HOUSE OF ASSEMBLY

Wednesday 30 November 2005

The SPEAKER (Hon. R.B. Such) took the chair at 2 p.m. and read prayers.

VISITORS TO PARLIAMENT

The SPEAKER: We welcome as visitors to the parliament today students from Charles Campbell Secondary School, hosted by the member for Morialta (Mrs Joan Hall); Kangaroo Inn Area School, hosted by the member for MacKillop (Mr Williams); Yankalilla Area School, hosted by the member for Finniss (Hon. Dean Brown); and two groups from Emmaus Catholic School, hosted by the member for Mawson (Hon. Robert Brokenshire). We welcome those visitors and trust that their visit is enjoyable and informative.

NOWINGI WASTE DUMP

A petition signed by 1 256 members of the South Australian community, requesting the house to urge the government to inform the Victorian state government that the establishment of a toxic waste dump 14 kilometres from the River Murray and 11 metres above groundwater is unacceptable and will threaten the international reputation of the Riverland and Sunraysia horticultural regions, was presented by the Hon. R.G. Kerin.

Petition received.

BUS SERVICES, MURRAY BRIDGE

A petition signed by 574 residents of South Australia, requesting the house to urge the Minister for Transport to provide the people of Murray Bridge with a bus service identical to that offered in Mount Gambier; with the capacity for residents to phone and obtain a bus within an hour, was presented by the Hon. I.P. Lewis.

Petition received.

WATERFALL GULLY DAMAGE

A petition signed by 73 members of the South Australian community, requesting the house to urge the government to provide sufficient funding to remove 20 000 tonnes of rock and sand from the dam underneath the waterfall at Waterfall Gully, was presented by Ms Chapman.

Petition received.

REPLIES TO QUESTIONS

The SPEAKER: I direct that the written answers to the following questions, as detailed in the schedule I now table, be distributed and printed in *Hansard*.

OPERATION COSTS

In reply to **Mrs HALL** (Estimates Committee B, 17 June).

The Hon. J.D. LOMAX-SMITH: In 2005-06 and future years the SATC will continue to review contracts and services being received to ensure that it receives best value for money.

In reply to **Mrs HALL** (Estimates Committee B, 17 June).

The Hon. J.D. LOMAX-SMITH: For the 2005-06 budget DECS was not required to make savings. The DECS forward estimates reflect a continuation of existing government policies and priorities for Education and Children's Services. DECS as an agency is required to remain within the approved expenditure level established in the budget.

AUDITORY-GENERAL'S SUPPLEMENTARY REPORT

The SPEAKER: I lay on the table a supplementary report of the Auditor-General concerning government management and the security associated with personal and sensitive information.

Ordered to be published.

LOCAL GOVERNMENT ANNUAL REPORTS

The SPEAKER: Pursuant to section 131 of the Local Government Act 1999, I lay on the table the annual reports for 2004-05 for the Coorong District Council and Renmark Paringa Council.

STATUTORY OFFICERS COMMITTEE

The Hon. M.J. ATKINSON (Attorney-General): I bring up the report of the committee.

Report received.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Health (Hon. J.D. Hill)—

Ceduna District Health Services Inc—Report 2004-05
Metropolitan Domiciliary Care—Report 2004-05
Northern and Far Western Regional Health Service—Report 2004-05
Pika Wiya Health Service Inc—Report 2004-05
Port Augusta Hospital and Regional Health Service Inc—Report 2004-05
Port Broughton District Hospital and Health Services Inc—Report 2004-05
Port Lincoln Health Service—Report 2004-05
Renmark Paringa District Hospital Inc—Report 2004-05
Repatriation General Hospital Inc—Report 2004-05
Riverland Regional Health Service Inc—Report 2004-05
Strathalbyn and District Health Service—Report 2004-05
Waikerie Health Services Inc—Report 2004-05

By the Minister Assisting the Premier in the Arts (Hon. J.D. Hill)—

Youth Arts Board, South Australian—Carclew Youth Arts Centre—Report 2004-05.

ASHBOURNE, CLARKE AND ATKINSON INQUIRY

The Hon. M.J. ATKINSON (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. ATKINSON: On 24 November 2005, Mrs Edith Pringle, a former mistress of Ralph Clarke, appeared before a Legislative Council select committee at her own request.

Mr Hanna: You're a provocative bastard, aren't you?

The Hon. M.J. ATKINSON: Several years ago, Mrs Pringle made—

The SPEAKER: Order! The Attorney will take his seat. If I heard that correctly, that is unparliamentary for the member for Mitchell to use language like that. I only barely heard it.

Mr HANNA: Yes, sir; it was the Australian vernacular. I withdraw that but I do say that it was provocative and unnecessary to say it.

The SPEAKER: The member for Mitchell withdraws, he does not give a speech.

The Hon. M.J. ATKINSON: Mr Speaker, I am happy to say de facto partner for a period, if that would please the member for Mitchell. Several years ago, Mrs Pringle made allegations of domestic violence against Mr Clarke which the prosecution dropped some days into the trial when it became clear she was not a credible witness. Mrs Pringle is well-known to journalists in this city. She has made a colourful contribution to many media stories over the years. She is not known to be media shy.

The Hon. W.A. Matthew: And she had your private phone number, too.

The Hon. M.J. ATKINSON: It was of no surprise to me then—

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

The Hon. M.J. ATKINSON: —that Mrs Pringle volunteered to come before—

Mr Venning interjecting:

The SPEAKER: Order, the member for Schubert!

The Hon. M.J. ATKINSON: —the one select committee of the upper house that has attracted a good deal of media attention—

Ms Chapman: You must be very worried.

The Hon. M.J. ATKINSON: —given the gossip, rumour—

The SPEAKER: Order, the member for Bragg!

The Hon. M.J. ATKINSON: —and innuendo it freely offers up without procedural fairness or adherence to legal principle. It also offers those who want to give evidence the protection of parliament to say whatever they like with little regard for the truth. Mrs Pringle's first claim—

The Hon. I.F. Evans interjecting:

The Hon. D.C. Kotz interjecting:

The SPEAKER: Order, the member for Davenport and the member for Newland!

The Hon. M.J. ATKINSON: —in the select committee that I had asked her to appear in court as a witness in my defamation action against Ralph Clarke I was able immediately to prove wrong. I tabled a statutory declaration from my solicitor that confirmed Mrs Pringle was never considered as a witness in that case. The fact of the matter is she had no role or material relevant to the case. She would have served no purpose. Today, Mr Speaker, I am in a position to respond to her other claims.

Mr Williams interjecting:

The SPEAKER: Order, the member for MacKillop!

The Hon. M.J. ATKINSON: Mrs Pringle told the committee that on 15 November 2002, she called me on my direct line which, until last week when the number was disclosed by the Leader of the Opposition, had been the same direct line to the desk of the Attorney-General for at least 12 years. She also tabled a copy of her telephone records—

Ms Chapman: When did you give it to her?

The SPEAKER: The member for Bragg will be named if she keeps defying the chair and the standing orders. The Attorney has the call.

The Hon. M.J. ATKINSON: —to support her assertion that we had spoken that day. The Leader of the Opposition in this house adopted Mrs Pringle's claims on 24 November 2005. I have a copy of the telephone statement she tabled. It does prove that she dialled my direct line and then the reception desk a few minutes later on that day, and it proves nothing else. The fact is that Mrs Pringle did not speak to me on that day as she claimed. Thanks be to God for modern telecommunications technology. I, too, have a telephone log of my outgoing calls on that day, both at the office and my mobile. I now have those records which I table in this house. On the day in question, I had returned to my ministerial office after a lunch with the then Solicitor-General, the late Federal Court judge Brad Selway. We were at lunch to celebrate his appointment on that day to the Federal Court. My telephone logs show after the lunch that I returned calls that had accrued during the afternoon in quick succession. I made seven calls on the afternoon of 15 November 2002. There were no incoming calls.

An honourable member: None?

The Hon. M.J. ATKINSON: None. One of those calls that I made was to the ABC Radio studio for an on air interview that lasted four minutes. From 3.26 p.m. until 3.33 p.m. no incoming or outgoing calls were made either from my desk or my mobile. At 3.33 p.m. I called on his mobile my ministerial adviser, Mr George Karzis, who was on annual leave interstate. We spoke for six minutes and 12 seconds. Immediately after I rang the member for Playford for 3½ minutes. Immediately after that call I rang my electorate office and spoke to my staff for one minute and seven seconds. Moments later, at 3.45 I rang the member for Enfield—not a call that I think was successful because it lasted for only 17 seconds. I then attended a meeting with the Office of Business and Consumer Affairs with the Commissioner of Consumer and Business Affairs. The next call I made was to my neighbour at his home at 5 p.m.

My mobile did not record any outgoing calls during the period in question and certainly no calls to Mrs Pringle. I did not receive any incoming calls to my direct line during the period that Mrs Pringle claims to have spoken to me. The record that I have tabled today establishes this. Mrs Pringle has misled parliament and abused privilege to besmirch my reputation. From one of Mrs Pringle's calls later on 24 November 2002 we know by inference the topic of her attempted call to me and it is nothing to do with the settlement of the litigation. We know from her records that she called the Enfield electorate office. The topic of her conversation was recorded in notes by an electorate officer. The notes revealed that Mrs Pringle was calling about Bob Ellis's book, then published in Sydney but not in Adelaide owing to a suppression order, *Goodbye Babylon*. She was outraged at her description in that book as 'a bit of a drama queen'.

The Hon. Rob Lucas has already confirmed that he spoke with Mrs Pringle before her appearance. It should be noted that immediately after Mrs Pringle's appearance before the select committee last week a member of ministerial staff witnessed a member of Mr Lucas's staff having drinks with Mrs Pringle and a couple of others at Parlamento Restaurant. I can only imagine what they had to discuss. I ask members in another place to deal with the contempt of their house.

LEGISLATIVE REVIEW COMMITTEE

Mr HANNA (Mitchell): I bring up the 32nd report of the committee.

Report received.

Mr HANNA: I bring up the 33rd report of the committee.

Report received and read.

Mr HANNA: I bring up the report of the committee, entitled 'Report on the committee's review of the Fisheries (General) Variation Regulations 2005'.

Report received.

Mr HANNA: I bring up the report of the committee on Superannuation Variation Regulations 2005.

Report received.

Mr HANNA: I bring up the report of the committee on an Inquiry into Sexual Assault Conviction Rates.

Report received.

FEDERAL COURT BUILDING

The Hon. M.J. ATKINSON (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. ATKINSON: Yesterday in question time I remarked on my inability to obtain the agreement of the federal Attorney-General (Hon. Philip Ruddock) to the lease of courtrooms in the new Federal Court building that were devoted to the High Court. A member of my staff has been rung by a staff member of the Federal Court to say that the Federal Court can have use of the High Court's courtrooms.

MATTER OF PRIVILEGE

The Hon. I.F. EVANS (Deputy Leader of the Opposition): On a matter of privilege, despite the Attorney-General's ministerial statement today, yesterday the Attorney-General made a statement to the house as follows:

> Yes, we could do probably do with a few more courtrooms, and guess what: there is a magnificent suite of new courtrooms being built at Angas Street, which all of us probably see each day we come into the central business district. One floor of that building is devoted entirely to the High Court. The High Court will come to Adelaide one week a year, so for 51 weeks a year those courtrooms will not be used.

I have a copy of a letter to the Attorney-General from the federal Attorney-General (Hon. Philip Ruddock), dated 10 November 2004. The letter states:

> I am pleased to say that your concern that courtrooms might be left unused for 51 weeks a year is unfounded. The High Court has advised that the courtroom which is to be available to the High Court when it sits in Adelaide will be available for the Federal Court at all other times. It appears that the Attorney was aware of that fact when he made the statement yesterday. The Attorney went on to say—

An honourable member interjecting:

The Hon. I.F. EVANS: No, he did not correct that.

Members interjecting:

The Hon. I.F. EVANS: No, the Attorney's correction gave the impression that he had just found out. The Attorney has known since at least 10 November. The Attorney further said:

> I have asked the Hon. Philip Maxwell Ruddock whether I may lease, at a commercial rate, some courtrooms in that building. Do members know what his answer is? 'No.'

The Hon. M.J. Atkinson interjecting:

The Hon. I.F. EVANS: The Attorney's interjection confirms that that is correct. I have a letter from the federal Attorney-General dated 7 July 2005, which states:

> You have mentioned my offer of assistance in relation to the use of the Federal Court facilities in South Australia on a cost-recovery basis.

The letter further states:

> I would be happy to discuss in greater detail how the matter of the court facilities may be advanced. It would be, in my view, very unfortunate if the question of juries in South Australia were to turn on the availability of such facilities, particularly as I have indicated [that is, the federal government] the Australian government is prepared to adopt a cooperative approach.

Mr Speaker, I will send you copies of these letters, and I ask that you rule on a matter of privilege.

Members interjecting:

The SPEAKER: Order! The chair will look at the matter but, in regard to privilege, members need to bear in mind that, in terms of possible misleading, it must be intentional.

Members interjecting:

The SPEAKER: Order! Members need to read not only their standing orders but also the authorities in relation to parliamentary practice, and they will find that that is the case. Secondly, if it is a temporary error, it can be corrected within a short time frame. That is another consideration. One consideration that is very important is: did the information, if misleading, obstruct the decision making of the house? The chair will look at the matter and report back as soon as possible.

QUESTION TIME

COUNTRY FIRE SERVICE

The Hon. R.G. KERIN (Leader of the Opposition): Is the minister representing the Minister for Emergency Services aware of pressure from the government on those involved in incident reporting on the Eyre Peninsula fires, and attempts to ensure that the failings in the system were not reported? The opposition has a copy of an email marked for the attention of the Chief Officer of the Metropolitan Fire Service, Grant Lupton. The email states:

> I have spoken with a senior Metropolitan Fire Services officer who alleges the following:
> - Metropolitan Fire Service offered its assistance to the Country Fire Service BEFORE it was officially requested but this offer was rejected.
> - Country Fire Service keeps the Metropolitan Fire Service in the dark, telling the Metropolitan Fire Service only what it thinks it ought to know about its fires.

The email further states:

> Metropolitan Fire Service Regional Officer [and I will leave out the name] has been pressured not to comment adversely on Country Fire Service management of the fire. Country Fire Service management should have called in extra resources—including fire bombers—immediately the fire was contained, as Tuesday's weather forecast/conditions were well known, and every effort should have been made Monday nite 'Kill it'. . . but wasn't.

The email continues:

> Country Fire Service management has learned nothing from the lessons of Black Sunday or Ash Wednesday. . . and remains aloof from members. Country Fire Service appliances are not appropriate for bushfires in rural areas. . . e.g., 800-litre tankers that can be emptied in under two minutes, unless there is a back-up the flames flare up again and the firefighters are at risk without water.

The Hon. P.F. CONLON (Minister for Transport): If I understand it, the Leader of the Opposition is quoting an anonymous email.

The Hon. R.G. Kerin: No.

The Hon. P.F. CONLON: Well, who is it from?

The Hon. R.G. Kerin: From the CFS.

The Hon. P.F. CONLON: Who is it from? No, look, what is happening is that the Leader of the Opposition wants to quote an anonymous email attacking the Country Fire Service. Well, I have a lot of respect for the Country Fire Service.

