 92 per cent of people died at home; in 1990 this figure had

dropped to 21 per cent. In 1981, 73 per cent of cancer patients died in hospital, but in 1985 this figure had decreased markedly by about 12 per cent, with a corresponding increase in the number of deaths of cancer patients occurring in hospices and nursing homes. At present, about 15 per cent of cancer deaths in South Australia occur at home.

The hospice movement and palliative care services established in South Australia in the early 1980s have made an impact on the patterns of place of death of cancer patients. In that regard, Dr Roger Hunt, of the South Australian Association of Hospice Care, in his submission to the committee stated, in part:

> We really do not want hospice and palliative care pushed out of the mainstream; we want it integrated within mainstream health care delivery in this State. However, there are a number of Government policies, at all levels, which mitigate against the provision of adequate terminal care.

In accepting the increased need for palliative and hospice care, it is imperative that appropriate resources be allocated to this area if the full force of this Bill and its application are to provide true benefits to members of our community now and in the years to come.

In recognising the very poor knowledge of the public in relation to the Natural Death Act, the need for education of doctors and the public is paramount. Regarding education, I would again like to quote Dr Roger Hunt, who on this subject stated:

> Until recently there has been an absence of palliative care content in medical training. A recent survey of general practitioners in the southern region (of metropolitan Adelaide) has shown that most feel that their preparation for terminal care was poor or non-existent ... preparation for it was abysmal. Every health care professional needs to be involved in palliative care in one way or another—nurses, doctors and social workers. It should involve not just health care professionals but also the clergy.

Dr Hunt goes on to say:

> Traditionally, training for these professions has not included much about terminal and palliative care. This association strongly believes that health care professionals of all disciplines should have improved education in terminal care.

It can be seen that this Bill presents the basic formation upon which many other procedural changes need to be encouraged, if not enforced.

Mr Atkinson: It could be a bit of both.

Mrs KOTZ: I thought so. At this stage, I will conclude by placing on record the fact that the Voluntary Euthanasia Society and other members of the community have expressed disappointment that the committee decided against legalising euthanasia. In supporting this Bill, I am proclaiming my stance against homicide, no matter how it is disguised. I support the medical profession in the practice of palliative care, and that includes the administration of pain relieving drugs that may hasten death without the intent to hasten death for patients who are terminally ill. I support the autonomy of individuals to consent or withdraw consent to intrusive medical procedures or practices, and I support the additional measure to protect that autonomy by the introduction of the medical power of attorney.

Mr BRINDAL (Hayward): I am most interested in this debate tonight and the contributions made by members on both sides of the House. I have a very personal interest in this matter. In 1974 my mother entered hospital to have a melanoma removed from the upper portion of her leg. While the surgery was radical, it did not stop the spread of the cancer which progressively moved through her lymphatic system. Although it was widely expected that she would die in 1975, the medical skill and expertise of treatment prolonged her life with a quality existence until about March 1989. By that time it became obvious that her condition was terminal and she progressively degenerated to the point in July and August at which time she asked to be admitted to the Mary Potter Hospice. That was my first experience of palliative care services.

It would be remiss of me if I did not record, as other members have done through the course of this debate, my belief that the palliative care services in this State are of the highest order, and doctors such as Dr Michael Ashby at the Royal Adelaide Hospital who have dedicated themselves to the maintenance of life while relieving pain have nothing but my highest commendation. I believe that the people of this State owe them a great debt of gratitude. In those final weeks, my mother had come to terms with her imminent death. She had made her peace and was left waiting to die. She knew that the most likely cause of her death would be pneumonia and had instructed her doctors not to perform any resuscitation or retrieval process. It is at that point that I believe this Bill becomes most relevant for those last weeks were most traumatic, both to herself and her family. She had been a woman who all her life had had a great Christian faith, and that faith was shaken in the last weeks because she could not understand why, when there was nothing left for her but to die, and when she was in great pain, she could not be relieved of the burden.

While I know that this Bill does not condone homicide and does not go so far as to support euthanasia, and while I record in this House that I for one would not have the courage to pass that sort of Bill in this place because of its consequences, and because we would not know where it would lead, I can say honestly that, from personal experience, I can see that a legitimate argument can be made for people who, knowing that they are going to die and knowing that there is no help, can say that they want assistance in that death. I see nothing wrong with that.

I sincerely respect the opinions of other members in this place and, while I can see a point of view that could be made for that and that it could have been a legitimate conclusion of the committee, I, like so many members of the committee, would not have the courage nor the right to pass a law which in fact allowed people to do something that might be open to abuse. In the end the treatment was withdrawn and death became the natural process and there was the inevitable result. When medical treatment is withdrawn and the relief of the pain is the only measure to occur and nature takes its course, I suspect that it is sometimes not pleasant for the patient, nor for members of the family. So, it could be argued that some good can sometimes accrue by the medical profession if they were to take interventionist measures.

Like all speakers tonight I believe in the sanctity of life and in the autonomy of the patient and in their relationship with their doctor. I am therefore worried

that this Bill, in some instances, gives a medical power of attorney. It is one of the few things that worries me about this Bill because I believe that it should be between the patient and the doctor and I do not believe that somebody should be given a power of attorney to make what could be a decision over the life and death of the patient.

My colleague the member for Coles has kindly gone through this Bill with me and shared with me the experience of the select committee, as has the member for Spence and a number of others, and I understand their position as a committee. However, I wait for the Committee stage of this Bill because I am not yet convinced in respect of the will of the patient. What could happen is that your wife could say to you quite specifically that this was her wish; she could give you the power of attorney and then, through force of circumstance, you could be in a position to make that decision. You know what your wife wanted, your decision would be quite clear and yet in a way it would be a very difficult decision for any of us to make, because it is still hard for you to let go of someone for whom you care deeply, even if you know their will in the matter. I suppose what I am saying is that a medical power of attorney, which can be a power of life and death, is a difficult burden for anybody to bear and cannot always be exercised with the judicial prudence that goes with so many other decisions in our life.

This morning one of my colleagues raised a number of examples, including an instance where a medical power of attorney given many years ago and largely forgotten about could be suddenly revived. I believe that could happen. You go through stages in your life. You might give somebody a medical power of attorney for a specific instance, forget that you did it and years later, when you are in a coma, that medical power of attorney could suddenly be revived and executed without your knowledge because you are in a coma. There is also the position—and I know the member for Coles will tell me that doctors are a check and balance on the process—where elderly people become a bit burdensome to their families and are more regarded for the inheritance that they will leave than the life that they continue to live. Unfortunately, I believe there are families where the desire for the inheritance might exceed the good of the patient and could lead people to make decisions that they should not make. That is my main worry with the Bill.

I commend the members of the select committee on the work that they have done on this. It took them a long time; I know they have considered it very carefully and they must be congratulated, because they have achieved the almost impossible balancing act of satisfying both the conscience of church leaders in this State and also, to some extent, people such as the Voluntary Euthanasia Society who, although they would have had this Parliament go further, are nevertheless satisfied with this step. I can honestly say that I am not sure how I will vote on this Bill, because I will wait to hear what those who know more about it say in the Committee stage. As I said, my worry about the Bill is not its intent but whether it is a legitimate procedure to have a medical power of attorney—whether any second or third person should be given that power over any other person. I do not think they should, but I remain open to be convinced.