The Hon. R.G. Kerin interjecting:

The Hon. P.F. CONLON: It is not anonymous, it is from the CFS, attacking the CFS. Let me say this: I have confidence in the CFS, and I know that a lot of people have hurt over what has happened with the Eyre Peninsula bushfires. I know that a lot of people have suffered a great deal of trauma and regret out of it. I know that there is an ongoing coronial inquiry, and I know that that inquiry will hear a lot of things that will come up from time to time. I will say this, and I will take this risk: I have enormous regard for the people of the CFS—the volunteers through to the management—and I think using an anonymous email to attack those people is a low form of politics in the last two days of parliament from a grubby losing opposition. I am happy to wait for that coronial inquiry to run its course and find the truth, but I can tell you that it will not be assisted by a grubby opposition.

The Hon. W.A. Matthew: It's a bit rich, you calling people 'grubby'.

The SPEAKER: Order, the member for Bright!

AAA CREDIT RATING

Mrs GERAGHTY (Torrens): Can the Treasurer provide details of the recent assessment on the South Australian economy by independent rating agency, Standard and Poor's?

The Hon. K.O. FOLEY (Treasurer): I can comment on that because today we released Standard and Poor's publication entitled 'South Australia AAA Rating: A Comparative Study of Financial and Economic Performance.' This reaffirms the AAA credit rating that we were given by Standard and Poor's last year. We are the Labor government that has regained the AAA credit rating after 14 years.

The Hon. P.F. Conlon interjecting:

The Hon. K.O. FOLEY: Exactly, and we are very proud to be the government that, after 14 years, has regained the AAA credit rating. In this report, we need to understand that Standard and Poor's rates 190 governments worldwide. Only 15 per cent of the governments it rates worldwide are AAA, and we are one of them.

Mr Brokenshire: Thanks to us.

The Hon. K.O. FOLEY: Thanks to us. They had 8½ years.

The Hon. P.F. Conlon: It only took us two, didn't it?

The Hon. K.O. FOLEY: We did it in two, yes. Of all the states of the United States, only ten are rated AAA. Standard and Poor's has noted that South Australia has—and these are the important elements—'a strong balance sheet with low net debt.' We have paid off $1.2 billion of budget debt, and we did not have to sell an asset to write off $1.2 billion.

Members interjecting:

The SPEAKER: Order! The house will come to order. The chair will not be giving a AAA rating for behaviour exhibited thus far. It will need to improve.

The Hon. K.O. FOLEY: It says that we have strong liquidity in South Australia and, importantly, and an element that we can be very proud of, a prudent level of spending. Not overspending, not underspending, but prudent. I am looking at my colleagues here and they are all nodding in agreement. They all agree.

The Hon. P.F. Conlon: They can't bear the feel of our fiscal rectitude.

The Hon. K.O. FOLEY: They cannot. The opposition is highly embarrassed that it is this government which has done what it could not. Importantly, it is underpinned by very solid economic growth. Standard and Poor's recognises this government's efforts in rebuilding the state's finances and these are the important elements of the report that we must note here in the house today:

> Since 2002, [obviously when this government was formed] the current government has made a sustained effort to address some structural imbalances in the state's finances, implementing more sustainable government revenue and spending policies.

That is what they say about our government. It goes on to say that the government has demonstrated a commitment to its fiscal strategy, and that that was a key factor in the 2004 upgrade to a AAA rating. It was our fiscal strategy that was the key to our upgrade. Let us bear in mind that under the Liberals, with Rob Lucas as treasurer, members opposite had a sustained deficit, four years of deficit budgets, deficits totalling $1.2 billion. Rob Lucas had $1.2 billion of deficits—

The Hon. P.F. Conlon: And what did we do?

The Hon. K.O. FOLEY: We paid off $1.2 billion worth of debt.

The Hon. P.F. Conlon interjecting:

The Hon. K.O. FOLEY: Exactly. We had to deal with the debt legacy of Rob Lucas. As I said, our balance sheet is strong with a low net debt burden. I say again, South Australia's debt burden is lower than most other AAA rated local and regional governments globally. South Australia's recent economic growth has been robust.

Mrs Hall: You have no shame.

The Hon. K.O. FOLEY: I have no shame?

The Hon. P.F. Conlon: We have got no debt, not no shame.

Members interjecting:

The SPEAKER: The Treasurer will take his seat. The house will come to order. Members should be aware at this stage that there is a day and a half to go and they should finish the session on a positive note, with their behaviour in accordance with standing orders. The Treasurer.

The Hon. K.O. FOLEY: Thank you, sir, and I accept with a badge of honour the interjection from the member for Morialta that I have no shame. Let me quote, yet again:

> Economic growth has been strong compared with the average for developed countries and compares favourably with some 'high growth' international peers.

As we know, there are record levels of employment, and business investment has never been higher. There is one warning contained in this report and it is a warning for opposition members of parliament, as it is a warning for this government, and that is that irresponsible spending in the lead-up to the next state election could trigger a credit rating review. The warning is there. Let us quote what Standard and Poor's have said.

Mr Scalzi interjecting:

The SPEAKER: The member for Hartley!

The Hon. K.O. FOLEY: It states:

> Maintenance of South Australia's AAA credit rating is based on Standard and Poor's expectation that the government will maintain fiscal discipline and its commitment to fiscal strategy targets.

It goes on to state—and this is the important quotation:

> Any additional targeted amendments due to political expediency or significant recurrent spending of potentially higher revenues resulting from budget conservatism is likely to trigger a review of the rating.

That is a clear warning that unsustained spending promises, in an attempt by the Liberal Party to buy its way back into office, cannot be sustained.

The Hon. DEAN BROWN: On a point of order, Mr Speaker, the Treasurer read from a letter and talked about

spending before the election. Only the Labor government can spend money before the election. This government—

The SPEAKER: Order! What is the point of order?

The Hon. DEAN BROWN: The point of order is that—

The SPEAKER: What is the standing order for the point of order?

The Hon. DEAN BROWN: It is standing order 98: relevance.

Members interjecting:

The SPEAKER: Order!.

The Hon. DEAN BROWN: The point is that the Treasurer knows—

The SPEAKER: Order! There is no point of order. The member will take his seat.

The Hon. DEAN BROWN: —that only his government can spend prior to the election not the opposition.

The SPEAKER: Order! I think the Treasurer has made his point.

The Hon. K.O. FOLEY: I was just finishing, sir. It was spending commitments. We are going to miss you, Dean. We are going to miss you.

In conclusion, as we know, the Liberal opposition, through the member for Morphett, has already committed, only in recent days, $150 million on stormwater works. Just spend $150 million that we have not had; let us fix up stormwater problems. Of course, the member for Mawson wants a significant petrol subsidy, at $26 million.

The SPEAKER: Order! The member for Unley.

Mr BRINDAL: My point of order is the minister's responsibility to the house. If this side of the house is in government it balances the budget. He is not responsible for our promises.

The Hon. K.O. FOLEY: I am thankful to the member for Unley for acknowledging that we balance budgets. I appreciate that from the member for Unley. In conclusion, my warning—

Members interjecting:

The SPEAKER: Order! It is concluded now. The member for Newland.

The Hon. D.C. KOTZ: A point of order had been taken, Mr Speaker, and the Deputy Premier continued to speak. I did not hear you rule on the point of order.

Members interjecting:

The SPEAKER: It was not a point of order.

The Hon. R.G. KERIN (Leader of the Opposition): I have a supplementary question. Is the irresponsible spending that is referred to in the Standard and Poor's letter in relation to the government's plans to build a tramline from the Treasury building to the casino?

The Hon. K.O. FOLEY: No, it is not. The thing we have to remember about the tramline is that we cannot claim credit for that policy because we pinched it from the Liberal Party. It was in three election promises. Rob Kerin, as premier of this state, promised a tramline and we thought it was a good policy and we are doing it. What the warning says is very clear, and it is as clear to our ministers and this government as it is to members opposite: neither party can afford a silly option of spending at the next election and we will offer prudently costed, careful policies, not reckless spending.

HOSPITALS, WUDINNA

Mr BROKENSHIRE (Mawson): My question is to the Minister for Health. Why did the Labor government and the Minister for Health not order a separate investigation into the alleged fraudulent signing of a letter of resignation of the former acting director of nursing by the then chief executive officer of the Wudinna Hospital? In that letter to the minister, the former acting director of nursing states:

> With regard to the investigation of this matter, it defies belief that no contact has ever been made to me by any Health Department representative, the board of management of Mid-West Health or the board of management of Eyre Regional Health Services. Being a key stakeholder in this investigation, I believe that it would have been reasonable to expect a notification of the outcome before reading your declaration in *Hansard* almost two years later.

Members interjecting:

The Hon. J.D. HILL (Minister for Health): I do: I understand it. He thinks he has a big issue here: it is so exciting! I do thank the member for Mawson for this terribly important question, because I have been sitting on the information for a few days now hoping that he would raise it with me. A number of allegations are made in relation to Wudinna and, as a result of those serious allegations, an investigation occurred into the provision of health services at that hospital. Doctor and nurse independents were appointed and they have made a number of recommendations that I have reported to the house. In fact, I have tabled it in the house. A couple of side issues came out as—

Mr Brokenshire interjecting:

The SPEAKER: The member for Mawson has asked his question.

The Hon. J.D. HILL: Just wait. The question relates to a particular nurse who works at the hospital. The nurse, whose name I will not mention, although she has made herself known to the honourable member, wrote a letter to all staff, an internal memo on Mid-West Health letterhead, and said:

> Thank you all for the support which you have given to me in the Acting Director of Nursing role over the past 12 months. I will not be applying for the permanent position in this role. However, I will remain on the staff as a casual RN in the immediate future. I will be on annual leave—

Mr Brokenshire interjecting:

The SPEAKER: Does the member for Mawson want to hear the answer? I am not sure.

The Hon. J.D. HILL: He wants to play politics, Mr Speaker. He does not want to know the answer. This is the answer.

The Hon. P.F. Conlon interjecting:

The SPEAKER: The Minister for Transport listens, too.

The Hon. J.D. HILL: The nurse says in the second paragraph:

> I will be on annual leave until late January. I wish you all well with your new Managing Director of Nursing in the near future. Thank you again for your friendship and support during 2003. Happy Christmas. Regards.

The Chief Executive Officer of Mid-West Health, Stephen Ramsdall, wrote to the person on 15 December 2003 and said:

> RE: Change of employment status
>
> I appreciate your reasons for seeking a change of employment status, and will forward you a new contract of employment as an RN with Mid-West Health on a casual basis. Arrangements have been made for you to be paid for the agreed TOIL hours and all eligible leave entitlements as at the present time. I wish you well in your future direction, and hope that you will look upon the past 12 months as a valuable learning experience. I believe that you will be sadly missed, and your passion for the future provision of quality nursing services to rural communities is to be commended.
>
> From a personal perspective, I would like you to accept my sincere thanks for the commitment you have made to this organi-

sation, which at times has not been without significant personal sacrifice. Should you ever wish to quote me as a professional referee, I am most willing to act in this capacity for you.

That is the nature of the relationship between the nurse and the Chief Executive Officer. The nurse in question had gone away and the Chief Executive Officer was left with the question of how to pay this person for the job she had done. He made a decision that was a bad decision, and I have already reported on that to the house; that he made a bad decision. What he decided to do to facilitate payment and to get his paperwork in place was fill in a resignation form on her behalf. That is what I reported to the house some weeks ago. He put her name, and he wrote, 'I hereby tender my resignation from the position of EO, Director of Nursing, in the Wudinna Health Unit,' and then he signed on her behalf. He did not sign her name; he signed his name 'per' the name of the nurse. So, he took her letter to be a resignation from that job—not from the hospital but from that particular job. He did that so that he could help her. They had a good relationship. He was trying to help her, and that is why he did it.

The advice I have received is that the staff member involved had indicated that she wished to resign. The evidence of that was the memo to staff. She left the hospital premises. She handed in the hospital set of master keys and the mobile phone. She left a verbal message that she would be uncontactable for an indefinite period of time. So, he signed the resignation form on her behalf. I am happy for it to be on the record that, from the nurse's point of view, she did not believe she was resigning from the hospital. He believed she was resigning from that position, and he filled in the form on her behalf. There is a dispute between them about what she intended.

However, the relationship between the two was a reasonable one, according to the documents I have just revealed. She is obviously upset about the process. It was investigated and found to be a mistake, something that should not have been done, but there was no material detriment to any of the parties.

Mr BROKENSHIRE: My supplementary question is to the Minister for Health. Given the seriousness of this matter, and allegations of fraudulent practices by an element of management of the Wudinna Hospital, will the minister now hand over all documents to the Commissioner for Public Employment for a full and thorough investigation?

The SPEAKER: I remind members not to put comment in their question.

The Hon. J.D. HILL: The member's question is based on the assumption that this is a serious matter. I do not believe that it is that serious a matter. It has been investigated. All the facts are before us. The matter has been resolved. The allegation of fraud is an absolutely outrageous one, because no fraud is involved.

Mr Brokenshire interjecting:

The Hon. J.D. HILL: Well, if you have evidence of fraud, you take it to the police.

The Hon. P.F. Conlon: How about getting public servants to doorknock?

The SPEAKER: Order! The Minister for Transport will come into line.

ATTORNEY-GENERAL

Mrs HALL (Morialta): My question is directed to the Minister for Police. Will the minister advise the house whether an incident report of any kind was made to police by the member for Florey in relation to the Attorney-General's behaviour towards her? The minister has advised the house that no formal complaint was made to police by the member for Florey. The opposition has been advised that a 'no process' incident report (or, in other words, an incident report signed off 'no action taken') was made by the member for Florey. This incident report would be recorded on the police database.

The Hon. K.O. FOLEY (Minister for Police): The member said that I told the house something. Yes, I did, and that was what was advised to me by the Commissioner of Police. He made it very clear that no formal complaint was lodged and that no action was taken. There was no matter. The honourable member is now saying that apparently there was an incident report that was a 'no process' matter, with no action to be taken. Big deal! The Police Commissioner has made it very clear that no formal complaint was made. No action was required. As I have said to the member for Morialta previously, I will pass the question on to the Police Commissioner, and I have no doubt that he will give it his attention and respond accordingly.

ASHBOURNE, CLARKE AND ATKINSON INQUIRY

Mrs REDMOND (Heysen): My question is directed to the Attorney-General. Did the Attorney-General change his mind and not ask lawyer Tim Bourne to invite Edith Pringle to appear as a witness for him in his defamation case against Ralph Clarke because the government was worried that, if she appeared, she may give sworn evidence about the Premier's involvement in the original case between her and Ralph Clarke? On Thursday 24 November, Ms Pringle told the upper house select committee—

Mr Koutsantonis: Grow up. Desperate. Throw as much mud as you can.

The SPEAKER: Order, the member for West Torrens!

Mrs REDMOND: —into the Ashbourne, Atkinson, Clarke affair that in 1998, when he was leader of the opposition, the now Premier pressured her to drop domestic violence charges against the then deputy leader of the Labor opposition, Ralph Clarke. Ms Pringle told the committee:

> There was a telephone call and conversation that I had with Mr Rann on the morning after the charges had been laid.

The Hon. P.F. Conlon: Was that before or after he threw Don Dunstan out of his office?

The SPEAKER: Order, the Minister for Transport!

Mrs REDMOND: Ms Pringle continued:

> Without even inquiring how I was or whether I was okay or needed medical help, he said something to the effect that timing was important, that we could write this off as a lover's tiff within the media, so the sooner the charges were dropped, effectively, they could do a spin on it.