Mr S.J. BAKER (Deputy Leader of the Opposition): My contribution will be very brief. I wish to congratulate the member for Coles for the initiative that she took in relation to the select committee that has now brought forward a Bill, which I understand will be subject to future modification; and to congratulate those members who served on the committee and particularly the former Deputy Premier, the member for Baudin, because I believe that the will of the people is being advanced by this Bill. I would make the comment that this Bill is about life and not about death. It is about the quality of life, and all members of this House would appreciate and understand that.

I have a very large number of nursing homes in my electorate; I believe there are probably more nursing home beds in my electorate than in that of any other member in this House, and I have visited them on many occasions. If members have done the same (and I know many members of this House diligently attend community organisations such as hospitals, sporting clubs and so on) and have been to the number of nursing homes that I have visited and seen the situation faced by a number of those residents, they too would say that some thought must be given to some way of relieving people of the burden that they foresee.

The member for Hayward mentioned the situation of his mother. My mother is a member of the Voluntary Euthanasia Society, and she has made it quite clear to me that she does not wish to continue in this world as a burden. She says that, as long as she has her faculties and is able to be mobile, she would wish to stay on this earth, but she does not wish to continue beyond the point where she believes she can no longer put something into life. We know that there are many thousands of people in that situation.

I know that members have talked about the sanctity of life and the need to preserve it at all costs. I am not of that same view. I believe there is a point at which we say, 'Enough is enough,' where if the person concerned had their full faculties they would say, 'I no longer wish to survive in this state,' but many people whom I have seen have gone beyond that point, and they are being maintained, in some cases in a very artificial situation, by drugs and force feeding. They are the sort of people who 40 or 50 years ago would simply not have survived. As we have heard from a previous speaker, many of those people died of pneumonia. Pneumonia was (and I think probably still is) the greatest killer of older people, and nature took care of itself.

The fact was that nature did take care of itself, but no longer. Medical science has now progressed to a stage where people can be kept not indefinitely, certainly, but well beyond their natural life span by the administration of drugs and the quality of care which can be provided and which may not have been and was not available some 20 or 30 years ago. We do not have to go back far in history to know that the average life expectancy of a male was below 50 years of age. Females have always lived longer than males, and there has always been at least a five to seven year break in the series.

The Hon. S.M. Lenehan: We are survivors.

Mr S.J. BAKER: That is true. Women are much stronger than men in ways that have only recently been well understood.

The Hon. S.M. Lenehan interjecting:

Mr S.J. BAKER: The Minister also said that it is the clean living, but I am not sure that is correct.

The Hon. S.M. Lenehan interjecting:

Mr S.J. BAKER: In deference to the Minister, I believe that that was the case, but I understand that women are taking on some of our bad habits and we might find that that gap shortens. This is a very sensitive Bill. It is not perfect and never will be perfect, but I know that in the Committee stage consideration will be given to a number of the reservations that have been expressed by a wide range of groups and individuals in South Australia. I make it quite clear that I have no wish to be a burden on society—

Members interjecting:

The SPEAKER: Order! The honourable Deputy Leader—when he is ready.

Mr S.J. BAKER: —and I do not wish the taxpayers to be paying out very large sums of money to keep me alive when I can no longer fulfil a useful function. I should like the facility to be able to say to one of my children or to some other person in whom I place implicit trust—

Mr Atkinson interjecting:

Mr S.J. BAKER: —and that won't be the member for Spence, I can assure members of that. I would like to give that person authority to refuse medical treatment that would increase my life but not necessarily increase my contribution. It is a very sensitive subject and, as I said, this Bill is about life. It is about quality of life and about dignity. It is also about meeting our own expectations of ourselves. I know that no-one in this Parliament wishes to go beyond that time that they would deem to be appropriate.

Safeguards are contained in the Bill. For example, we know of the tremendous effort that is made within the Queen Victoria Hospital, and now the Adelaide Women's and Children's Hospital, to preserve the life of a baby. We also know of the tremendous efforts made by doctors and specialists when a young person has been brain injured through an accident, some disease or virus.

We are not talking about those sorts of situations. We know, for example, that members of the medical profession will do their utmost to preserve life, because they know that, whilst a person is young, that person has the capacity to survive tremendous trauma. As we get older, that capacity is far reduced and, therefore, we know that there is a point in many people's lives where there is no real future. I would like to think that people have the capacity to be able to make some decisions at a time when they are capable of doing so and that we will all be better for this Bill than perhaps we were previously.

Mr FERGUSON (Henley Beach): When I heard that this select committee was being set up, I took the view that I would not go any further than the Natural Death Act, and I believe that we ought not to be going down that path. Incidentally, this is a conscience issue: there is no Party position on this matter, and every person is able to make up their own mind on this subject. I have now changed my mind, having had the opportunity to listen to the speeches here tonight and the reports that have come back from the select committee, and I will be supporting the proposition that is now in front of us. But I do so with some trepidation, because I can understand the objections that have been raised by the members for Goyder and Hayward and, if I might say so, in a very legalistic sort of way, by the member for Spence. I believe that certain elements of euthanasia are now being practised in our medical profession today, despite the fact—

Members interjecting:

Mr FERGUSON: Would you mind giving me a go here, thanks! I could take the full 90 minutes allotted for this debate. This is an extremely important debate; I am surprised at the levity in this House about it. In the time that I have been here, I cannot think of a more important debate, and I am surprised that people are cackling and giggling about this subject.

I can understand the trepidations that have been expressed in the debate thus far. The member for Goyder expressed his opposition, and I must say that over the years I have listened to the honourable member on this subject, and to a certain degree he has softened his original stance. However, I understand the fears that the member for Hayward and he have expressed to this House, and as I said I understand what the member for Spence has said.

I was in this position in 1989; I was diagnosed as having cancer. I was not given long to live. I was diagnosed as having lymphoma, and all the preparations that were necessary for death were made on my behalf and by me. I visited a psychiatrist, and we laid down a speech about how I was to face up to death, about death itself, the problems associated with it and what I should do in preparing my family for my own death. Fortunately, I took on the chemotherapy treatment, and I have been one of the few people to survive lymphoma cancer, a disease that does not have a good survival record. I was fortunate enough to get through it. Judgments are being made by the medical profession about assisting people in their desire to finish the pain and suffering.

Two constituents have come to discuss this matter with me. One was a prominent person in the Housing Trust of South Australia whom everyone would know, and he was a Roman Catholic with a strong faith. The question was put to him about dying with dignity, and that is the way all these propositions are put. He was most upset about the idea, although he was suffering and has since passed on. He was in pain, but he determined that it was against his faith and that he was not willing to accept the suggestions being put to him. As to other the other person—

The Hon. Jennifer Cashmore: By whom?

Mr FERGUSON: I do not wish to go into that at this time. As to the other person, it was put to him, when he was suffering from cancer, that there should be death with dignity. I understand that, in consultation with his wife, he accepted that his medication should be increased. It was increased and he died a peaceful death. However, mistakes are made. I put these illustrations to the House because from time to time the medical profession makes mistakes. The world is littered with

examples of how the medical profession has made mistakes about its predictions as to whether patients would survive—and patients have survived.

If I can, I want to focus the debate on the premise that this House should not be giving a signal to the rest of the community and to the medical profession in particular that they should be going down this track. That is my fear about supporting the proposition before us. In a sense, it crystallises the contributions of the members for Spence, Hayward and Goyder. I share their fears about where we might be going in this area.