Ms Pringle also told the committee that, in 2002, when Ralph Clarke dropped his defamation action against the Attorney-General:

> I asked Michael Atkinson about the nature of the deal, and he told me that it involved board positions for Ralph. When I asked him which boards were involved, he said that WorkCover was probably one.

She also stated:

> He said that the instruction to settle had come from higher up.

In relation to the offer of board positions to Ralph Clarke in return for dropping defamation action against the Attorney-General, Ms Pringle went on to state:

> It is my understanding that the Labor government was more concerned about potentially damaging evidence that would come out during the defamation trial and about Mike Rann's involvement in trying to get the criminal charges dropped.

The Hon. M.D. Rann: Serial liar.

The Hon. M.J. ATKINSON (Attorney-General): There is not a shred of truth in any allegation that the member for Heysen has just made.

Mrs Redmond interjecting:

The SPEAKER: The member for Heysen, do you have a point of order?

Mrs REDMOND: I was just accused of being a serial liar by the Premier.

Members interjecting:

The SPEAKER: No, the Attorney said that there was not a shred of truth in the—

Mrs REDMOND: No, it was the Premier's comment. It was the Premier's interjection, and I ask him to withdraw and apologise.

The SPEAKER: I did not hear the Premier.

The Hon. M.D. RANN: I was referring to Edith Pringle, sir.

The SPEAKER: Members just need to settle down and not get into the business of personal reflection.

The Hon. M.J. ATKINSON: We are only a couple of days away from parliament adjourning before the election, and the dialogue is becoming correspondingly—

Mr BRINDAL: I rise on a point of order. I believe that the Attorney is anticipating debate. It is the matter for this house to determine when it adjourns to.

The SPEAKER: It is not a point of order.

The Hon. M.J. ATKINSON: I will miss the member for Unley tremendously. He has been a friend of mine over 16 years. In a recent comparable controversy in the New South Wales parliament, a Liberal MP Patricia Forsythe said, 'In this day and age, you don't even have to have skeletons in your cupboard, people will just go and invent them.' I heartily endorse her remarks about the viciousness and hysteria of politics in Australia today and the misuse of parliamentary privilege.

Mr Koutsantonis: Ask Malcolm Fraser what he thinks of you.

The SPEAKER: The member for West Torrens is out of order!

The Hon. M.J. ATKINSON: All the allegations that the member for Heysen made against the Premier were fully canvassed in 1999. They are six years old. They have been investigated. I think the member for Heysen is hoping that there are journalists here who were not in the trade at the time and have forgotten them. The Liberal Party has hitched its wagon to Edith Pringle. My God! I do not think the member for Heysen could have been listening to my ministerial statement. But let me add this: anyone who followed politics in the last six years knows about the enmity between Ralph Clarke and me arising out of a debate on Radio 5AA.

The Hon. P.F. Conlon: I always thought it was me he didn't like.

The Hon. M.J. ATKINSON: You were there, too. You were on the line.

The Hon. R.G. Kerin interjecting:

The Hon. M.J. ATKINSON: That's right. No; we both got pineapples. Mr Clarke alleged that there was an innuendo in my contribution to that debate, an innuendo that he had assaulted Edith Pringle. I denied that innuendo; indeed, I ruled it out in the debate itself when he made the point. But, for the sake of peace and harmony, I actually apologised publicly if that innuendo were taken. That is to say, from before the state election, truth was never a defence to—

Mrs REDMOND: On a point of order, Mr Speaker, I refer to the relevance of the Attorney's answer to the question I asked as to whether he changed his mind about inviting Edith Pringle to give evidence.

The SPEAKER: The Attorney is winding up his answer.

The Hon. M.J. ATKINSON: Mrs Pringle's claim, which has now been embraced by the parliamentary Liberal Party, is that she was going to be a witness in a defamation trial where we know, from the exchange of documents over a period of years, that truth was not going to be a defence, that the defences were going to be that the innuendo cannot be taken from the text, fair comment on a matter of privilege, and extended qualified privilege, as in the Lange defence as outlined by the High Court. Mrs Pringle was not and could not be a witness. If you are going to have a witness in court you proof the witness, you prepare a declaration, you give it to the other side—none of that happened.

Mrs REDMOND (Heysen): My question is to the Minister for Police. Will the minister confirm that the Anti-Corruption Branch found evidence that the then Labor opposition leader and now Premier interfered with the original domestic violence case involving Edith Pringle and Ralph Clarke? I refer to the evidence of Mrs Pringle in the upper house select committee on 25 November 2005 in which she said:

> Evidence was found by the police Anti-Corruption Branch—

Members interjecting:

The SPEAKER: Order! The member for Heysen will take her seat. I remind members that they must be careful in making allegations as if they were fact. The member for Heysen has the call.

Mr Koutsantonis interjecting:

The SPEAKER: The member for West Torrens will be named in a moment. He is defying the standing orders.

Mrs REDMOND: What I am quoting is the fact that Ms Pringle said before the upper house select committee on 24 November 2005:

> Evidence was found by the police Anti-Corruption Branch that Mike Rann had interfered with the original domestic violence case involving myself and Ralph Clarke.

She went on to state:

> The Premier exerted influence or pressure on the office of the DPP. This investigation was headed up by the then head of major crime Paul Schramm.

She then offered confirmation of her story by stating:

> The report from major crime to the DPP's office will enable this committee to verify what I have said today.

The Hon. K.O. FOLEY (Minister for Police): I am very disappointed. I have had high regard for the member for Heysen, who I consider to be a very good member of parliament. We all know in politics that in the lead up to a state election, with two question times to go, this type of tactic is always available to an opposition.

Mr WILLIAMS: Point of order, Mr Speaker: this has no relevance to the question. I ask you to direct the Deputy Premier to answer the question.

Members interjecting:

The SPEAKER: Order! The Deputy Premier will be answering the question.

The Hon. K.O. FOLEY: This type of tactic is available to any opposition in the lead up to an election.

Members interjecting:

The SPEAKER: The Deputy Premier will answer the question.

The Hon. K.O. FOLEY: I am, sir. I am disappointed, and clearly that is why the next Leader of the Opposition, the member for Davenport, is not in the house. He did not want to be here—

Mr WILLIAMS: Mr Speaker, he is totally defying your ruling, sir.

The SPEAKER: The Deputy Premier will answer the question and refrain from debate.

The Hon. K.O. FOLEY: I will answer, sir. To answer that question—

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order, the Minister for Transport!

The Hon. K.O. FOLEY: Let's look logically at this. Is the honourable member suggesting that we take with one shred of credibility the evidence of Ms Edith Pringle? That is the first thing she is saying. This is someone in whom the DPP did not have confidence in relation to a case six years ago—because he dropped the charges. He dropped the charges because the witness was not a credible witness. That is the first point. They are assuming we take that person as a credible witness.

Let us bear in mind that this court case occurred when John Olsen was premier of South Australia and Trevor Griffin was attorney-general; and I guess there was a police minister. The silliness of the question is this: are you seriously suggesting that Mike Rann, as then leader of the opposition and leader of the Labor Party, could somehow conspire with Mr Paul Schramm, one of the state's most decorated and highly regarded police officers, and Mr Paul Rofe, the Director of Public Prosecutions—someone with whom the Premier has never had a particularly close relationship. In fact, I do not think the Premier and Mr Paul Rofe had any relationship at all. Let us remember Paul Rofe is no longer the DPP; and that occurred under this government.

Is the honourable member seriously suggesting that Mike Rann, as leader of the opposition, could conspire with one of the most senior police officers in this state, and then conspire with the Director of Public Prosecutions, with whom he has no relationship? It would be fair to say that they do not like each other.

The Hon. M.J. Atkinson: And John Olsen covers it up!

The Hon. D.C. KOTZ: I have a point of order, sir.

The SPEAKER: The house will come to order. The Attorney-General is grossly out of order. The member for Newland has a point of order.

The Hon. D.C. KOTZ: The Deputy Premier's answer is pure and utter debate. The opposition can only ask questions on information it receives. The answer is supposed to come from the deputy, not his opinion and not debate.

The SPEAKER: Order! The Deputy Premier is building a case as part of his answer.

The Hon. K.O. FOLEY: Sir, you are right; the Attorney-General was grossly out of order because he stole my punchline. Is the honourable member also suggesting that John Olsen covered up for his good mate Mike Rann? Well, that is breaking news. First, I do not think Mike Rann and Paul Rofe, the DPP, like each other. Secondly, I know that Mike Rann and John Olsen now have a good relationship. In opposition, when John was premier, it was not that flash. I can confidently say today that we all can sleep well tonight, knowing that there was no conspiracy involving Mike Rann, the Police Commissioner, Paul Schramm, John Olsen, Trevor Griffin and anyone else who might have been involved in this matter. I think the state can rest easy.

I conclude by saying that I spent eight years in opposition—and I have no intention of going back there, incidentally. I have a word of advice for the member for Heysen: when the Leader of the Opposition wants her to do some dirty work, tell him to go away; tell him to get lost—and let someone else do it.

Mrs REDMOND: I have a supplementary question.

Members interjecting:

The SPEAKER: Order! The house will come to order! The member for Heysen has the call.

Mrs REDMOND: Is the Minister for Police saying that the Anti-Corruption Branch of SAPOL found no evidence of the matters I raised? If he does not know, is he prepared to ask whether there is the evidence alleged by Ms Pringle?

The Hon. K.O. FOLEY: Sometimes in opposition, when the chief of staff to the Leader of the Opposition says, 'We have a grubby question,' say no to it.

Members interjecting:

The SPEAKER: The chair cannot hear an answer, if there is one.

The Hon. K.O. FOLEY: I do not tell the Anti-Corruption Branch what to do. As police minister, I do not tell the Police Commissioner what to do. I do know that the Anti-Corruption Branch is investigating the activities of former Liberal ministers. That bit I do know, and that is on the public record. As I said to the house yesterday, every question that relates to operational matters of the police goes to the police. My guess is this: let us remember that this conspiracy occurred under the regime of the government of members opposite. Members opposite are suggesting that I would know something that occurred under the watch of their government. Perhaps they should ask Trevor Griffin, Robert Brokenshire or someone else.

It is a silly question, a desperate question and indicative of an opposition that has no policies, no vision and no chance at all of putting up a decent contest at the next election.

Members interjecting:

The SPEAKER: Order! The minister is debating. The member for MacKillop.

MEDIA MONITORING

Mr WILLIAMS (MacKillop): My question is to the Premier.

An honourable member interjecting:

Mr WILLIAMS: Hear, hear! Will the Premier explain why the government is editing radio transcripts prepared by the South Australian government media monitoring service before they are circulated to the opposition? On 30 August 2005 between 11.24 a.m. and 11.27 a.m., a caller to Leon Byner's program on Radio 5AA complained that the Attorney-General had failed to act on an issue raised with him several months earlier. After the call was put to air, the

Attorney contacted the caller at his home and threatened legal action if he did not retract his comments on air.

At 10.32 the following day (31 August), the gentleman in question contacted the Leon Byner program and withdrew his comments. The government transcripts provided to the opposition do not include either call, even though they are included in transcripts provided to government members, which have since been obtained by the opposition under FOI provisions.

The Hon. K.O. FOLEY (Deputy Premier): On 18 March, South Australia must decide which is the better government for this state. Members opposite do not have any policies, any vision, any election promises—

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

The SPEAKER: Order! The Deputy Premier is debating. I call on the next question. The member for Bragg.

BAIL ACT

Ms CHAPMAN (Bragg): My question is to the Premier. Why has the government not honoured its commitment to review the Bail Act? Both the courts and the DPP are required to comply with the Bail Act. On 21 September 2004, the Premier told the parliament:

> Following discussion with the Attorney-General earlier today, I have asked that he re-examine the Bail Act, and I have asked him to report back next month.

In a media statement issued on 6 February this year headed 'Rann vows to ramp up law and order reform', the Attorney-General promised:

> We know there is more to be done on the law and order agenda. We are examining the Bail Act.

We are still waiting for that review of the Bail Act.

The Hon. M.J. ATKINSON (Attorney-General): I sought advice from the Office of the Director of Public Prosecutions about bail, and I got advice which indicated that that office thought that only minor changes were necessary to the Bail Act. Nevertheless, I have prepared changes to the Bail Act, and I got some through in the Statutes Amendment (Vehicle and Vessel Offences) Bill, which was agreed to by the other place last night.

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: It has everything to do with bail, because those crazies who try to outrun the police in car chases, those crazies who provoke police officers into car chases, will have the presumption in favour of bail revoked. In future, for those who provoke the police into car chases the presumption will be that they be remanded in custody; and, if she had paid attention to the detail of that bill, the member for Bragg would know that. She would know it. So, that is the first instalment. The second instalment will come after 18 March because government is a work in progress.

I notice from a policy announcement by the Liberal Party, that its policy is to remove the presumption of innocence from a vast number of people charged with criminal offences. We have had our departments have a look at the effect of this policy, and it would necessitate the remand in custody of thousands more alleged offenders—

Ms Chapman interjecting:

The SPEAKER: Order, the member for Bragg is warned!

The Hon. M.J. ATKINSON: —every year here in South Australia. South Australia has the highest remand in custody rate of any state in the commonwealth already. I believe that there is some scope to tighten up on bail in particular areas. We have brought in the first instalment that passed through parliament yesterday, and there will be a second instalment after the election. However, if the Liberal Party policy were carried out, we know that the entire South Australian prison system would have to be duplicated, and the cost of that would go on to the land tax bills and stamp duty bills of ordinary South Australians. This is an opposition that is announcing uncosted policies in a way that shows it knows that it will be in opposition again after 18 March. It is an opposition that is not fit for government, that is not ready for government.

Ms CHAPMAN: I have a supplementary question for the Premier. If this government is so keen to review the Bail Act, as indicated in this question, will the Premier sit for two weeks next February and let us get on with it?

The Hon. M.D. RANN (Premier): This is the woman who aspired to be Leader of the Opposition but did not—

Mr BROKENSHIRE: On a point of order, Mr Speaker.

The SPEAKER: Order! The member for Mawson can relax and sit down. I will take his point of order when he calms down.

Mr BROKENSHIRE: Sir, my point of order is that I ask you to uphold standing order No. 98, and not let the Premier get away with this.

The SPEAKER: Order! That is a point of order.

The Hon. P.F. Conlon: 11 per cent, Robbie.

The SPEAKER: Order, the Minister for Transport!

The Hon. P.F. Conlon: Sorry, sir.

The SPEAKER: The Premier will address the chair and then he will hear the chair when he needs to.

The Hon. M.D. RANN: This is the woman who did not want Bevan Spencer von Einem to be DNA tested.

The SPEAKER: Order, the Premier is out of order!

The Hon. M.D. RANN: She opposed what we were doing on DNA testing.

The SPEAKER: Order! The Premier will take his seat, and I call on the next question.

AUDITOR-GENERAL

The Hon. R.G. KERIN (Leader of the Opposition): Will the Premier reconvene parliament in January or February 2006 to increase the powers of the Auditor-General, and introduce a charter of budget honesty as promised in mid-2002? On 7 May 2002, in his very first ministerial statement as Premier, the Premier stated:

> Today I can announce that I will introduce a package of legislation that will give new scope to the independent watchdogs, the Auditor-General and the Ombudsman.

He went on to say:

> Then, of course, we intend to introduce a charter of budget honesty. South Australians are tired of being told one thing about the state's finances before an election, and learning the truth only after the event.

Members interjecting:

The SPEAKER: Order! The Minister for Transport will take his seat.