Having said that, I accept that we set up the select committee; I accept that the committee has had more time than I have had to look at this subject; and I accept the committee's decision. As I said previously, I will be supporting that decision. However, I would like to hear more from the House from here on in the debate about the fears that other members and I have expressed, because there are certain people out in the community and in the medical profession who are willing to make decisions that are perhaps even outside the law—despite what the common law might say and despite what the legislative law might say—to assist people who they consider are of no use to our community. In the past they have made mistakes, and I believe they will continue to make mistakes.

I know that this Bill is not about euthanasia; I accept the proposition that has been put to us by the member for Light who gave a pretty good contribution to this House—and this is one of the points he made—that in no way is this Bill about euthanasia. I am sure that, when the Minister replies, he will tell me about all the safeguards with respect to the proposition in front of us. However, I will not be moving in the rest of my parliamentary career, be it short or long, any further down the track so far as this proposition is concerned, because we are taking a giant step from where we were with the Natural Death Act. I hope that we do not signal to the rest of the community that we are in any way cheapening life or that we are in any way having a lesser regard for life than we had prior to this Bill's being made law. I will support the proposition in front of us.

Mr BECKER (Hanson): The erosion of life in South Australia will begin with the passing and enactment of this legislation, if it is successful, and that I think is a day we will long live to regret. Therefore, I cannot support the legislation in any way, shape or form, and will not do so. I will not listen to any argument that endeavours to make me support it. I think life is too precious and, whilst there is a chance, whilst there is a hope, every opportunity should be given to sustain life.

I am surprised and amazed to think that the churches in this State support this legislation. Whilst I understand that select committee members would support the Bill because, after all, this legislation follows the recommendations of the select committee, I tend to think that we are being conned. This is the beginning of the end. I thank the member for Henley Beach for his contribution tonight, because he enlightened me on some issues of his personal life; it is not easy to bring such issues before the House and place them on the public record. I thank him for that most sincerely. I appreciate what he has had to tolerate in the past few years, and I wish him a long, healthy and active life. I would never be the person to make the final decision as to whether or not a life support system should be withdrawn. Therefore, as I say, I find this legislation abhorrent.

I was bitterly disappointed, when the legislation was first brought into this House regarding the establishment of a select committee, that several members were told that we were not to speak and, if we did speak, it was to be for only a few minutes. I believe that I was denied the opportunity and the right to represent the people by whom I was elected. Again we are told that the guillotine will apply to the debate of this legislation. If the Bill is read a second time and goes before the Committee, there should be a long and detailed examination of the various clauses, because really it gets down to the fact that this is a Committee Bill.

It is disappointing that, a few hours before legislation is to be debated, the Minister who brought the Bill before the House presents amendments—amendments that can tell an entirely different story. But, of course, we have come to expect that from the Minister. He will have a long, sad record of legislation in this House that has ruined various functions of the Parliament. I reminded him many times when he was on the Economic and Finance Committee that he had ruined the old Public Accounts Committee.

Now we will find that he is going to be the one who commenced the erosion of life in South Australia. I would not be too proud of that record. Unlike the member for Henley Beach, I do not see that there is any need for levity in this legislation whatsoever. The member for Henley Beach was right when he said that members of the medical profession make mistakes, and it was a long standing joke, I suppose, amongst the medical profession that the medical profession bury their mistakes. It is not a nice reflection on the majority of them because they are honest, sincere practising people who endeavour to do the best they can for their patients and clients, and of course in many cases they have to depend on the information supplied to them by their patients. The medical profession is also under a tremendous amount of pressure from their patients to relieve the pain and suffering. They are often begged and pleaded with to help wherever they can. It must be very difficult to treat people knowing that they have very little time left, and wanting to ease the pain and suffering. At the same time, there are constant changes in the medical scientific field today that give us hope.

I have been reminded this evening of the case in Queensland of a member of Parliament who received a phone call one evening that his niece had been involved in a very serious motor vehicle accident. His sister asked whether he could come home immediately to be with the family, because they did not expect his niece to survive the night. Because of the distance and the connection of transport to his home he was unable to get there. He was told that the medical adviser had informed the family, in particular his sister, the mother of the child, that they believed his niece was brain dead, that she may survive the night and that if she did there would be a further medical examination at 8.30 in the morning, and if she was considered to be brain dead the life support system would be withdrawn.

At 8.30 the next morning three medical practitioners—as required under Queensland legislation, but it is not stated in this legislation—examined the patient, they examined the brain stem where they believed the damage was, and there was slight movement. So the decision of the medical practitioners was to continue the life support system and treat the patient. Six months later she walked back into that hospital, with a slight limp, called out to the doctor, 'Next time you are asked to make a decision do not be eager to withdraw the life support system. I am the one who survived'. She is now married and has a baby. That is a case, and I suppose we could bring up many cases, where, due to that safeguard in the Queensland legislation, the protocol of having three medical examiners, not one but three, and not dependent on the family decision but a double check of the damage to the brain stem or other part of the body, that person was given a chance of life.

We have heard of many cases over the years of people who have been traumatised, in a coma, where the family have rallied around and attended the patient for 24 hours a day, talking, counselling and staying with the patient, and the patient has gradually come out of the coma. Many years ago I well remember seeing many patients in Ru Rua Hospital here, and could not understand the way that they were being treated. They were left in the beds. They were washed and the bed linen changed regularly, but nothing else was done. I went around the world to look at similar clinics and found out what was being done in other hospitals, where these people were being treated like normal people. They were given love and tender care. They were taken out for walks, put out in the sunshine and gradually these people started to come alive. The movement of the eyes, which was probably all that they could move, was an indication that there was life there, that there was a brain function.

We have read numerous stories of people who have been given up, cast aside and put away in the dark corners and forgotten by their relatives. With a little tender loving care and a lot of medical science and treatment, these people have been able to lead a lifestyle entirely different from ours, for the quality of life and happiness is there in the inner part of the body, through the brain, even though they may not be able to move their limbs or, if they can, they are very very restricted.

I would not like to be given that responsibility of being asked to make a decision on behalf of one of my loved ones or relatives. I would not like to be faced with the decision that I have had in the casualty rooms of the Royal Adelaide Hospital, the Queen Elizabeth Hospital and Flinders Medical Centre. I have lost count of how many times I have had to go there with my son never knowing at times how long he has to live with the severe seizures he suffers. But, where there is life, hope, love and understanding, then for God's sake give everybody a fair chance. I cannot support this legislation. I could not, because I just do not think that we in this Parliament are given the divine providence to make the judgment of life and death.

Mr LEWIS (Murray-Mallee): It has been said by others before me and needs, I think, to be placed on the record yet again, that it is incredible that this measure is to be guillotined as part of the package of legislation we are to debate this week. It has also been said, quite properly—and in making the observation—that is wrong, because it is a conscience issue, and it is wrong because it is an issue of great moment and seriousness. Accordingly, I do not understand the reason why the Government has insisted on including this measure in the package of legislation that must be completed this week. Those of us who in conscience would therefore want to make a contribution know that we either sit long hours or, alternatively, forgo the opportunity for the Chamber to adequately consider other measures on the Notice Paper, neither of which is satisfactory.

The one observation I would make at the outset is that in these circumstances it is a pity that we cannot consult the dead, to know how they would want us to contemplate this proposition in all its complexity and legislate to resolve the dilemmas in the community. The next best thing we can do in the circumstances is to consult the opinion of those who were told they were most likely to die and probably accepted the fact that they would die. Members have spoken with some feeling in their personal experience in that regard tonight. It is not a matter about which it is possible for us to be glib in our argument and reason without regard to the fact that the cultural mores of the community, the society in which we live, in large measure make the framework within which we view this subject.

I would illustrate to members the relevance of that point by asking them to contemplate the situation that existed in the days of Aristotle in Ancient Greece, where this debate was undertaken in the same way as we are now doing between thinkers at that time, except that they excluded the slaves from their deliberations. The slaves were chattels and animals, not to be considered as participating in whether or not their physician should take human life according to this or that value.

More recently, one could contemplate the attitude of one group of human beings toward another in the context of slavery, which existed barely 100 years ago, and what would be done in the case of a slave who was seriously injured or ill as opposed to a free person. Furthermore, as I have personally experienced, our morés are influenced by the fact that most of us have not spoken to a cannibal—I have. I am not saying that necessarily that makes me better qualified; it just gives me a capacity to see this measure with a different slant, another factor in the overall view of human life and its value and the way in which it ought to be treated by institutions that govern the way in which life is lived by an individual in an orderly fashion in accordance with the law.

Mr Atkinson interjecting:

Mr LEWIS: I simply spoke to them as human beings, acknowledging that their experience of life was different from mine and that it was pure chance that they sat there talking to me and far greater chance that I was there speaking to them in spite of my own personal experience of life. They could easily have been taken, killed and eaten. Therefore, their attitude is different.

Mr Venning interjecting:

Mr LEWIS: No, they did not invite me for the purpose of having dinner. You see, Mr Speaker, dying happens. One does not set out to do it in the normal course of events; one should not, therefore, set out to

have it done to others, as it were. It happens. We value life far more than our forebears possibly could. For instance, these days if you were at sea and you fell overboard the ship would put about and others would be called in to help ensure that you were rescued or searched for, using all the available technology at their disposal to discover where you might be. Yet, barely 100 years ago if you fell from the rigging of a ship in stormy seas, day or night, the most that you could expect would be the chance to ask Divine Providence to bless and take care of the family you were leaving behind and hope to hear a deckhand say 'Amen' before you hit the water, forever lost.

Our attitude towards life and its termination is tempered by the culture in which we live. Indeed, our mores, our values, our behavioural rituals and what we regard as possible instead of impossible has all grown out of the collective experience of everyone. Throughout history, who lives and who dies has been very much a matter of cultural mores of the society in which the individual has lived at any given time and the events that have occurred. It is no less the case now. Let us not pretend that or ignore the ultimate fate of every living being. The body we occupy comes from dust and to dust it will return—and we are all reminded of that at funerals.

Having taken what I regard as a fairly sober reflection on the way the world is, has been and might be for others separate from ourselves, let me place on record that I do not want to go down the Dutch path. I do not regard the more libertine approach to decisions about death as being in any way desirable, for precisely the same reasons as we have heard put to the House by the member for Henley Beach and the member for Hanson based on their personal experience.

Let me briefly recount my own experience for the benefit of the House so that members will know where I come from in that regard. I was a happy, athletic normal kid, I suppose, and not expecting in the least the severe injuries that occurred to me in a motor car accident in which I had no say whatever before I turned 12. It was not something I could have avoided, yet the consequence of it was that at that time medical practitioners told me to expect neither to walk again nor for that matter to live very long, because there was severe damage done to nerve tissues. However, medical science, particularly biochemical aspects of it and neurology, discovered the existence of a group of hormones called cortisones and their particular effects, and fortunately for me I was given the opportunity to decide for myself whether or not to accept the administration of those cortisone hormones by epidural technology and so on.

The end result is that I stand now to talk about this measure here tonight. Otherwise, I most certainly would have died from a seizure similar, I presume, to the kinds of seizures the member for Hanson was talking about, where my phanic nerve would simply have failed. During the few years that I believed I might have to live, I became fairly driven about what I ought to do with the time and life I had at my disposal, and determined that it should be something worth while. It probably took me into experiences and activities that most people my own age would otherwise not have contemplated leave alone got involved in. There were then circumstances where I found myself again either wounded or injured, whichever word one prefers, and I prefer 'injured'—

Mr Atkinson: Why?

Mr LEWIS: Because it happened and I did not see myself in a war context, although I guess it is fair to say I was most certainly engaged in mortal combat in those circumstances more than once. Whilst not in Australia, I found it necessary more than once to preserve my own life by taking others. Also, whilst outside the jurisdiction of this law and the people in the society with whom I grew up and whose mores I shared and was seeking to protect, I found myself in a situation of being begged by another human being to take his life there and then. With my limited physical strength at that time, my choice was to press on and leave my colleague to chance, and the chances were that he would be set upon by wild animals, birds or insects, that I would have left him to die an horrific death, or grant his wish. It did not take me more than a few seconds to decide that I did not want to hear those pleas any longer and so granted his wish. It gave me no pleasure to do it. I knew there was no way that both of us could survive, but there was some chance of my surviving and, equally, no chance of his surviving—or dying with dignity if he were left there.

It is against that background of experience, more sensitive in my mind now as a consequence of more recent injuries sustained not more than a few metres away on North Terrace and the effect that that has had on me, I disclose that but did not disclose it in the discussion I had in the debate on a similar measure in 1983. Nonetheless, I am still of the same general view about life and its sanctity and the way in which we who act on behalf of all people who have delegated power to us legislate on behalf of those people to make a more civilised society of tomorrow than we had yesterday.

I have to say that I do not want to follow the libertine view taken by the Dutch in the development of their law. Their cultural mores are against the background of a society which has a restricted land mass, an established industry and an established plan for the use of the land available. There is no social opportunity to change much and to develop much so I suspect they see the more sensual aspects of living as of greater importance than we do. There is greater constraint on the ability of individuals to develop their own personalities and make their own mark on that society, hence they tend to look at life and the way in which we depart from it differently from the way I think we ought to look at it in this country. From the further reading which I have done I suspect that they will be changing their view about that in the near future.

I want to acknowledge the benefits that were conferred on this Parliament and on the people in South Australia in 1983 by the Hon. Frank Blevins in raising the debate on this subject at that time. It was probably one of the most significant contributions that any member could have made to raise the level of conscious awareness and the need to address these issues as he did then. I also want to acknowledge the very considerable wisdom of the contributions which have been made over that time by people such as the member for Light and the member for Coles. I do not berate other members' contributions in the least. I have had a profound respect for them and for the diligence with which the argument has been

constructed by the member for Goyder in the course of his remarks. I am apprehensive about the measure as it stands. I am reassured that there will be changes made by amendment to the clauses when we get into Committee, which in large measure will allay my fears about the effects of, particularly, clause 12.

I want to pay tribute to those people who are engaged in providing palliative care and acknowledge the difficulties they face. From 1983, 10 years on, it is now possible to see that it is necessary to examine the issues contained in the select committee report and addressed by the legislation because medical technology, especially in palliative care, relevant to this debate has marched on and because it has marched on questions have arisen as to where the line needs to be drawn.