Members interjecting:

The SPEAKER: The house will come to order.

The Hon. P.F. CONLON (Minister for Transport): As Leader of Government Business I will answer this question. There were two fundamental mistakes in the question from the Leader of the Opposition. First, this very important bill to which he refers has been stuck up, delayed, and the

opposition has done everything it can to prevent it passing in 240-odd sitting days—something like 50 more sitting days than members opposite managed to have in 4½ years. So, the first mistake is: what makes you think that, after getting more sitting days than any opposition has had in decades, somehow an extra eight would lead to a change in their behaviour? It seems unlikely. The second thing is that if the Leader of the Opposition wants to talk to some of his colleagues and former colleagues—

Mr BRINDAL: Point of order, sir: the leader of the house's business is gyrating so much I cannot hear what he is saying!

The SPEAKER: It might be just as well. The Minister for Transport.

The Hon. P.F. CONLON: I shall try not to swing for the member for Unley. The second point is that, as the Leader of the Opposition's former colleague recommended, we have been acting for the term of this government and we have been proroguing within each calendar year. That would mean, as I understand it, if we were to come back for two weeks in January, what we would do is get the Governor in to make a speech, then we would listen for two weeks to their address-in-reply, and we would waste a whole load of taxpayers' money and, of course, then we would all go off to an election. They have had more sitting days than any opposition in living memory. They have had more questions in four years than they gave us in 8½ years. The problem the opposition has is that it is not an opportunity to scrutinise, it is the capacity to do so. It is not the opportunity they lack, it is the means.

Mr BROKENSHIRE: Point of order, Mr Speaker: it is not a joke; standing order 98—

The SPEAKER: Order! The house will come to order! The Minister for Transport will take a seat. The house will come to order! Member for Mawson, do you have a point of order?

Mr BROKENSHIRE: Yes, I do, sir, about relevance and discipline under 98 from the minister.

The SPEAKER: I think the minister has probably concluded his answer. The Leader of the Opposition.

PRE-ELECTION BUDGET REPORT

The Hon. R.G. KERIN (Leader of the Opposition): Will the Premier honour the commitment he made in the very first ministerial statement that he made as Premier on 7 May 2002, where he said:

> From now on there will be a specific pre-election budget report. People want and deserve to be given a clear indication that their money has been put to good use for the benefit of the community as a whole. This is what this charter of budget honesty is all about.

The Hon. K.O. FOLEY (Treasurer): The Leader of Government Business alluded to this. We brought legislation into this parliament three years ago, 3½ years ago, for a statement of budget honesty, and the shadow treasurer, Rob Lucas, a person who wished so much he was still Treasurer, frustrated this piece of legislation. The opposition, for three years or more, have delayed, frustrated and have wanted to amend this particular piece of legislation. It is a bit rich, after three years of us trying to do what they asked for—

The Hon. R.G. KERIN: On a point of order, Mr Speaker, on relevance: I was not talking about the legislation, I was talking about the pre-election budget report that was promised.

The Hon. K.O. FOLEY: I am getting to it. That was part of the legislation that we talked about, from memory; that we would have a process in place, that they would have access to the Under Treasurer—it would do all of that. I do remember, as shadow treasurer, I got absolutely nothing from members opposite in terms of assistance in the lead-up to the election. But there will be a mid-year budget review and that mid-year budget review will be provided some time in January to enable the opposition to have the latest up-to-date Treasury revenue forecast, expenditure forecast, cost pressures and economic indicators. The opposition, like the government, in mid-January, will have a document outlining all of the fiscal settings of the state. I cannot do much better than that. That will be a document to which both parties will need to work.

As I alluded to in my very first question, Standard and Poor's have made the point that you have to cost your policies correctly, you have to show how you are going to pay for them, they have to be prudent and they have to be sustainable. Everything that has come from the opposition in the lead-up to this point in time have been reckless spending commitments which they will have to simply throw out of the window, come that period. I can assure the leader of the Opposition he will have a mid-year budget review that will give him all the information he needs to frame his policies.

FIRE, DUBLIN LANDFILL

The Hon. M.R. BUCKBY (Light): My question is to the Minister for Environment and Conservation. What action is the government proposing to address the fire burning in the Dublin landfill, which has been going for over six months? The opposition has been advised that an underground fire has been burning at the Dublin landfill for over six months and possibly up to a year. Constituents have raised concerns that it could be an environmental and bushfire hazard and that action should have been taken a long time ago to extinguish the fire.

The Hon. J.D. HILL (Minister for Environment and Conservation): Unfortunately, this dump was proposed when we were in opposition, because if we had been in government at the time it would not have been constructed. This was very much a measure supported, planned and developed under the Liberal government before the last election. I find it interesting that the member for Light has the audacity to ask a question about this. I noticed in the local media that he was trying to distance himself from the decision made by the former government by saying, 'I didn't really like the idea at all.' Unfortunately, he was a minister in that government. He should have resigned at the time, if he did not like their decision. He cannot back away from it now.

Mr BROKENSHIRE: On a point of order, again this is debate. It is not getting to the substance of the question and I ask you to rule.

The SPEAKER: Yes, the minister is debating. The minister needs to get on with the answer.

The Hon. J.D. HILL: Sorry, Mr Speaker: I would hate to draw a political point in the chamber during question time. The EPA advises me that it has been monitoring the effects of the fire at Integrated Waste Services at Dublin since it was first noticed in 2003. Initial action to treat the fire was to deprive it of oxygen by suppressing air flow to the fire by the use of compacted clay around the waste in this area. The action was successful in suppressing the fire. However, slow combustion has continued to occur in this area of the landfill since the time. The CFS and MFS have indicated that if the landfill is excavated to be treated by normal firefighting

methods, air can be rapidly drawn into this area. This could cause a substantial fire that would take many days to extinguish.

This would place firefighters at risk, due to the size of the fire and the amounts of water required to extinguish it. Other means of extinguishing this fire have been investigated and are considered to be costly and unreliable. The site is inspected regularly to review the operational management of the landfill. During these inspections, the site boundary is patrolled to determine if off-site odour impacts are occurring. In relation to the fire, the EPA is doing what it can in conjunction with the owner of the property and the CFS and MFS, and we are taking advice from the fire experts. If there was an easy way to put it out, they would have done so.

The Hon. M.R. BUCKBY: My question is again to the Minister for Environment and Conservation. Will the government guarantee that the fire burning in the Dublin landfill has not damaged the lining or drainage system and allowed leakage into the ground water?

Members interjecting:

The SPEAKER: Order! The Attorney is out of order. One more sleep to go!

The Hon. M.R. BUCKBY: The water level is higher than the base of the landfill. A drainage system is needed to catch a leachate and keep it within the sealed area of the landfill, and the fire may have damaged or destroyed the lining or the drainage.

The Hon. J.D. HILL: In relation to the Buckby dump, can I say that if we had been in government that dump would not have been there. The conditions that applied to the establishment of that dump were created by the former government. They gave planning approval to this dump.

Mr BROKENSHIRE: Mr Speaker, please call—

The SPEAKER: Order! The member for Mawson will take his seat.

Mr BROKENSHIRE: He has to be responsible, sir, come on!

The SPEAKER: I would imagine that the member for Mawson is drawing attention to the interjections by the member for MacKillop as well as to the fact that the minister was starting to debate the issue. Does the minister want to add anything?

The Hon. J.D. HILL: Yes, I do. The point I was trying to make is that the member for Light asked me if I would guarantee that the conditions established by his government would prevail under the circumstances in which we now find ourselves. I would be a very foolish man indeed if I would guarantee conditions put in place by the former government. This is a dump that ought not to have been there. It is the Buckby dump, and the honourable member will have to wear that and the consequences of it.

NORTHERN EXPRESSWAY, CONNECTING ROAD

The Hon. M.R. BUCKBY (Light): My question is to the Minister for Transport, but he appears not to be in the chamber, so I will direct it at whichever minister wishes to take it.

The Hon. M.J. Atkinson: He is just doing something no-one else can do for him.

The SPEAKER: Order, the member for West Torrens! It sounded like his echo, but it was the Attorney, who is his alternative voice.

The Hon. M.R. BUCKBY: Will the minister advise the house as to the current status of the feasibility study on a connecting road in relation to the Northern Expressway being undertaken by Transport SA on behalf of the commonwealth government? On 11 March 2005, the Minister for Transport advised, 'The feasibility study is to be concluded in October.' It is now November and there has been no word in relation to the finalisation of the feasibility study. This has caused some concern for constituents in the area, as they have not yet been consulted by anyone in regard to the route or other issues in relation to the Northern Expressway.

The Hon. P.F. CONLON (Minister for Transport): I assume that the member for Light is not complaining about the fact that we have secured funding for a Northern Expressway.

Mr Williams: A good commonwealth government.

The Hon. P.F. CONLON: He says that a good commonwealth did it, but let me explain how we got that money.

The Hon. K.O. Foley: Your brilliance?

The Hon. P.F. CONLON: Well, it was the commitment of this government.

The Hon. M.R. BUCKBY: On a point of order, Mr Speaker, for the benefit of the Minister for Transport the question was in regard to the feasibility study that was due to be completed at the end of October. My question is: when will that feasibility study be completed so that constituents will know what the plans of the government are?

The Hon. P.F. CONLON: I am not quite sure to which feasibility study the member refers, but I can say that there is no doubt about the feasibility. There will be a Northern Expressway. There is a degree of consultation which we are required to undergo for, I think, a ridiculous amount of time and which arises out of an agreement with DOTAR. I think that departments of transport nationally could do a lot better with their consultation to shorten it. There is no question about feasibility; there will be a Northern Expressway. We achieved good funding from the commonwealth as a result of our committing to major work to the South Road tunnels and underpasses, which I note that the Liberal opposition claims that, in government, they will get rid of—the two projects recognised by the Freight Council and the RAA as the most important works in South Australia. I put that on the record.

There is no question about the feasibility of it. There is a requirement of lengthy consultation, in consultation with DOTAR. I will not answer the question off the top of my head but will bring back a report for the member for Light, whom I regard as an honourable person, and I will provide the information in the spirit in which it is sought.

An honourable member interjecting:

The SPEAKER: Order!

DENTAL SERVICES

The Hon. J.D. HILL (Minister for Health): I seek leave to make a ministerial statement.

Leave granted.

The Hon. D.C. Kotz interjecting:

The Hon. J.D. HILL: Would you like me to go through it again? I would be happy to. On 24 November I answered a question from the member for West Torrens about the

state's dental service, and I acknowledge his great interest in dental services. I have received further information that may be of interest to the house. Since 2001-02, an additional $16 million has been allocated to public dental services and predominantly targeted at reducing waiting lists for dental care through the Community Dental Service. As a result of this additional funding, the number of concession cardholders on Community Dental Service waiting lists who have received a full course of dental care has increased by 51 per cent, from 25 922 people in 2001-02 to 39 161 people in 2004-05. This higher level of activity allowed the number of people on Community Dental Service dental waiting lists to be reduced by about 30 per cent.

The size of the waiting lists and the average waiting times vary from month to month. I am advised that the most recent figures reveal that average waiting times for restorative dental care decreased from 49 months in mid 2002 to 30 months in October this year. The wait for dentures decreased by 22 per cent, from 41 months in mid 2002 to 32 months in October 2005. In September this year, the state government provided an additional $3 million to reduce dental waiting times. Already the average waiting time for dentures has decreased from 38 months to 32 months at the end of October 2005.

Mr BROKENSHIRE: I rise on a point of order, Mr Speaker. I understand that the minister just made a ministerial statement. I ask that such statements be made available to members of parliament.

The SPEAKER: They are being distributed. It is a courtesy to distribute them; it is not a requirement of the house.

PARLIAMENTARY PROCEDURE

The SPEAKER: The chair wishes to make two statements. Twice this week the chair has been the subject of derisive comment by some members when rulings have been given. Yesterday, a couple of members who should know better suggested that the rules were being changed or reinterpreted by the chair when I ruled that the type of comments such as those being made by the member for MacKillop against the Attorney-General in grievance debate were out of order, unless made in a specifically worded substantive motion—that is, a motion inviting the house to express an opinion in a vote on the matter. The suggestion that this ruling was inconsistent with rulings of any Speaker in the past is patently incorrect.

Today, some members derided the statement by the chair that for a contempt to have been committed in relation to misleading the house it is necessary for the misleading to have been deliberate. This is patently the case. Erskine May on page 132 states:

> The Commons may treat the making of a deliberately misleading statement as a contempt.

Members would do well to assume in the first instance that the chair is correct in such matters. They are welcome to check and, if not satisfied, they have the option of objecting to any ruling under standing order 135. To show dissent in any other way is a reflection on the chair that is unbecoming of members.

The other matter relates to the tabling of annual reports. Government agencies, departments and statutory bodies are required to table annual reports in parliament under one or more acts of parliament. Pursuant to section 66 of the Public Sector Management Act 1995 and section 33 of the Public Corporations Act 1993, annual reports must be presented to the minister within three months after the end of the financial year to which they relate. The minister must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days after his or her receipt of the report. This would mean that reports under these acts would need to have been tabled by 24 November this year. Many statutory authorities are established pursuant to a specific act and the annual reporting requirements are generally contained in the legislation. However, some establishing legislation does not clearly specify the annual reporting requirements for a statutory body. For example, the Outback Areas Community Development Trust Act 1978 provides that the trust must forward an annual report to the minister 'as soon as practicable after the end of each financial year' and the responsible minister is to table the report in parliament 'as soon as practicable after receipt thereof'. While the chair notes that some annual reports tabled yesterday were not tabled in accordance with their statutory requirements, it has not been the practice of this house for ministers to identify the lateness of such reports. However, agencies and ministers are obliged to table annual reports within the specified time, and each minister should ensure that their office is aware of these statutory requirements and that these requirements are met.

Mr BRINDAL: I rise on a matter of clarification of your last statement, Mr Speaker. Will you examine the matter from the point of view—and you understand better than most the model of the concept of the Crown as the model citizen—whether it should be a requirement in the future parliament that ministers inform the house, that they do not simply say that something is tabled according to statute when, in fact, you have pointed out in some cases it is clearly not the case? I ask you to consider the matter, sir.

The SPEAKER: The comments of the member for Unley are noted and I think worthy of further consideration.

GRIEVANCE DEBATE

ASHBOURNE, CLARKE AND ATKINSON INQUIRY

Mrs REDMOND (Heysen): Today I asked the Attorney-General to say why he did not ask Edith Pringle to give evidence in his defamation case against Ralph Clarke. One would have assumed that Edith Pringle's testimony would have been useful and supported the Attorney-General's comments which he had made on radio and thus helped him to escape the defamation charges. But as the Attorney-General told the house on Monday, Edith Pringle was not asked to appear. We asked the Attorney-General to explain and, as usual, whilst the Attorney-General make a lot of noise, ultimately he does not give any satisfactory answer. Perhaps we should have asked the Premier to explain instead. Perhaps it was not only Ralph Clarke who would have been damaged by Edith Pringle's evidence in the court. Edith Pringle gave evidence last Thursday to the upper house select committee. It is damning of the Premier. She described to the committee how Mike Rann, in 1998, pressured her to drop the domestic violence charges—

The Hon. M.J. ATKINSON: I rise on a point of order, sir. The member for Heysen is now essentially accusing the Premier of a crime. The matter was investigated six years ago and the Premier was cleared. She may only do it by substantive motion.