So, the Minister has provided us with a fairly substantial and beneficial dissertation to be found at page 1562 in *Hansard* and the member for Coles' speech is at pages 1560 and 1561. Her remarks provided me with the opportunity to see that we had to examine the power of medical attorney, and give doctors practising palliative care the capacity to act without fear of criminal liability, to act in the public interest, in the individual citizen's interest and to act in the context and the framework of compassion. She said, 'We want to ensure that the law reflects proper standards of medical care and practice' and I agree with her. At the conclusion of her remarks the point was made by her, as had been made by others, that we need to find the means by which it is possible to die with dignity. The Minister has enabled us to examine the issues involved in contemplating what constitutes informed consent and that it is a significant move forward from the law at present to provide for that.

I am willing to contemplate that, but I am determined at the same time that we must be sure that we are not allowing someone to take the life of another in a lawful fashion, without it being inevitable that life would have been terminated before recovery and relief of pain could otherwise have been realised. I found great benefit in the remark that the Minister made when he said:

> Neither society nor medical practice has the right to impose treatment on us which as conscientious and conscious patients we choose not to have. Our reasons are our own in that respect, and a patient is not required in our the committee's] view to justify their decision in relation to medical treatment.

That is very much a subjective decision; each individual must make it for themselves. Pain, too, is very much a subjective experience and something which none of us can say we know more about, as it affects us differently from the way it affects others.

Mrs HUTCHISON: Mr Speaker, I draw your attention to the state of the House.

A quorum having been formed:

The Hon. M.J. EVANS (Minister of Health): I move:

That Standing Orders be so far suspended as to enable the House to sit beyond midnight.

The Committee divided on the motion:

Ayes (37)—H. Allison, M.H. Armitage, L.M.F. Arnold, M.J. Atkinson, S.J. Baker, J.C. Bannon, P.D. Blacker, F.T. Blevins, M.K. Brindal, J.L. Cashmore, G.J. Crafter, M.R. De Laine, B.C. Eastick, M.J. Evans (teller), D.M. Ferguson, R.J. Gregory, T.R. Groom, K.C. Hamilton, T.H. Hemmings, V.S. Heron, P. Holloway, D.J. Hopgood, C.F. Hutchison, G.A. Ingerson, J.H.C. Klunder, D.C. Kotz, S.M. Lenehan, C.D.T. McKee, W.A. Matthew, M.K. Mayes, J.W. Olsen, J.K.G. Oswald, J.A. Quirke, M.D. Rann, J.P. Trainer, I.H. Venning, D.C. Wotton.

Noes (3)—H. Becker, I.P. Lewis, E.J. Meier (teller).

Majority of 34 for the Ayes.

Motion thus carried.

The Hon. M.J. EVANS (Minister of Health, Family and Community Services): I should like to thank those members who have participated in this debate. It is indeed a matter of considerable substance, as members have stated in their contributions, and one that has occupied the minds of all members of the select committee, from both sides of the House, for some considerable time. I suggest that this is one of the most considered Bills that has come before this House for some time. Members on both sides have debated its terms at length and have subjected it to very substantial community consultation.

The select committee tabled a first draft of the Bill last year, and the matter has been the subject of substantial debate within interested sections of the community over the whole of that time. The member for Coles and I, in particular, have spent considerable hours in discussion with members of the community and with, for example, representatives of the churches, with various medical experts in the community and between ourselves in order to improve, in our view, the precise wording of the Bill.

Members have received copies of the extensive amendments to the legislation. I believe that the process which we have followed has been a credit to the Parliament as a whole, and it is one of which all members should be proud in terms of the parliamentary process. It has allowed the community access to their members of Parliament to present their views, and it has allowed members of Parliament to consult very widely on this topic and indeed to incorporate very largely many of the views that were put to the select committee and to me as Minister on the Bill in the amendments which the House will have noted are circulated before us. Indeed, should this measure pass the second reading stage, it is my intention to move in clause 1 of the Committee that the Bill be amended *pro forma* in accordance with those circulated amendments, and the document will then be reprinted and circulated to the House in time for the Committee debate to take place on Thursday. That will allow the House to debate the Bill on the basis of the reprinted document incorporating the amendments before us, which will allow a much clearer understanding and discussion of the Bill as it is envisaged it might pass.

It is certainly the case that the Bill as it was first presented was capable of improvement, and I am sure that that is indeed true of many documents that come before this House. In this case, the member for Coles and I as Minister have spent some time consulting over the proposed amendments, and indeed only this morning we met with the heads of churches in order to discuss the

amendments which members see before them. They warmly endorsed the proposal and the proposed amendments and indicated one or two other areas in which the Bill might well be further improved. The majority of those suggestions have been incorporated in the amendments which are before members. On that basis, I understand that the document would indeed have the support of those groups. They represent a very substantial element of opinion within the community and one which is particularly concerned about this aspect of life.

This is a very weighty topic and one about which people feel very strongly. The members of the select committee, over a two year period, were exposed to a wide range of views about death and dying and the medical and legal processes which should accompany it. One of the very strong conclusions to which the committee came, and the member for Coles and other members of the committee have indicated this, related to patient autonomy, that it is the patient's life and the person concerned who has the right to determine how they will receive medical treatment and on what basis they will receive it—indeed, whether they will receive it at all. We were quite clear that no matter how uncomfortable we might be with the decisions which some people might chose to reach on their own that, in fact, it was not our right to deprive them of their right to determine the disposition of their life and the way in which they would receive medical treatment.

Of course, a logical extension of that is that, when the person concerned is unconscious or for other reasons is incapable of reaching a decision about the continuation of their treatment or the initiation of further treatment, it is a very substantial contribution to that person's autonomy that they are able to appoint voluntarily an agent who will make that decision before them, subject to any conditions which they express. Of course, the Bill embodies that process in the sections which deal with the medical power of attorney, and the amendments which I circulated further clarify that process. But it is fundamental to the concept of patient autonomy that the patient should have the right to appoint an agent who may then exercise on their behalf the various complex medical decisions which sometimes need to be made.

Of course, the committee had a number of options before it. It could have opted for a process where a person makes an advance declaration, substantially in advance of the illness, and at a time when they are not able to contemplate what the medical technology of the day will have on offer. Of course, such legal processes are in use throughout the world in other jurisdictions. While the committee was attracted to that concept, it felt there were a number of disadvantages with it. Indeed, those disadvantages are fairly obvious. Because the person makes this declaration well in advance of the actual illness or incident, it makes it impossible for them to understand what changes in medical technology, which as we all know is advancing extremely quickly, will be available at that time.

Whereas the treatment available for the illness at the time the declaration is made may be burdensome and quite futile, it could be that in five or 10 years, or perhaps even much less time, the treatment is not futile or burdensome and medical science is able to address that illness in a way that the patient would want to respond to. It is only by having a document that operates at the time of the illness through a person or agent that you know, love and trust and who will be able to move through life with you and experience with you the changes which occur, not only to your attitudes and your views on life but also experience and understand the changes in medical technology that have taken place, that will enable that person to make a decision at that time in the light of the best medical advice, in the light of your most recent communication with that person and in the light of the life experiences that you presumably have shared with the person whom you chose to appoint as an agent.

That clearly underlines the reasons why the committee has some confidence in this process, because clearly people will appoint as agents those whom they trust to undertake the decisions that they themselves would have made. No-one will appoint an agent, except on the basis that that agent will act on their behalf, in their best interests and in accordance with their wishes and their known understanding and feeling for life and the way in which they would want to be treated at this point in their life.

That is fundamental to this. There is no compulsion in the Bill as to the appointment of an agent. It is entirely a voluntary option that a person may or may not choose to exercise. Certainly, that is the whole basis of the philosophy underlying the Bill: that of patient autonomy, that of the right to appoint or not to appoint an agent and the right to accept or not to accept medical treatment. It is those freedoms and rights that the Bill seeks to express at a time when we need them most, when we are not able to exercise them for ourselves—indeed, when we may be trapped in a situation and unable to communicate that wish but where an agent can effectively communicate it on our behalf.

It is also important that I emphasise what the Bill is not about. The Bill is not about voluntary euthanasia. That was expressly and strongly rejected by all members of the committee, and the Bill is certainly not about that. The Bill is not about conspiracies in assisted suicide pacts. The Bill certainly does not contemplate such things and, indeed, the amendments that have been circulated make that much clearer. I emphasise some of those issues, given the importance of this matter. For example, there is a proposal to include within the Bill the requirement that not only is the medical procedure undertaken in accordance with the consent of the patient, without negligence and in good faith, and in accordance with proper professional standards, but also, for example, that it be with the express intention of relieving pain and distress.

That does not give an excuse to enter into a suicide pact. It does not give a doctor an excuse to legally murder a patient, because clearly intent is throughout our law. Intent is fundamental to our processes of law and, by requiring that the intent be to relieve pain and distress or to improve or sustain the quality of life of the patient, those things make the purpose clear.

If the purpose were to be to bring the life of a patient to a premature end, clearly that would be an unlawful purpose. Indeed, it would be a homicidal or murderous purpose, one which is clearly proscribed by our law and

clearly prohibited by the Criminal Law Consolidation Act. It is quite unnecessary to restate those provisions within this Bill. The changes which are suggested to ensure that those requirements of intent and to preserve and improve the quality of life, for example, as in clause 11, will ensure that this is the case.

Any suggestion or thought that the Bill will permit that legalisation of euthanasia or the legalisation of a deliberate murder of a patient is simply to misunderstand the processes of our law and the process which is encapsulated in the Bill that is before the House now. This Bill seeks to ensure that people have the right to die with dignity in the manner in which they choose—that is the fundamental nature of death with dignity: it is the death which you choose and the manner of your choosing. That is how one comes to understand the basis of death with dignity in this context. It is certainly not dignified if it is not a manner of your choosing or if you are subject at the end to intrusive or burdensome medical procedures which you did not want. On the other hand, if you were of the view that you wanted every last measure and every heroic step to be taken, if you wanted those kinds of intrusive medical procedures because you regarded that as an essential feature of your treatment, then you would have the right to require that.

You could even include specific directions in the attorney document if you wanted to ensure that the attorney insisted upon those things and if you were of a view that that was the way in which you wanted the process of your death to be managed. That is the right of the person concerned. It is a choice which they must make and not a choice which we must make. We must create the environment in which the patient is free to make that choice, and I believe that this Bill does so.

What it does not do is authorise euthanasia: it does not authorise murder. It must be read as a whole; it must be read in the context of our common law; it must be read in the context of the Criminal Law Consolidation Act, which clearly prohibits suicide and any criminal conspiracy to murder and which will ensure that people are protected, as they are now. However, it will allow the medical profession, where appropriate, to administer medical treatment for the relief of pain and distress which clearly is under threat at the moment. In the community—and I know this from my own experience and other members have related situations where this can occur—doctors are reluctant to prescribe adequate doses of painkilling drugs because of the problem that this may have: an incidental and unintended effect of hastening death which clearly, also under our Criminal Law Consolidation Act, could well be construed as murder. That is what this Bill seeks to achieve.

In view of the lateness of the hour, the debate which we have had to date and the explanations which have been offered to the House by people such as the member for Coles, the member for Newland and the member for Light, I thank those who have participated over a long period of time in this very difficult and emotional process which we have all gone through. This Bill, amended in accordance with the circulated amendments, will meet those requirements. I believe that members can have confidence that that is the process that will be followed, and I certainly commend that to the House.

I remind members of the process which it is intended to follow, if the House is agreeable; it is one which will allow a proper debate at the Committee stage—which is, of course, very much different to the debate we have had this evening—on Thursday of this week on the understanding that it will be on the basis of a reprinted document incorporating the circulated amendments. Members would then be free to suggest any further amendments that they felt desirable to any of the clauses and seek further explanations on any of those clauses.

I believe that that process will enable a more informed debate to take place, if the House is agreeable to that matter. I conclude my second reading reply on that understanding and commend the Bill, with the other documents which are circulated for members' information, to the House.

The House divided on the second reading:

Ayes (39)—H. Allison, M.H. Armitage, L.M.F. Arnold, P.B. Arnold, M.J. Atkinson, S.J. Baker, J.C. Bannon, F.T. Blevins, M.K. Brindal, J.L. Cashmore, G.J. Crafter, M.R. De Laine, B.C. Eastick, M.J. Evans (teller), D.M. Ferguson, R.J. Gregory, T.R. Groom, G.M. Gunn, K.C. Hamilton, T.H. Hemmings, V.S. Heron, P. Holloway, D.J. Hopgood, C.F. Hutchison, G.A. Ingerson, J.H.C. Klunder, D.C. Kotz, S.M. Lenehan, I.P. Lewis, C.D.T. McKee, W.A. Matthew, M.K. Mayes, J.W. Olsen, J.K.G. Oswald, J.A. Quirke, M.D. Rann, J.P. Trainer, I.H. Venning, D.C. Wotton.

Noes (4)—H. Becker, P.D. Blacker, S.G. Evans, E.J. Meier (teller).

Majority of 35 for the Ayes.

Second reading thus carried.

In Committee.

Clause 1—'Short title.'

The Hon. M.J. EVANS: As I foreshadowed previously, I move:

That the Bill be amended pro forma in accordance with the circulated amendments.

The adoption of this motion would mean that there would be no further proceedings on the Bill in the present Committee. The Bill will be reprinted to incorporate the amendments that have been circulated, and the reprinted Bill will be recommitted on Thursday and considered in Committee as if it had been committed for the first time. It will then be subject to the usual scrutiny and admission of further amendments. I propose this procedure because I believe it will be most helpful to all members and to the members of the Committee to allow them to consider the Bill properly reprinted with the full detail of the circulated amendments. One would hope that the reprinted Bill would be available tomorrow subject to the Committee carrying the motion.

Mr MEIER: I would just like to seek clarification from the Minister in relation to what he has just proposed. Does that mean that we will still be able to look at each foreshadowed amendment as circulated earlier today, even though they will now be incorporated in a new printing of the Bill?

The Hon. M.J. EVANS: That would then be the Bill, the amendments would then form part of the Bill and each clause would be the subject of the usual and normal

scrutiny that takes place in Committee and would be the subject of the same questioning and the same availability for the moving of further amendments without restriction in the normal course of events.

Mr BECKER: I cannot agree with this. It is setting a precedent as far as dealing with Government legislation, a precedent that I cannot recall in all the time that I have been in the House since May 1970. I believe that if the Minister is successful then in future other Ministers will try the same tactics. Over the past few years we have been continuously receiving legislation from the Government and we find that during the course of the debate amendments are brought forward or put on to our Bill file which we have not had the chance to consider in conjunction with the Bill as it was introduced into the House. I believe it is unfair.