The SPEAKER: It is not a point of order. The member needs to be very careful and not make allegations that are not substantiated by fact, but in any event need to be part of a substantive motion and not simply part of a grieve.

Mrs REDMOND: I note your advice in that regard, Mr Speaker, and make clear that I am quoting from the evidence that has been given to the select committee of the upper house. These are not my assertions in any way. I am simply recording and putting on the record some questions that arise as a result of—

The Hon. J.W. WEATHERILL: On a point of order, this is clearly and manifestly a device by the honourable member to quote and adopt a defamatory and untrue remark made by the upper house.

Members interjecting:

The SPEAKER: Order! The fact that a member quotes someone else does not take away from the requirement that a member should not allege things which are the proper province of a substantive motion, otherwise members could get up and quote anyone to smear a member or make allegations that are unfounded. Simply quoting does not obviate the need to deal with the matter in the normal and proper way.

Mrs REDMOND: These are matters which are very serious and which this house should have before it just as much as they should be considered in the other place. There is no reason why it should not be put on the record here that someone has made extremely serious allegations against a member of this house, which this house does not wish to hear about.

The SPEAKER: Order! For the benefit of the member for Heysen—and we will adjust the clock so she gets her time—these are serious matters and that is why the requirement of the house is that serious allegations be dealt with by substantive motion, otherwise members can come in and say things about members, read reports or whatever, which have the same effect as maligning and impugning reputation. The member for Heysen needs to be aware of that.

Mrs REDMOND: I have made no allegation, but these matters are serious and need to be looked into in an appropriate way. Mrs Pringle's evidence was quite clear to the committee. She made very serious allegations. The Attorney has declined to appear before that committee. That is his choice, but then to say that the committee is in some way not able to listen to the evidence of someone who is willing to come before it—

Mr Koutsantonis interjecting:

The SPEAKER: Order! The member for West Torrens.

Mrs REDMOND: Edith Pringle said in her evidence that the day after she had the charges laid—

The Hon. J.W. WEATHERILL: Objection, Mr Speaker. The point of order is that the member for Heysen is defying your ruling. She is using the device of quoting material that should be by way of substantive motion to advance her cause.

The SPEAKER: Order! The member for Heysen has the opportunity to move a substantive motion—

The Hon. M.J. Atkinson interjecting:

The SPEAKER: The Attorney will not speak over the chair or he will be named.

Mrs REDMOND: If the allegations are true, it seems that they relate to political interference at the highest level in this state. We have already had the response of the police minister in response to my question today suggesting that he will not go to the Anti-Corruption Branch and even ask it whether there is any truth when Mrs Pringle's evidence was to the effect that the veracity of what she said could be tested simply by asking the Anti-Corruption Branch whether it had made a finding to the effect of what she had said.

Members interjecting:

The SPEAKER: Order, the members for MacKillop and West Torrens!

The Hon. M.J. ATKINSON: I have a point of order, sir. I have a very clear recollection of this matter. It was investigated and the report was canvassed in parliament. It is a matter that is already on the record. The Premier was clear.

The SPEAKER: It is not a point of order.

Mrs REDMOND: According to Ms Pringle in her evidence, the Attorney-General told her, when he had a discussion with her, that the instruction to settle had come from higher up. Indeed, she suggested that it was coming from the Premier.

The Hon. M.J. ATKINSON: Did not you listen to my ministerial statement today?

Mrs REDMOND: I tried not to. When questioned in the committee about who she understood the order could have come from, Ms Pringle told the committee that the highest level, of course, was the Premier; that the Premier wanted the defamation case settled. Certainly, that would fit, if what she said about her conversation with the Premier earlier was true; that he had pressured her to drop her domestic violence charges.

The Hon. M.J. ATKINSON: I have a point of order, sir. The member for Heysen is defying your ruling by continuing to make an allegation against a member that should be made by substantive motion.

The SPEAKER: I uphold the point of order. The member for Heysen is quoting from the evidence given to the committee. If she feels there is a serious matter that needs to be dealt with she should move the substantive motion. I call the member for Napier.

GERARD, Mr R.

Mr O'BRIEN (Napier): The association of the names of Hong Kong businessman Victor Lo and South Australia's Robert Gerard pre-date in the public mind this week's revelation of tax evasion by Gerard Industries. Gerard Industries has been the subject of a 14 year investigation by the Australian Taxation Office into what the ATO investigators describe as 'round robin' sham insurance transactions between—

Mrs REDMOND: I have a point of order, Mr Speaker, for the very same reason you called me up and stopped me from proceeding with my grievance. The member for Napier is about to besmirch the reputation of someone who has no opportunity to prevent it or to answer it—which members in this house do have.

The SPEAKER: Order! The member for Heysen will take her seat.

Mr O'Brien interjecting:

The SPEAKER: And the member for Napier will listen. The chair has no idea what the member for Napier is about to say. I have no indication of what he is about to say.

Mr WILLIAMS: I have a point of order, Mr Speaker—

The SPEAKER: Order! The chair is making a ruling. Until an honourable member speaks, the chair has no idea what they will say. The chair has some powers, but they are not supernatural. Member for MacKillop, what is your point of order?

Mr WILLIAMS: The inquiry is that you appeared to have some idea of what my colleague was about to say before she said it when the member sitting down the front here raised a point of order a few minutes ago.

The SPEAKER: Order! The member for Heysen was making points. The member for Napier is just starting his grievance.

Mr Williams: It is obvious what he is about to say.

Mr O'BRIEN: The ATO investigators described it as sham insurance transactions; it is not what I am describing as sham insurance transactions.

Mrs REDMOND: I have a point of order, Mr Speaker, The member for Napier says he is simply talking about what someone else said, not what he personally is saying. When I gave that explanation, I continued to be called up for not obeying your ruling.

The SPEAKER: As I understand it, the member for Napier is talking about someone who is not a member of this chamber. Members should be aware that there are rules which apply to references to other members and there are rules which apply to people who are not members. There are two sets of rules. That is the way the parliament operates. They are the standing orders. It is the tradition of the parliament that has been developed since about 1100.

The Hon. D.C. Kotz interjecting:

The SPEAKER: The member for Napier can talk about anyone who is not a member of parliament in a way that he cannot talk about a member of parliament. The member for Heysen was talking about the Premier and the Attorney-General—members of this chamber. That is a different rule; it is a totally different arrangement. The member for Napier will have his time adjusted, in the same way as the member for Heysen had her time adjusted.

Mr O'BRIEN: It was described as 'round robin' sham insurance transactions between 1986 and 1998 aimed at evading tax payment. According to the ATO, Robert Gerard set up an insurance company called FAI Insurance NV, based in the tax haven of Bermuda.

The name 'FIA' was chosen to deceive the Australian Tax Office into believing that transactions, run through the Bermuda-based company, were actually legitimate premium payments to Australia's FAI Insurance. The so-called premium payments were actually sham payments that flowed through Bermuda and back into the financial orbit of Robert Gerard through a company in Asia and, on the way through, collecting a tax benefit—a classic round robin. The role of Victor Lo in all this, according to Robert Gerard, was to underwrite FAI NV in the event of a claim being made.

According to Robert Gerard, this legitimised the round robin arrangements because, even though Victor Lo was never a beneficiary of insurance premium payments, he stood guarantor in the event of a claim being made. In other words, Victor Lo was a facilitator of movement of funds out of Australia, through a tax haven and back into Australia, all for the purposes of tax avoidance and all to wipe clean the fingerprints of Robert Gerard on the scheme. The ultimate cost to Robert Gerard of the assiduous ATO investigators actually discovering these fingerprints was settlement by Gerard Industries to the ATO of $150 million and a loss by Robert Gerard of the family business.

I mentioned earlier that the association of the name of Victor Lo with Robert Gerard pre-dates in the public mind this week's revelation of tax avoidance by Gerard Industries. That is because Victor Lo played a similar role at around the same time in a similar round robin scheme whereby Robert Gerard channelled large amounts of Gerard Industries' money, in this case, not back to his own company but to the Liberal Party. The mechanism was virtually identical but, instead of a bogus insurance company based in Bermuda, the vehicle employed was an Asian company called Catch Tim, and the intent was the same—in the former case to avoid Australian taxation law and in the latter to avoid our disclosure laws on political donations.

Why are disclosure laws on political donations so important? Because they help to prevent corrupt practice by placing under greater scrutiny the appointment of large donors to, say, the Reserve Bank of Australia, or the awarding to their companies of, say, large industrial assistance grants from the South Australian government.

Mr Koutsantonis: That's you, Dean.

Mr O'BRIEN: Robert Gerard stands as one of the most significant—if not the most significant donor—

The Hon. DEAN BROWN: I rise on a point of order, Mr Speaker.

Mr O'BRIEN: —to the Liberal Party—

The Hon. DEAN BROWN: Point of order, Mr Speaker.

The SPEAKER: Order! The member for Napier will take a seat. The honourable member will not speak over the chair. The member for Finniss.

The Hon. DEAN BROWN: The member for Napier used the phrase 'corrupt practices', and the honourable member sitting alongside him said, 'That's you, Dean.' I am surprised, Mr Speaker—

The SPEAKER: Yes, the member for West Torrens will withdraw.

Mr KOUTSANTONIS: I withdraw.

The Hon. DEAN BROWN: —that you did not pick it up yourself, because you would understand fully that it is a very serious breach.

The SPEAKER: The honourable member has withdrawn.

The Hon. DEAN BROWN: I ask for the honourable member to withdraw and apologise.

The SPEAKER: He has withdrawn.

The Hon. DEAN BROWN: I have not heard the honourable member stand and withdraw.

The Hon. P.L. White: He did.

The Hon. DEAN BROWN: Well, I would like to hear him.

The SPEAKER: If the member for Finniss was listening, he would have heard the member for West Torrens.

The Hon. DEAN BROWN: Mr Speaker, I have been on my feet throughout.

Mr KOUTSANTONIS: I withdraw.

The Hon. DEAN BROWN: He could not possibly stand and withdraw while I was on my feet.

The SPEAKER: He has withdrawn; he has done it twice now.

Mr KOUTSANTONIS: I withdraw—three times.

The SPEAKER: That is the third time. The member for Napier.

Mr O'BRIEN: Mr Speaker, I would like my full five minutes, if you wouldn't mind. Robert Gerard stands as one of the most significant—if not the most significant—donor to the Liberal Party with donations in excess of $1.1 million. He is also the only donor to my knowledge who has sought to disguise his donations by using a round robin scheme using a foreign frontman and company, in this case, Victor Lo and Catch Tim—not that certain key players in the South Australian Liberal Party were unaware of Robert Gerard's largesse, for what possible benefit could accrue to him (such

as a position on the board of the Reserve Bank of Australia) if such large contributions were made anonymously? It is these key players in the Liberal Party who were in the know and who gave the game away to the then Labor opposition, which now brings us to the interesting question of whether Robert Gerard round-robined industry assistance payments made to Gerard Industries by the former Liberal government by on-paying part of this grant money to the Liberal Party. If that were the case, were any members of the former Liberal government aware—

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

Mr O'BRIEN: —when signing off on these grants, that there was a linkage between—

The SPEAKER: Order! Members must not speak over the chair.

HOSPITALS, MOUNT GAMBIER

The Hon. DEAN BROWN (Finniss): The member for Napier, in making that statement, has produced rubbish in this house that has not even been tested before the courts, and that point was made very clearly this morning in those allegations. I wish to pick up the issue of the Mount Gambier Hospital and, once again, the Rann Labor government is refusing to renew the contracts of—

Mr O'BRIEN: On a point of order, sir, I meticulously timed my speech to five minutes. I want my full five minutes, and I would like to conclude what I was saying.

The SPEAKER: I asked the Deputy Clerk, who tells me that the clock was stopped at every point of order.

The Hon. DEAN BROWN: I presume that the clock has again been stopped. This time it is the ophthalmologists at Mount Gambier, Dr Trevor Hodson and Dr Michael Bailey, who are being cut out by the local hospital. The community is about to lose more of its local resident medical specialists because of the apparent determination by the Rann government to get rid of resident medical specialists, particularly in the country. It happened at Mount Gambier Hospital two years ago with surgeons, anaesthetists, physicians and obstetricians being forced to leave the hospital and, therefore, leave the local community. It occurred at Gawler Hospital with the obstetricians just a few months ago. Now it is about to occur at Mount Gambier again.

Dr Trevor Hodson has provided eye specialist services to Mount Gambier people for the last 11 years, including at the hospital. The hospital is now refusing to renew his contract with on-call requirements to cover emergencies. He has been offered only 150 cataract operations a year, when already there are 180 people on the waiting list for a cataract procedure. That means that patients are already having to wait well over a year. I happen to know that the level of cataract procedures in the South-East at Mount Gambier is one of the lowest in the whole state, only 500 cases per 100 000 people compared to 744 cases per 100 000, almost 50 per cent higher in Adelaide. Therefore, the Mount Gambier people already have a much lower level of service for cataract procedures.

If Dr Hodson is cut out of the hospital, then he and Dr Bailey will be forced to leave Mount Gambier. That means that 9 000 patients seen each year in their private eye clinic will be forced to travel to Adelaide for eye specialist services. The hospital will have to spend about $400 000 just to buy the equipment used in the private eye clinic.

South Australia has a new Minister for Health but the same incompetence is occurring in negotiating doctors' contracts as occurred under the previous minister for health, who is now on the sick list. Dr Hodson wrote to the Mount Gambier Hospital Board on 1 October this year, about discussing the renewal of his contract, but there has been no response in two months. In March next year, he will be forced to leave Mount Gambier as he will have no contract with the hospital and, again, it will be the people of Mount Gambier who will miss out by not being able to get their eye specialist services at a local level. I know that the nine Millicent GPs have written a letter of support in favour of the renewal of the contract for Dr Hodson with the hospital. I will quote from part of that letter, as follows:

> Drs Hodson and Bailey provide an essential medical service. Their availability for acute eye problems and their ready accessibility to provide the supportive advice to the 60 regional general practitioners is critical for eye health services.

If the contract for Dr Hodson is not renewed, this is just further evidence of the way in which this Labor government has some form of philosophical hatred of any visiting medical specialists, particularly in country areas, where it has now driven seven or eight medical specialists away from Mount Gambier, many of them having to go interstate. The same has occurred at Gawler, where we have seen two of the most experienced obstetricians in this state having to leave and being replaced with a much more expensive service, costing about three times more, but with no choice for the women involved at Gawler Hospital. It would appear that the problems at Mount Gambier are continuing.

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

The Hon. DEAN BROWN: Once again, we are about to lose resident medical specialists who have provided services to that community for over 11 years.

The SPEAKER: Members are allowed to finish their sentence but not to go beyond that.

LIBERAL PARTY

Mr KOUTSANTONIS (West Torrens): Of course I bow to the age and wisdom of the member for Finniss, but not necessarily his ethics and integrity. However, I will say this: he is a former premier, he won probably the biggest election—

Ms CHAPMAN: On a point of order, Mr Speaker, that is a direct reflection on another member of this house and I ask the member for West Torrens to withdraw it.

The SPEAKER: I did not hear the point he made, but if the member should take objection—

Mr KOUTSANTONIS: I withdraw if the member for Bragg takes any offence.

The SPEAKER: I advise all members, once again, not to go down this pathway of personal abuse.

Mr KOUTSANTONIS: I will say this: the member for Finniss is departing and a piece of history is leaving the house. He is a man who won 37 seats in the House of Assembly, an unprecedented achievement in this house, one that might be given a shake on 18 March, but we will wait and see. In 1996, he saw the treachery of his opponents within his own political party—not within the Labor Party—people he probably got elected, people he probably got preselected. They showed their gratitude by knifing him and installing a man who turned the largest Liberal majority in the country into what became nearly a minority government.

I want to grieve today about another former leader of the Liberal Party, the Rt Hon. Malcolm Fraser. I understand that

the Rt Hon. Malcolm Fraser is today reconsidering membership of his political party. He said on the ABC today that he is considering resigning from the Liberal Party. What are the reasons this former leader—who took his party to victory in 1975, 1977 and 1980—has changed his commitment to the party of Menzies, which he joined, and which he claims has completely changed?

I have never been a Liberal, but I understand there are a number of people in this house—who are now Independents, but were former members of the Liberal Party—who also felt the same level of dissatisfaction within that party. The Rt Hon. Malcolm Fraser gave some very interesting reasons for leaving. He said they have lost their vision; they are no longer a party of ideas, but a party of fear and a party of smears. There is no greater example of what the Rt Hon. Malcolm Fraser was talking about, regarding his discontent with his political party, than what we saw today in question time.

Mr Hanna interjecting:

The SPEAKER: Order, the member for Mitchell!

Mr KOUTSANTONIS: A lot has been said about Mark Latham, but now it is time to talk about what is going on with the other side. We saw today an opposition which has no policy on economic matters, no policy at all. In fact, they are being reckless, with the member for Morphett blowing out their spending on stormwater from $8 million a year to $150 million in one year. Who is going to pay for that? What is going to be cut? Will a school be closed? Are they going to raise taxes? Are they going to increase land tax? Are they going to increase speeding fines or stamp duty? I would like to know who is going to fund these projects.

What concerned me most about what the Rt Hon. Malcolm Fraser said today was that the Liberal Party is not about ideas and reinvigorating the political process any more, as he claims it was under Menzies. He says all they are about today is fear, playing wedge politics, attacking minorities within our community to score political points with the majority, and trying to create fear within our community with their sedition laws. Today we saw the opposition not once attack a policy or a principle of this Labor government. What did they attack?

The people of this government. Personal attacks: not one issue about health spending, education spending, spending on law and order or a better way to manage our economy. Not one question. All it was about was personal, unsubstantiated smears on the integrity of a good man. Now, because they cannot land the blow on the Attorney-General, who are the members opposite turning their focus on? The Premier. They even want to us believe that, while in opposition, somehow the Premier was able to organise a conspiracy involving the then premier John Olsen, the then attorney-general, the then DPP, independent police officers and probably the Commissioner as well, in a huge conspiracy to cover something up.

I have to say that I have never seen a more low, bottom-feeder type of politics ever in this place. This is the lowest form of politics. I do not mind them attacking the message but not the messenger. Members opposite should give us an idea: tell us what their policies are. What are their policies on land tax?

ROADS, EXPENDITURE

Mr VENNING (Schubert): I find it appalling that the Rann Labor government continues to neglect our roads and subsequently our safety by not spending money on upgrades or maintaining our roads in a safe way. It is not a responsible government. It is guilty of totally ignoring our vital public infrastructure. It is totally political, spending no resources in country South Australia because it has only one country seat. And it will not have that after the election. We heard from the Treasurer today Standard and Poor's comments about the AAA rating. This government has been totally immersed in one economic purpose, to get back the AAA rating that it previously lost, and has totally ignored the maintenance of our vital infrastructure.

The government cannot have it both ways: it cannot just keep banking and spend nothing, because all of a sudden your road and other assets have gone. The government is deliberately running down our road assets whilst spending money on token image projects, like the tram extension and, of course, the notorious lifting bridges. I support the bridges, but not lifting. I am most concerned at what this wasteful spending and deliberate neglect will mean for future generations of South Australians. They will be left to suffer the consequences of this irresponsible government. I am most concerned that in future more of our roads will have to be tolled. Motorists will be slugged and made to dig even more deeply in their pockets simply because of this government's inaction between 2002 and 2006. That is four years lost.

A government, either Liberal or Labor, will not be able to afford the huge cost of a massive road replacement program. It will have to be done by private enterprise, private money, and paid for by the user; in other words, a toll. We have had four years when the government has left our roads to rot. Compare that to the previous government's record. In my electorate alone, we have the Morgan to Burra road ($19.6 million) and Gomersal Road ($7.7 million), to name just two. This government did not spend $12 million in total last year on country roads, in the whole of the budget. It begs the question: where do our taxes go? Where is all our money going? It is certainly not going towards maintaining a vital state asset.

We can look at the maintenance backlog South Australia is faced with. Data from the Rann Labor Government's own Department of Transport reveals that thousands of kilometres of South Australia's main roads are run-down due to the lack of proper scheduled maintenance. More than 4 200 kilometres of main roads are crumbling, with the backlog growing at the rate of 375 kilometres every year. A replacement cost of those kilometres is at least $187 million. Just last week, the RAA released a report outlining its recommendations for road maintenance across the state. The Barossa Valley Way, which is South Australia's tourism boulevard, was given a rating of four out of 10: a totally appalling situation.

It is well documented that the Barossa Valley Way is one of the most poorly maintained in the state. It said so in last week's *Advertiser*. I have been canvassing this government for years to do something about the state of the Barossa Valley Way. It is dangerous and a real hazard to our drivers. The edges are crumbling, there are potholes everywhere and undulating areas due to regular patch-up jobs. The highway needs at least surface repairs, but a total redesign and re-manufacture is the only real long-term solution. I refer to a report on page 13 of last Monday's edition of *The Advertiser*, which stated that a serious accident had occurred at the weekend on the Barossa Valley Way at Lyndoch. When will the Rann Labor government stand up and take some responsibility? It has not been doing anywhere near enough to keep our roads properly maintained, and I have little doubt that it impacts on our overall road safety.

This Sunday, the Liberal Party will hold a road hotline, and my office will participate in that phone-in. We urge people to call the hotline (my office is 8566-3311) and tell us about the roads that affect them and what their priorities are. The state of our roads affects all South Australians, all our industries and all our tourism. The state of our roads is an absolute disgrace. When overseas visitors come to the state (and some attended a wedding with me last week), they say that they cannot believe our wonderful country but that the state of our roads is disgusting. I think it is a disgrace, when Standard and Poor's gives this government a AAA rating. But what about our roads?

Time expired.

WRIGHT ELECTORATE

Ms RANKINE (Wright): The member's contribution was a very appropriate lead-in for what I would like to say today. Yes, the government has achieved a AAA rating, and the Treasurer deserves great credit for that, as do our Premier and members of cabinet. As we all know, being in government is about delivering on the big ticket items, but it is also about delivering for our communities. There is no point in each of us being in here if we are not achieving for our electorates. I would like to reflect on some of the things that have happened in the seat of Wright during the term of this government.

There is nothing more important to the people in my electorate than their children and their education. During the past four years, we have seen the opening in 2002 of a multipurpose facility at Golden Grove High School; the completion of a new resource centre for Golden Grove Primary School (some $500 000); the upgrade to Wynn Vale Primary School's disability access; the upgrade to the Wynn Vale Community Kindergarten playground (an upgrade it could not get over a number of years); and the allocation of primary school counsellors, which saw Madison Park Primary School have a school counsellor for the first time. On 5 November, I was delighted to attend the opening of the new $1.7 million Salisbury East High School technology and home economics centre—the first upgrade in the school in its 40-year history.

In relation to early childhood, I was able to negotiate with the Pickard Foundation and Fairmont Homes to secure tenure for the Salisbury campus child-care centre—a centre the former government sold off with no protection. It now has a 15-year lease at $2 a year. I pay tribute to Gordon Pickard and Stephen Norris. We have the first early childhood development centre being established at Keithcot Farm Kindergarten—the first of 10 to be established this financial year. We have seen the roll-out of the universal home visiting service. I was very proud to be able to force the federal government into funding pneumococcal, chickenpox and inactivated polio vaccinations for our babies.

In the area of road safety we have managed to implement some safety measures along the Golden Way and provide better access from the Golden Way to Wynn Vale Drive, but we are still campaigning for some traffic lights there. We have had a reduction in speed limits on some of the larger roads in order to provide safer travel. I am delighted at the release of the draft management plan for Golden Grove Road—a road which needs much upgrading but which was not even on the Liberals' 10-year plan. Already some works are under way in the most dangerous sections of that road.

In the area of public transport, bus stops have been sealed on Golden Grove Road, where commuters used to stand in mud puddles. We have provided electronic security at the Golden Grove 'park and ride', which was promised by the former government but never delivered. We have seen many community grants go to our Neighbourhood Houses, and I was delighted to be advised just a week or so ago of a $300 000 grant over two years for the Golden Grove Arts Centre for the Out of the Square project, which had a grant of nearly $10 000 and which encompasses a range of arts centres in metropolitan Adelaide. It is really utilising great resources and bringing the arts out into the community, where they should be.

In the area of sport and recreation there has been an amazing uptake of the Active Club grants by our local clubs. I was delighted that Golden Grove Football Club received $50 000 for lighting on its new oval and that the hockey club received a grant of $40 000 for upgrading their facilities. As to the area of community safety, every year for the past five years we have held a community safety day (and we will hold another on Friday), bringing awareness about fire safety and home security. We have had the upgrade of safety at Braeburn Reserve at Golden Grove, where children were very significantly at risk because of very bad design at that local water retention pond. A new fire station for Golden Grove and the surrounding area has been constructed, and it is already open and up and running.

Mr Caica: Much thanks to you.

Ms RANKINE: Thank you, member for Colton; I appreciate that. We are also looking forward to the new Golden Grove police patrol base, which will hopefully be completed by June next year. Certainly, in support of the CFS, Salisbury CFS is really enjoying its new fire station and new appliances. Some of the challenges that still face us are in relation to the Golden Grove Tavern. I am working very hard on this issue and, in fact, it goes to court next week to have the tavern's hours reduced.

Time expired.

PORT AUGUSTA YACHT CLUB

The Hon. G.M. GUNN (Stuart): I move:

That the Economic and Finance Committee immediately inquire into the sale of land at the Port Augusta Yacht Club and immediately require all relevant documents to be presented to the committee as a matter of urgency.

Mr Deputy Speaker, as you would be aware, I attempted last week to have this matter dealt with by the Economic and Finance Committee, but unfortunately the government members on the committee were aware that it would be an embarrassment to the ALP if this course of action took place, because there has been an attempt to blame-shift in relation to this matter. It is one of considerable importance to the people of Port Augusta that an unfortunate decision has been made to sell the land south of the yacht club to a private developer. This is a very significant piece of land, and it has been the general view that some form of residential accommodation would most suitable, particularly aged care, as it is very close to the shopping facilities. There is an abundance of commercial development at the present time in Port Augusta, but there is an urgent need for apartments and aged care of various types whether it be hostel accommodation, independent living or some other form, but there is an urgent need.

Following the visit of the cabinet, the Port August City Council issued a media release on the council letterhead entitled 'Port Augusta Mayor Joy Baluch & City Manager Hit Back at State Government's Unfair Claims'. The release states:

The public attack on Port Augusta City Council by Treasurer Kevin Foley during last week's Community Cabinet Forum has been strongly criticised by Port Augusta Mayor Joy Baluch and City Manager John Stephens who have labelled the attack unfair and inaccurate. Mr Foley attempted to blame Council for the sale of vacant land south of the yacht club to a developer who wants to use it for a retail development, claiming Council did not approach the State Government at the time of the sale to insist the land be used for a residential development. He also claimed Council's zoning was incorrect. In response, the Mayor and City Manager say the zoning was correct and quite appropriate—it was the State Government's lack of consultation with Council during and prior to the deal being signed, that has caused the problems. 'Council has been in discussions with the State Government for nearly a decade about using this piece of land for a retirement/lifestyle village, so the Government knew full well Council's hopes and plans for that particular site', Mayor Joy Baluch said.

The City Manager responded to the Treasurer's claims the council did not contact the state government to express its concerns about the sale process before it was finalised by stating:

The reason we did not contact the Government was because we were not privy to those discussions. The State Government did not consult with Council at all about the likely type of development during the calling of tenders, where, through its own advertising, it promoted the site as an 'ideal retirement housing development opportunity'. We had no inkling that the successful tenderer would want to do anything else.

I am advised that the council had prospective people who wanted to build accommodation on that site. The media release continues:

The State Government sold the land (not Council) and it is unfair to say we were to blame. Government Ministers and departments knew from many previous discussions and correspondence what Council wanted the land used for but failed to take this into consideration, or include us in the sale process. As soon as we were aware of the full nature of the proposed development from the successful tenderer, I wrote a letter to the Premier expressing our concerns', Mayor Joy Baluch said.

An earlier press release was dated 25 October and entitled 'Yacht Club Land Sale Advertising Misleading'. It states:

Port Augusta City Council wants to respond to, and clarify, comments made by the State Government at last night's Community Cabinet Meeting, in regard to vacant land south of the Port Augusta Yacht Club. It is not an issue of directing blame from Port Augusta City Council's point of view, but working co-operatively with the State Government in achieving a satisfactory outcome.

That is what the aim is: to have a satisfactory outcome. If you examine some of the correspondence over the years—this is just some of the correspondence; there is obviously other correspondence which I am not privy to, although I would like to be—there is a letter dated June 1997 to Mr McSporran from the Commonwealth Department of Transport and Regional Development, which is important. Mr McSporran wrote a letter to Mr Stan Marks, Assistant Director, Rail Enterprise of Transport and Regional Development in Canberra, which stated:

I refer to your facsimile of today's date and to our subsequent conversations concerning the above, and enclose for your information and attention, plans of the Port Augusta foreshore area which depicts the areas of land which Council would be willing to accept future ownership, subject to the provision of funding to remove from the land 'environmental problems' which have been, (or may be), identified by way of a survey of the land in question. As indicated during our discussions, Council is not prepared to accept ownership of the land, unless its possible future liability for the land is overcome by way of the provision of Commonwealth funding to meet the Council's environmental requirements for the area which can then become an important component in the City's thrust to improve its visual and visitor image.

There is another letter from Mr McSporran regarding Australian National Land, which states:

I refer to your facsimile of the 26th June 1997. . . I note that you have indicated that Commonwealth funds are available through an AN Environmental Program to remediate the land to be transferred, but not to redevelop it. Having regard to the time frame in relation to a meeting a final consensus on the transfer of the said land parcels. . . to the Council, it is hereby agreed that the Corporation of the City of Port Augusta can receive the said parcels of land direct from the Commonwealth.

That is a clear indication. There is also a letter from the federal Department of Transport and Regional Development, which states:

While perhaps regrettable that it was not possible to include the transfer in the agreement, the current arrangements should not hinder council's plans in the long run.

The commonwealth was clearly aware of the City of Port Augusta's desire and agreement to accept this land, as was the previous state government. I have a letter under the heading of the Hon. Diana Laidlaw, Minister for Transport and Urban Planning, dated 11 December 1988, which states:

In view of this, I have asked Transport SA to advise the officers of the Minister for Industry and Trade to proceed with the preparation and execution of a deed of agreement between the Corporation of the City of Port Augusta and the Minister for Industry and Trade to enable the remediation work to be undertaken. This deed will require the council and state government to negotiate in good faith on the future ownership of the wharf land. . .