It is incompetent for a Government to bring in legislation and ask the Opposition, or for that matter ask the public, to consider and prepare debate on legislation to which the Government then proposes amendments at the last minute. All that proves is that it is an incompetent Government handling legislation, either rushing it through or having second thoughts after receiving further representation. That is quite clearly what happened today. There were further representations and a whole heap of amendments were put forward to appease somebody as a compromise at the last minute.

The member for Goyder asked a question as to whether the amendment file will be available to us in conjunction with the Bill. The reply the Minister gave did not indicate that at all. All the Minister said was that the amendments would be incorporated in the new Bill and, therefore, you would not be able to see, side by side, the amendments as are proposed. There is a procedure set down in this Parliament and it has been adopted over the years. It is a procedure that is easy to follow. It is a procedure for those who are interested in the legislation and who want to debate and challenge the Government clause by clause, which is the right of every elected representative. There is no reason to change that precedent. There is no reason to bring in a totally new format or a new idea. The Minister's record is very clear with his interference with the parliamentary committee system and I will remind him until the day I die. He has ruined the parliamentary committee system in this House as we knew it. He has made the Public Accounts Committee a paper tiger, through the Economic and Finance Committee. Of course, that was a deliberate plan.

Members interjecting:

The CHAIRMAN: Order! Will the honourable member come back to the subject before us.

Mr BECKER: The Minister set out to destroy the effect of the select committee, have no fears on that, and he fell for the trap, and now he wants to change the system of dealing with legislation in this House. Minister, I am suspicious. It is not on.

Mr ATKINSON: I am mildly surprised by the attitude adopted by the member for Goyder and the member for Hanson.

Mr Meier interjecting:

The CHAIRMAN: Order! We are in Committee, and everyone has the opportunity to speak to this proposition three times with a 15-minute limit. So, please stop the interjections and allow each member to make their point. The member for Spence.

Mr ATKINSON: As the promoters of this Bill are tolerant and reasonable people, they took an opportunity to consult this morning with the heads of churches about the Bill, and as a result of that consultation a number of proposed amendments were agreed. I hope the member for Goyder and the member for Hanson will support those amendments in the Committee stage, and I will be astonished if they do not. In fact, I expect those amendments to have unanimous support. It is most inconvenient to someone such as me who proposes to move further amendments to the Bill, amendments which again I hope the member for Goyder and the member for Hanson will support unless they have a kamikaze approach to this Bill. I hope they support those amendments. It would be much easier to analyse those amendments—

The CHAIRMAN: Order! The honourable member cannot canvass the amendments. All he can do is canvass the proposition that is before us. The member for Spence.

Mr ATKINSON: I support the proposition because it makes our job easier.

The Hon. JENNIFER CASHMORE: I support the Minister's motion. Like the member for Hanson, I cannot recall an occasion—

Mr Quirke interjecting:

The CHAIRMAN: Order! The member for Playford is out of order.

The Hon. JENNIFER CASHMORE:—when a motion to incorporate proposed amendments to a Bill has been put to a Committee, but there have been many occasions when I would have wished that such a motion had been put, particularly with a complex Bill and with amendments that are difficult to transfer intellectually in terms of comprehension from a separate page and incorporate in the coherent narrative of the Bill. I urge members to support the Minister's motion because, as the member for Spence said, it will greatly facilitate the Committee stage of the Bill. It will not deprive any member for one second of any right that any member has in the normal process of Committee; it will enhance that right because it will clarify the effect of the amendments and the amendments themselves. Every member will have the original Bill; every member will have the separate sheet of proposed amendments; and every member will have the amended version of the Bill in front of him or her.

Nothing, in my opinion, could make debate in the Committee stage easier for each one of us than what the Minister is proposing. I support it fully, and I assure the member for Hanson and anyone else who has reservations about this procedure that the Minister's doing this is not an indication of incompetence; on the contrary, it is an indication of the Minister's willingness to continue to listen until the very last minute to people who at periodic stages have professed themselves either to be content with the Bill or who have proposed minor amendments and subsequently changed their mind and expressed further concerns. No-one could have been more tolerant than the Chairman of this select committee or more willing to consult, and I would have thought that

the Committee of the House of Assembly would support that proposition.

Mr BLACKER: Whilst I have some sentiments with the comments of the member for Coles and the member for Spence, nevertheless I do not agree with the motion from the point of view that we are breaking new ground totally in terms of Standing Orders. If we are going to adopt this sort of approach, it should be taken right back to those grounds, because legislation has been brought into this House and amended in various ways. I am not arguing the merits of why the Minister wants to do this—I concur with why he wants to do it, and I see that it simplifies the procedures—but, in terms of the Standing Orders of this House and the traditional procedures of the House for a long time, we are breaking new ground that will come back to haunt us on many occasions.

It allows the facility of a Minister to bring in a series of things and, instead of having a second reading debate on the overall thrust of the Bill, to have a completely new Bill at the commencement of the Committee stage. To that degree, I believe we are breaking new ground and it is a dangerous precedent on which we are embarking. I do not believe we should be doing that at this time, despite the fact that the merits of what the Minister is trying to do have some considerable benefits. I believe that the principle of the Standing Orders should take precedence in this instance.

The Hon. M.J. EVANS: I should briefly assure the Committee that there are ample historic precedents for this process and it is very much a recognised process under the Standing Orders to achieve this end. It is not one which would be done in the normal processes of debate but, where there is a consensus of feeling that these amendments are desirable, and it would be better to start with a fresh approach by a wide number of members, and I think the earlier vote showed some indication of that, this process is well recognised in the Standing Orders and in the traditions of the House. This Bill is not one in the normal course of events that the House has had recently, but over a long period of time this process is a recognised one and has ample precedent.

Mr MEIER: In light of what the Minister has just said, I ask whether he can give examples of those precedents during the past 20 years, seeing that the member for Hanson indicated that he could not recall this occurring. The Minister indicated that it certainly has occurred and on a regular basis, I think he said, or words to that effect. I would seek an explanation of that. Furthermore, I would like an indication from the Minister as to whether, in the redrafted Bill with the incorporated amendments, those amendments will be in italics or heavy print so it is quite clear where the changes to the Bill have occurred, or will it simply be in print similar to the original Bill, which means we will have to sort through the Bill? If that is the case, I cannot see the advantage of having an extra sheet. We can see the amendments and we will all have to refer to them, since it will be very important to refer to each one. I did not make the point during the second reading debate, but members will appreciate that it is a Committee Bill as well, particularly as the Government has only got its act together this morning to produce all these extra amendments. I seek clarification on that aspect.

Finally, when it comes to the third reading stage, members would appreciate that they can only speak in the third reading debate on what comes out of the Committee. The way the Minister has put it, I almost had the feeling that perhaps members will be tied to the contents of the new Bill, and unless there are changes to that, members will not be able to speak at the third reading stage. That is the final point on which I seek clarification.