And the land is shown in an attached map. It is as clear as you can get. There was another communication on 16 July 1999, and there is a letter from Mr McSporran, the then city manager, to the minister of transport on 20 October 2000, and the pertinent comment on page 2 is:

The issue has also been the subject of numerous items of correspondence, with an agreement being reached between the council and the minister that the land in question will be transferred to the City of Port Augusta at the conclusion of the required remedial works. The agreement also allowed for issues associated with the future upgrade of the wharf (and responsibility for the cost of undertaking these upgrading works) to be resolved at a later date 'on a without-prejudice trust basis'.

It is our belief that an assessment on the required works to undertake the requested upgrading of the wharf is currently occurring.

That is a clear indication that agreement had been reached. However, those particular undertakings were not put in place. Anyone who has had anything to do with the former commonwealth AN railways land realises that there were not proper titles to a lot of it, it had been poorly managed, and the paperwork was not in order. If it had not been for the diligence of the former finance minister, the Hon. John Fahey, in relation to the Cooinda Club and other pieces of land, it would have been more difficult. But, having been a state premier, he understood the need to solve it. So, in his capacity as federal finance minister, he solved a number of problems in relation to that.

But there needs to be an effective resolution of the matter in relation to this land. There has been an unfortunate mistake made. It is now up to the government of South Australia to rectify that mistake so that long-term decisions which will have a detrimental effect on the City of Port Augusta and its residents are not put in place. It is all very well to engage in a blame-shifting exercise, but that still will not alleviate the difficulties and the problems. So, I have brought this matter

to the attention of the house today in an endeavour to convince the government that there is a need, there is a problem, and there is widespread community concern and discussion about this particular issue.

It was very disappointing that the Economic and Finance Committee was not allowed to have a sensible investigation into this particular matter. It is clear the reason I was cut off is that it may embarrass the government and its candidates. If that is the only reason the government does not put the welfare of a city before that sort of consideration, it shows it in a bad light. I call on the government to renegotiate this problem. It is a prime piece of real estate. It is suited for residential development. It can play a significant role in the future housing needs of the city, which is on the 'up'. One of the best things that happened to the city was when minister Laidlaw approved the original amount of money for the upgrading of the old wharf area, and great credit should go to Ian McSporran, the then city council, the mayor and minister Laidlaw for their understanding of the issues and their decision to put money into development. It was an important decision and a good decision, and a decision that has done a great deal for Port Augusta. There is still more to be done, and I look forward to seeing the progress of the foreshore area in Port Augusta, but I call on the government to take a step backwards, stop blaming people, and do what is right, proper and sensible, because it will have long-term benefits for the citizens of that city. Future generations will thank the government if it does not allow this unfortunate arrangement to proceed and it works with the City of Port Augusta to resolve it and ensure that the right decision is put into place. I commend the motion to the house.

Ms THOMPSON secured the adjournment of the debate.

SELECT COMMITTEE ON NURSING EDUCATION AND TRAINING

Ms THOMPSON (Reynell): I move:

That the report of the select committee be noted.

This inquiry was referred by the house to a select committee on 30 June 2004. The inquiry commenced in mid August 2004, and the committee heard from 37 witnesses and received 40 submissions. From its commencement, the committee acknowledged that nurse training and education issues are matters for both the state and commonwealth health and education portfolios. It was also clear upon commencing this inquiry that key stakeholders expressed a high level of confidence in nurse training and education remaining within the university and within vocational education and training sectors. While the committee supports this view it has recommended a number of changes to help improve practices and outcomes.

The committee was made aware that South Australia's nursing work force is an ageing work force, and more nurses are working part time. It was reported that nurses working in both the aged care and mental health sectors were older, on average, than the nursing work force as a whole; and one in every three nurses working in mental health was male compared with 9 per cent for all nurses. These factors, combined with increasing demand for services, contribute to the nursing shortage. South Australia has two levels of nurses. Registered nurses and midwives are prepared through the university sector and enrolled nurses are prepared through the vocational education and training sector.

The committee was provided with evidence from members of the community who advocated a return to hospital-based training and education. To the contrary, it was claimed that hospital-based training does not teach student nurses the critical elements of professional accountability and responsibility required in a modern health system. The modern nursing work force deals with a far more complex health system and far more complex health care settings than was the case in the past.

Substantial evidence was presented to the committee which argued that nurse education and training is appropriately placed within the tertiary and vocational education and training sector. However, many witnesses argued that the transfer of nursing education to the tertiary sector has increasingly shifted the focus to theory, and a deficit now exists in the area of clinical experience via placements.

The select committee drew upon the substantial evidence presented, and, consequently, came to the view that clinical placement was a crucial focus for this inquiry. The committee acknowledged the differing perspectives and the challenges of providing undergraduate students with optimal clinical education experiences via placements. It also recognised that a number of conflicting issues and tensions exist between the health service providers and the tertiary and vocational education and training sectors regarding clinical placements and clinical supervision.

Clinical education via placement is widely regarded as essential to the successful preparation of registered nurses. Clinical education is a high cost and high resource component of nursing education for both the health and higher education sectors. Evidence received suggested that current clinical placements were limited to the 26 academic weeks of the year, with a large number of nursing students entering the health sector during periods of peak demand in hospitals. In addition, the demand for and availability of clinical places for post-graduate nursing and medical and allied health students add further pressure on the health system, especially during periods of peak demand. The select committee also recognised the importance of rural and remote clinical placements, and their potential to influence the future of the rural work force. The committee was told that in order to encourage undergraduate students to undertake rural and remote clinical placements, funding is needed to assist with student accommodation and transport, as well as clinical supervisory support.

Evidence was received by the committee which supported the view that the universities are developing curricula somewhat independently of the health sector. The committee recognised the need to strengthen partnerships between the education sector and the health sector in developing a base-up approach to curriculum development. The committee recommends that the South Australian Department of Health take a leadership role in establishing collaborative partnerships between the South Australian universities and the VET sector, the nursing profession, health service providers and consumers in order to determine the knowledge, skills and attributes required of nurses; and for these attributes to be reflected in the development of undergraduate nursing curricula.

The select committee was made aware that over the past four years, third year undergraduate nursing students have been employed in the public health system. The committee approved of this as a strategy to improve the transition and retention of graduate nurses. The committee noted that there was no problem recruiting students into nursing education

programs, and recommended increasing the number of scholarships for those undertaking undergraduate and postgraduate nursing courses, with special encouragement given to people of Aboriginal background. The select committee was made aware of the reasons why nurses seek employment through a nursing agency. Agency nurses believe that they have a greater degree of autonomy over their working life. Family commitments are catered for by having flexible work patterns, and agency pay rates are also seen as attractive.

Evidence to the committee indicated that nursing agencies were the principal employers for 7 per cent of nurses, while 30 per cent of nurses working a second job worked for a nursing agency. However, agency nurses are also more costly to the health system, both public and private. I was pleased to note that, over the last three years (I think it was), the number of agency nurses being used in our public hospitals has decreased considerably. This is as a result of the new enterprise bargaining agreement, which provides nurses with greater flexibility in their working lives than they have had in the past.

Whilst there was a perception that the attrition rate for nursing students was higher than in other university courses, the evidence presented to the committee suggested that the current university drop-out rates for nursing are no more or less than for any other university course. The University of South Australia stated that the undergraduate nursing program attrition rate was 14 per cent—a figure considered lower than the university's average. The select committee was told that one of the most important factors influencing the retention of nurses within the profession was the level of support and mentoring the graduates received in their first year.

The committee acknowledged this finding and recommended that mentoring and support programs be established to assist new graduates in the workplace. A significant amount of evidence was presented to the committee identifying various factors which may influence whether or not a nurse or a midwife remains in the work force. These factors include shift work, a lack of family/ work balance, child care and poor management of violence and aggression in the workplace. The committee was informed that funding to support education and training for the nursing and midwifery work force through the nurse teaching grant has not been increased since it was implemented as part of the casemix system in the 1990s.

The committee recommended that the Department of Health undertake a review of the nurse teaching grant scheme. As a result of this inquiry, the committee made 25 recommendations; so, I will not seek to canvass all of them. However, I will remark on some of the complexities of the modern work force that were revealed during this select committee inquiry. One factor was the extent to which nursing students now have substantial part-time work commitments, which makes it very difficult for them to undertake clinical placements.

There is a tension between the fact that nurse students recognise the need for further clinical placements, that many of the health sector based witnesses recommend that there be more extensive clinical practice placement but that students often find themselves short of funds when they have to undertake these placements. The nursing undergraduate group contains many mature-age people (mainly women, but some men as well) who are the main providers for their families. They rely on their income to support their families, and they find it very difficult when they have to forgo paid jobs in order to undertake unpaid clinical placements.

It is also difficult when nursing students are working part time within a hospital sector and then return to that particular hospital on clinical placement. The role of that individual on that day is often confused. While having their preparation for nursing strengthened by working within the health sector, these people can also find that they miss out on some of the important clinical approach that is required during clinical placements. Another matter that was emphasised many times was the fact that the patients in hospitals are mainly aged and many have mental health problems, yet the view was put forward by nursing students and some nurse managers that there is insufficient consideration of these two important and sensitive conditions in the curriculum and clinical placement of nurses.

It was also recognised that, because clinical placements occur overwhelmingly within the hospital sector, nurse students lack exposure to other sectors, such as the mental health sector, the community nursing sector and the aged sector. Some of the committee's recommendations address the need to enable nursing students to have more of an understanding of the breadth of jobs that are available in the nursing sector. There was also considerable discussion at times of the potential role of nurse practitioners. Evidence suggested that nurse practitioners are a feature which is likely to be more prominent in the nursing work force of the future but about which arrangements are yet to be concluded.

This was a very interesting and enjoyable select committee on which to participate. I particularly want to thank the research officer, Mrs Marcia Hakendorf, for sharing with the committee her extensive knowledge of the challenges of day-to-day nursing in a variety of sectors, and the breadth and depth of thinking and research that is required to ensure that, as a community, we are equipped with a nursing work force that is appropriate to the changing demands of the community and the increasing complexities of the health system both in terms of the equipment that is available and the new nursing practices based on research. It is not both, it is all—the equipment, the improvement in nursing practices based on research, and the changing attitudes of patients and their families, who often want to know a lot more about their conditions than was the case in the past. Mrs Hakendorf was exceptional in her ability to inform committee members, many of whom, like myself, fortunately have little knowledge of what actually happens in a hospital. I say that from the point of view of understanding the matters brought to me by my constituents, but not a knowledge of the day-to-day workings of the hospital. Again, I thank Mrs Hakendorf for her assistance there, and also the committee secretary, Mr Rick Crump, who was vital in assisting us with the development of the report, as well as facilitating meetings at times when very few of us seemed to be available. Finally, I extend my sincere thanks to members of the committee, particularly the chair, Hon. Bob Such, member for Fisher; member for Finniss, Hon. Dean Brown; member for Torrens, Mrs Robyn Geraghty; and the member for Hartley, Mr Joe Scalzi. So, with great pleasure, I commend the report to the house.

The Hon. R.B. SUCH (Fisher): I would like to make a brief contribution. Being the person who initiated this select inquiry, I am grateful and thankful that the terms of reference were accepted by the parliament back in June 2004. I would like to begin by acknowledging the constructive efforts of all the people on the committee, and the role played by all those

members: Hon. Dean Brown, member for Finniss; Mrs Robyn Geraghty, member for Torrens; Mr Joe Scalzi, member for Hartley; and Ms Gay Thompson, member for Reynell; ably supported by Mr Rick Crump, parliamentary officer, and Mrs Marcia Hakendorf, research officer, I think this shows the value of the select committee process. We all know that at the state level we do not have the resources that are available at the federal level to support its committee structures. Nevertheless, I think that there is a very important role that can be performed by select committees. This particular committee met something like 18 or 19 times, and took evidence from, basically, whomever wanted to give evidence.

The main issues that came to the fore are—and some were highlighted by the member for Reynell, and I reiterate the point that the member made—that there are two categories of nurses: registered nurses who come via the graduation process of the university; and enrolled nurses who train either by TAFE, a private provider, or, in some cases, via a particular hospital. Each of those types of nurse is very important, and in South Australia at the moment there are something like 18 971 registered nurses (those who have done a degree program or equivalent) and 6 289 enrolled nurses. We discovered as a committee that the average age of nurses is increasing, and that is paralleling what has happened in the teaching force. By 2003, and I suspect that it has probably increased further since then, the average age of a nurse in South Australia was 42.7 years, and more and more nurses are working part-time.

The committee found that, whilst it supported the training of nurses in a university setting, or in a TAFE or private provider setting, it felt that there could be, and should be, a greater emphasis on clinical practice with hands-on training. There was a strong feeling that the amount of hands-on training at the moment throughout those various programs was not adequate and, therefore, believes that the amount of clinical practice should be significantly increased. Also, related to that point was the focus of the universities—and TAFE as well and the private providers—to place their students for clinical practice for six months of the year to gain that practical experience. That means that for six months of the year, the hospitals—which can provide the clinical practice, the aged care settings and so on—are overloaded with students, and over the other six months have no students at all. That did not seem rational or sensible to us. The other significant point was that the training in the main occurs between 9 and 5—once again, not reflecting the reality of the life of a nurse which, as members would know, is part of a roster, usually 7 days/24 hours a day. So, as a committee, we felt that the training was a bit out of skew with the reality of the nursing profession in that it, in a sense, gave a false perspective to what could be expected of a nurse, which is that you could be rostered to work any day and, out of those 24 hours of a day, not simply 9 to 5. Now, many nurses naturally would like to work 9 to 5, particularly when they have young children, but the reality is that people's illness and care requirements mean that you have to have nurses at midnight as well as 10 o'clock in the morning.

The committee looked at a whole range of issues including the fact that there is not enough focus on the training to work in the mental health area. I notice with some satisfaction in the last week or so, that Flinders University has sought to address that issue, but the clear message to the committee was that there are not enough people being trained as mental health nurses, given the increased demand in that area. Likewise, in terms of aged care, there are not enough students being trained in aged care and, in particular, not getting the skills required now for a system of aged care, which is a lot more accountable than in the past. It is a bit of a frightening thought, even to members in here who are not part of the ageing process, that our age profile is increasing rapidly in South Australia to a point where in 2001, 14.3 per cent of our population was aged 65 or over, but within the space of a bit over 40 years, there will be something like 24 per cent of the population—one quarter almost—who will be 65 years or over. So people are living longer, which is good, but that means the type of care required and the training to help facilitate that care needs to be addressed. They were two very significant issues that the committee grappled with and made recommendations about to try and address deficiencies in relation to training mental health nurses and those specialising in aged care.

The member for Reynell touched on the question of drop-out rates during training. The universities argued that the drop-out rate was not significantly different from any other course. The committee grappled with the question of selecting people who were going to become nurses. Do you let anyone give it a go and let them drop out if they do not like it or cannot cope? That is the approach taken towards teaching. Some would argue it is a bit ironic because if you want to become an artist in South Australia, through a formal art training program, you have to demonstrate, prior to tertiary study or training, that you have a commitment to art and have demonstrated some ability in that area. Yet for the two vital areas dealing with people—teaching and nursing—we do not require any demonstration of much other than an academic attainment.

I guess the key factor there is the cost. People say, 'If you have hundreds of students coming in each year to university and TAFE to train as nurses, how are you going to select those who don't like it, don't suit, don't want to continue to be in an occupation such as nursing?' The consensus basically was to continue as we are, given that no-one seemed to be able to suggest a cost-effective mechanism to select people for nursing other than to 'put your toe in the water and try it out'.