The Hon. M.J. EVANS: I think some members are misunderstanding what is taking place here. There are precedents in relation to the Fire Brigades Bill in 1981 and the Fair Trading Act in 1987 in which this process was followed, just to give a couple of examples. It is intended to assist the Committee, not to make the process more difficult. It will make it easier for members of the Committee to understand and appreciate the technical nature of some of these amendments and to look at them in the context of the Bill as a whole, because that will certainly make reading them and understanding them much easier. Many members in the past have often complained, and I have shared that difficulty, of looking at amendments and the principal legislation and trying to juggle the two. That is the difficulty with which we would have been confronted. After all, a Bill is a proposal. What I am commending to the Committee is that it should examine the best proposal, not the one that was the best proposal in November when the Bill was introduced, but the one which, following public consultation and suggestions by interested members of the community, and consideration by me and others in this House, is the best proposal that we can put before the Committee, and that is the intention of what we desired to be put to the Committee.

It will not really be necessary in that sense to compare individual amendments against the Bill because members are voting on the Bill as it would then be before them. If those propositions are acceptable, they should be supported; if they are not acceptable, they should be opposed. That is what will be before the Committee: the best propositions which we can give you.

I believe that the normal arrangement would then follow in the third reading. Members would be able to speak on the Bill as it comes from Committee, whatever that might be. However we go into Committee really does not affect what comes out. Any version of the Bill could come out of Committee. It could be something quite different from what any of us see before us now, or it could be identical. That is not the important point. The important point is that at the third reading members are able to address the Bill as it comes from Committee, and how it comes from Committee is for all of us to determine collectively.

The Hon. B.C. EASTICK: I draw to the attention of the Committee that from the index of the Votes and Proceedings of the House of Assembly from 1963-64 to 1981-82 inclusive there are two examples of this procedure having been effected. The Minister has since referred to another one. One was in 1976-77. Two Bills which were treated in this way in that session. In 1981-82 there was one, and I draw attention to the fact that that happened to encompass Governments of both political persuasions.

Mr S.J. BAKER: I was aware of the procedures to be followed. I was totally cognisant of what the Minister was trying to achieve. I understood that it was within the Standing Orders and I accept the procedures. However, I will say (and I think it is a very important point) that I interjected while the Minister was speaking to ascertain when the Bill would be available.

Quite clearly, members should have the new, clean Bill incorporating the amendments which we see here and perhaps some others which have come to light in more recent hours available to them so that, if they wish to amend it, they have the capacity to do it because they cannot amend a Bill that they have never seen. I make that point very strongly. I believe it important that members have the clean Bill as soon as possible.

The Hon. M.J, EVANS: I accept that, but I point out that there are no further amendments other than what is before members. The circulated amendments are the amendments.

Mr BECKER: On a point of clarification, the member for Coles made reference to supporting the motion moved by the Minister. I still maintain that I was never aware of a precedent like this, and I do not recall a situation in 1981 or 1982 in relation to the Fire Brigades Bill. Perhaps I was overseas on a study tour.

The member for Coles referred to the Bill, the amendments and then the Bill with the amendments incorporated. This now means that we will have three pieces of paper. Is that the idea? Is that what is envisaged, or do we have only one piece of paper?

The Hon. M.J. EVANS: The honourable member may refer to whatever documents he finds helpful. There will be on the file and in front of you the reprinted Bill. That will be the official document which the Chairman of Committees will refer to and on which the Committee debate will be based. If the honourable member finds it helpful, he may also wish to refer to the original copies of the Bill as tabled last year, of which, of course, he has copies, and he also has before him right now the circulated amendments, which will be the difference between the original Bill and the reprinted Bill. I assume that most members would simply refer to the reprinted Bill but, if it is of assistance to them, of course they would also have available those other documents to which the member for Coles correctly referred.

Mr BECKER: I am not convinced. I still say this is setting a very dangerous precedent on a conscience issue. Mistakes can and will be made and invariably, if this practice is continued, omissions could occur and the explanations could be totally altered from what was recorded in *Hansard.* The original second reading speech will not link up with the Bill that will be placed before the Committee. It does not link up with the Bill that will be on file.

I honestly cannot recall that sort of situation. We debate the second reading, and in the introduction there is an explanation of the various clauses of the Bill; we then go into Committee and debate the clauses of the Bill which are entirely different. So, now we really do have a very strange situation and I believe that we should object, protest and have it placed on record that the Bill that we shall consider in Committee is entirely different from the one on which the second reading explanation was given.

The Hon. M.J. EVANS: This procedure is intended to assist the Committee, not to hinder it. Obviously, if the Committee does not agree with that it will not support the motion, but my consultation prior to this point indicated to me that more members than not would be assisted by having a reprinted version. No doubt it would have been a relatively straightforward process for me and the member for Coles, both of us having been tied up with this for some time, to proceed on the basis of the disparate amendments before us, but I think that would not have been appropriate for the other members of the Committee, and that is why we went down this path. The whole purpose of this is to assist the Committee, not to hinder it.

Mr BLACKER: I still have some problems with it because, whilst I accept that what the Minister is doing is designed to assist the Committee, the fact is that there are more than seven pages of amendments that we have not legally been able to refer to during the second reading stage. That means that we are at least eight pages different in going into Committee from when we started, yet it was all supposed to be laid out to the House so that all members could speak to the overall thrust. It is now a Bill of a completely different complexion. It might be semantics, but we have seen too much drifting away from the Standing Orders of the House, and all members complain from time to time about what has happened and how we are losing control.

I think this is one step too far on a procedural motion—not in the context of what we are talking about, because I accept the principle of what the Minister is trying to do. I know he is trying to assist, but I believe that we are allowing ourselves to slip into a procedure which will be very damaging and which will enable any Minister at any time to come in and change the contents of a Bill at the last stage, even though it has not been fully debated during the second reading debate.

The Hon. M.J. EVANS: I would indicate that, when amendments are moved either by the Government or by the Opposition in the Committee stage of a debate, they are never accompanied by second reading explanations. Members of the Opposition and members of the Government frequently move extensive amendments to Bills, none of which is ever covered by second reading explanations. So, this simply short-circuits the process of moving those amendments and makes it much clearer, but I would indicate that these amendments do not substantially alter the character of the Bill. They reinforce the existing character of the Bill as it was intended to be and as the second reading explanation conveys.

That explanation made it quite clear that this Bill does not support euthanasia, for example. The amendments clarify that and guarantee that process, so these amendments reinforce the understanding of the second reading explanation. They do not create a new character to the Bill and they do not modify the Bill beyond the technical nature of those clarifying amendments. If this were substantially to change the character or direction of the Bill I would not have followed this path. These amendments are designed simply to reinforce, strengthen and clarify the existing provisions.

Motion carried.

The Hon. M.J. EVANS (Minister of Health, Family and Community Services): I move:

That the third reading of the Bill be made an Order of the Day for tomorrow.

The SPEAKER: Order! Will the Minister clarify the situation?

The Hon. M.J. EVANS: I am moving that the third reading be an order of the day for today, Wednesday, but give an undertaking that the Committee stage will take place on Thursday and that the Bill will be recommitted in accordance with the previous discussion.

Motion carried.

ADJOURNMENT

At 12.46 a.m. the House adjourned until Wednesday 17 February at 2 p.m.

HOUSE OF ASSEMBLY

Tuesday 16 February

QUESTION ON NOTICE

GOVERNMENT VEHICLES

253. **Mr BECKER:** Which departments, statutory authorities, public trading enterprises and organisations use State Fleet vehicles on long-term hire and how many vehicles by make and type does each user have?

The Hon. M.D. RANN: The costs associated with reproducing 49 computer print-out pages into *Hansard* is considered prohibitive. Therefore, the information will be forwarded direct to the honourable member.