Overall, the committee was advised that the drop-out rate of people studying to become nurses was not much different to any other program and basically people found out for themselves, whilst at university, TAFE or private provider, whether nursing suited them or not. A critical issue the committee discovered was the key element of support once a nurse graduated. That was a key factor in whether or not someone continued to participate in the nursing profession. The committee recommended various strategies to deal with support. One interesting innovation was a suggestion that, rather than have student nurses working, for example, at McDonald's, why not employ more of them in a hospital setting so they can earn a bit of money but also learn some skills and apply their skills, and get a real grounding and a feel for a particular hospital and for the health system. That seemed, to us, to make a lot of sense. Some hospitals do that already, but we believe that concept could be expanded to have more and more student nurses—particularly second and third year nurses—working in our hospitals instead of working in fast-food outlets.

Overall, I think the committee's recommendations are very sensible. I commend the report to members and urge them to have a look at it. I trust that the recommendations will be taken up by the Health Commission, universities and

TAFE so that what is a wonderful profession can continue to deliver the best for those in its care.

Mrs GERAGHTY (Torrens): I will be brief and not revisit all the issues the member for Reynell and the member for Fisher have raised today. However, I would like to comment on part of a recommendation which I think is worth making comment about, and which the member for Fisher has already raised. In recommendation A3 we talk about offering students the opportunity for better clinical exposure over a 24-hour period, seven days a week, and being rostered on that type of time-frame does give students a real insight into what working as a nurse is really like; so, too, is offering clinical placements across the whole of the calendar year because, as we know, generally one does not work for certain parts of the year, but through the whole year.

An issue of great importance to me—not more important than any other, but of great importance—is our aged care sector. That is the issue I would like to comment on some more. Working in the aged care sector is probably not seen as being exciting, or being more specialised than working in a public hospital or private hospital, but it is a very important part of nursing. As the member for Fisher has said, we have an ageing population. We have more people entering nursing home care—not all aged, I might say. I can say that from personal experience, having a mother and father-in-law now regrettably both in nursing home care. This is an area that needs to be considered for requiring some specialised training. As we know, aged folk need a different kind of attention than those people who have had an accident, or an illness, or require surgery earlier in their lives.

The committee did seek good evidence relating to some parts of that matter but we were not able to delve into it perhaps quite as much as we would have liked. Regrettably we did not have a lot of time and, I have to confess, getting us together as a committee was extremely difficult. I have to commend Rick Crump for his patience when trying to draw us together, and certainly Marcia Hakendorf, who gave us a lot of good advice and really did a great job with the committee.

I would like to see at some stage that we are able to look a little more into our aged care sector services. Perhaps that is something that universities might like to consider, that that is an area of growing need in the community. It would be very good, from my personal observations of recent times, to have more training put into that area. I commend the report to members of the house.

Ms CHAPMAN (Bragg): I add my indication of appreciation to the committee. I think it was an important initiative of the member for Fisher to introduce this motion. It is an important area of work force resource for this state and there were important issues to be dealt with. Not surprising to most of us in the house, probably, one of the clear outcomes of this report was that, in the course of their theoretical training for this area of nursing, our graduates' training must be strongly complemented with exposure to an opportunity for practical experience. I hope that is a matter taken up by this and future governments, to ensure that that is brought into being.

I also want to say that, on the very same day of that motion being put to the house for an inquiry into nursing education and training, almost exactly the same motion was put to this house for an inquiry into child-care workers in this state for our younger members of the community and to support the families of this state. To my chagrin, the government includes in this its consistent opposition to the move for a select committee into child-care workers, which still languishes all this time later as no. 54 on the agenda under private members' business for consideration. Of course, it will not be reached. It will never be reached.

It is to the shame of this government that it continues to consistently refuse, minister after minister, including the member for Fisher, to have this matter dealt with. That is equally important. It had the same terms of reference and it still languishes on the private members' agenda.

Ms THOMPSON (Reynell): I note that the member for Bragg raised some issues relating to child-care workers. That was not within the purview of the select committee. I know she wants to have a select committee about that matter, but that is not relevant to this debate. Other members of the committee have adequately amplified my remarks, and I commend the report to the house.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: NHMRC ETHICAL GUIDELINES ON THE USE OF ASSISTED REPRODUCTIVE TECHNOLOGY IN CLINICAL PRACTICE AND RESEARCH

The Hon. P.L. WHITE (Taylor): I move:

That the 23rd report of the committee, into the NHMRC Ethical Guidelines on the use of Assisted Reproductive Technology in Clinical Practice and Research 2004, be noted.

Under commonwealth law, the NHMRC ethical guidelines on research involving human embryos are reviewed every five years. Under the South Australian Research Involving Human Embryos Act 2003, the Social Development Committee is required to undertake an inquiry into the guidelines each time a revised version is released. The latest version was released by the NHMRC in 2004. As part of our inquiry, the committee examined the NHMRC's process for revising the guidelines and has strongly endorsed it in our report. Also, given that technology in the field will continue to advance, the committee supports the NHMRC's five-yearly process.

Not surprisingly, given the expertise and authority of the NHMRC in this area, its most recent review of the guidelines was very robust and included comprehensive consultation with relevant organisations and individuals, both nationally and in South Australia. The Rev. Dr Andrew Dutney, the chair of the South Australian Council on Reproductive Technology, confirmed that consultation within our state on this matter was comprehensive and that the council felt its concerns were being heard throughout the process. The committee obtained a list of South Australian agencies and individuals consulted during the NHMRC's review and invited comment from those parties. It also heard from expert witnesses from the Department of Health and the South Australian Council on Reproductive Technology.

The aim of this inquiry was to examine the 2004 guidelines and determine if they constitute a suitable regulatory basis for clinical practice and research involving human embryos in South Australia in the context of a range of other regulatory mechanisms that operate in this state. It is important to note that this is a very highly regulated field. The NHMRC ethical guidelines sit within the context of the state and commonwealth research involving human embryos acts and prohibition of human cloning acts. They are also one of a long list of regulatory mechanisms pertaining to the use of assisted reproductive technology in this state. They can be

viewed by members, or those members of the public who read this report, on pages 11 to 12 of the committee's report.

Having said that, the NHMRC guidelines are very important. Everyone involved in assisted reproductive technology in South Australia must adhere to the guidelines in order to receive a licence to legally undertake research involving excess human embryos. It is a condition of licence. In South Australia at the moment, there are four clinical licences. There are no research licences in this state, as no research is currently being undertaken that involves the possible destruction of human embryos.

The committee examined the differences between the 1996 and current versions of the guidelines. These are outlined in some detail in the report. Overall, the 2004 guidelines constitute a much more comprehensive regulatory framework than did the 1996 guidelines. Indicative of this is that since 1996 the guidelines have been expanded from a 15-page document to a 70-page document. The committee believes that this is appropriate, given that assisted reproductive technology is far more advanced than ever it was in 1996. It is also important to note that the aim of the NHMRC ethical guidelines is to regulate and place limitations on clinical practice and research involving human embryos. They were not designed to create a permissive environment for scientists.

One of the more significant differences between the 1996 and 2004 versions of the guidelines is that the current version has separate sections for clinical practice and research so that research involving the possible destruction of excess embryos is subject to more stringent ethical constraints and stricter control mechanisms than those applying to routine clinical practice. Furthermore, identification of unacceptable or prohibited research practices is now enshrined in the Research Involving Human Embryos Act 2002 (which is commonwealth legislation) and the Prohibition of Human Cloning Act 2002 (which is also commonwealth legislation), as well as the complementary state acts. The 2004 guidelines refer to and sit within the context of this overriding legislation.

Another significant alteration has been the inclusion of detailed guidelines relating to sex selection, surrogacy and pre-implantation genetic diagnosis. For the benefit of members, pre-implantation genetic diagnosis (PGD) is a procedure whereby, before embryos are implanted, a single cell is extracted via biopsy and genetic analysis is undertaken. The guidelines outline that these are controversial issues requiring further debate. Therefore, the current 2004 guidelines err clearly on the side of caution. For example, they state as follows:

- sex selection must not be undertaken except to reduce the risk of transmission of a serious genetic condition, such as haemophilia (which is linked to the male chromosome); and
- PGD must be used only to reduce the risk of transmission of a serious genetic condition and must not be used to prevent conditions that do not cause serious harm or to select the sex of a child.

In its inquiry, the committee also looked at areas where our state legislation and the guidelines differ. Where they differ, it was generally found that the legislation applies additional regulation. One problem that was raised regarding our state legislation relates to children's rights to access identifying information about gamete donors. For the benefit of members, a gamete is either a sperm or an egg. Unless the donor has specifically given consent, there is no avenue in this state for a donor-conceived child to access identifying information about the donor. This is in conflict with the 2004 NHMRC guidelines, which state that people who were conceived using ART procedures are entitled to know the identity of their genetic parents, and they prohibit clinics from using donors who are unwilling to be identified.

While we know that South Australian clinics are already operating according to the guidelines, there is the potential for problems to arise when there is disagreement over this matter between parties, since the state legislation does not support the right of a child to donor identification in such a circumstance. It is worth noting here that, under the Family Relationships Act (which is state legislation), a donor has no rights or legal responsibility for the child. For example, a donor is not legally responsible for any maintenance of that child. The South Australian Council on Reproductive Technology has already undertaken significant work in relation to this issue, and the committee supports their work in developing a cost effective model for a central donor register. The committee urges the Minister for Health to implement this as soon as possible.

Before closing, I acknowledge the work of my fellow committee members: the Presiding Member of the Social Development Committee, the Hon. Gail Gago, and my colleagues on the committee, namely, Ms Frances Bedford (member for Florey), Mr Joe Scalzi (member for Hartley), the Hon. Michelle Lensink in another place and the Hon. Terry Cameron in another place. I also recognise the contribution of the staff of the committee, namely, Ms Susie Dunlop (research officer) and Ms Robyn Schutte (secretary) and Ms Kristina Willis-Arnold (secretary). I also acknowledge the support of Ms Jean Murray of the Department of Health and Ms Leanne Noack, Executive Officer of the South Australian Council on Reproductive Technology for their advice to the committee on technical matters. I acknowledge, too, the Crown Solicitor's Office for its assistance in clarifying legal matters in this very complex area.

In summary, the Social Development Committee has found that the 2004 guidelines represent far greater clarity and regulation regarding clinical practice and research involving human embryos than did the previous guidelines. The committee believes that these reflect the current scope of assisted reproductive technology and that they constitute sound and robust guidelines for research involving human embryos in South Australia within the context of a range of other regulatory mechanisms. The committee also commends the NHMRC on the very comprehensive consultation and review process used to develop the guidelines. The committee also wishes to emphasise the importance of this review process which, as I stated before, is conducted on a five-yearly cycle, particularly given the controversial and sensitive nature of many of the issues relating to assisted reproductive technologies and also when one considers the pace of continued technological advances in this field.

Mr SNELLING (Playford): My opposition to the destructive use of human embryos for research is well-known in this place. I am very happy that the Social Development Committee has reported this as a result of an amendment which I moved in this place to the original bill, that the NHMRC guidelines be tabled in the house and referred to the Social Development Committee for report, and I am very pleased that that has happened. These guidelines are important. The regulation of human embryo experimentation is extremely complex but extremely important, and it deserves

full public scrutiny. If we look at recent events in Korea, where the leading researcher in the field of cloning has recently been exposed as using eggs that he purchased from poor, vulnerable women, we can see the opportunity for exploitation not only of embryos but also of adult women, because the retrieval of eggs from a woman's ovaries is an extremely intrusive operation and not without some risk. As has recently come to light in Korea, the leading researcher in the world in this sort of research has been exposed and has admitted to having bought eggs from women who were poor and vulnerable instead of having eggs freely donated to him. I think that we need to be very careful that that is not a practice which is undertaken in this jurisdiction.

I also note in the report that the issue of donor anonymity was investigated, which I welcome. Over the past two years, it has become increasingly noted in public discourse. I argue very strongly against absolute donor anonymity. I think it should be done on the same basis as adoption in terms of finding out where you have come from. It is important and, as increasingly more births are the result of reproductive technologies and donated sperm, people have a right to know what their genetic inheritance is because it becomes increasingly probable that you could end up entering into a sexual relationship with a half-brother or half-sister and the results of having offspring from such a relationship can be catastrophic, as members well know. The only way to avoid this happening is for the children born from reproductive technology to know their genetic inheritance—to know who their biological mother or father is. That is the first reason.

Second, people just have an inherent right to know where they have come from. It is an important matter for people: it is not merely incidental. People have an intrinsic right to know where they have come from. I think the days of donors being able to donate their sperm anonymously needed to be ended. People of my generation (because my generation is the generation in which births as a result of reproductive technology started) have a right to know where they have come from. As a final point on that issue, people also have a right to know their genetic inheritance in terms of genetic diseases that they may have inherited from the donor.

So, I am pleased to see that the Social Development Committee has inquired into and reported on all those issues, and I commend the motion to the house.

Motion carried.

Mrs GERAGHTY: Mr Speaker, I draw your attention to the state of the house.

A quorum having been formed:

SCHOOLS, FOOD SOLD TO CHILDREN

The Hon. I.P. LEWIS (Hammond): I move:

That this House establish a Select Committee to—

(a) examine the effects on childhood health from foodstuffs sold on South Australian school grounds and the point-of-sale practices of various types of vendor systems used at schools in South Australia;

(b) determine whether there are any adverse health consequences for children arising from such practices, and how to monitor and modify these practices;

(c) recommend changes in the types of food sold and the way it is sold on school grounds; and

(d) consider any other general public health, welfare and other benefits that may result for the wider community from the adoption of the Committee's recommendations.

The proposition is pretty self-explanatory. Various types of vendor systems are not restricted to machines. Vendoring anything is choosing a mechanism for selling it—machines or people, it does not matter: a vendor is the person handling the business at the point of sale. Schools are not restricted in the ambit of the proposition to schools owned by the government. It includes all schools. Point-of-sale practices are simply that. The kind of advertising that presently goes on in some of the brochures and fliers put up by vendors of various types of food and drink at schools reinforces the images and the slogans that are put to air and through the print media (but particularly put to air on television and radio on the FM stations).

They all need examination because, increasingly, we hear that young people, that is, our children, are obese and there are serious health consequences, according to the experts who determine that obesity is a rapidly growing problem—excuse the pun, if there was one, though I did not intend it when I began to say it. It is a rapidly growing problem and the growth is not of a healthy nature, it seems, from the expert opinions being provided to us increasingly by dietitians and other epidemiologists who study these things. They are the people who look at the wider consequences for certain social practices, and workplace practices as part of that, on the health of human beings. They engage in the determination of whether or not there is a pathological effect, and examine that using rigorous mathematical techniques to determine probability and connectiveness. If what they say is true—and I have no reason to doubt it—then I have to say to those other people who are talking to me that in some measure their remarks are political correctness and that they are out of control. I want to establish the truth of it, once and for all.

A select committee, if it did nothing else, if all members agree there is a problem and accept the word of the experts who have been talking about it in recent times, yet again earlier this week, then wider public awareness of the problem is vital. What we are being told is that the consequences of this rapidly growing problem, that is the obesity, are that diabetes and its associated physiological disorders throughout not just the blood vascular system but also the rest of the body and its endocrine system are very serious. Indeed, if you add up road trauma and the most common forms of cancer, what experts are telling us now is that it does not equal in prospect the problem that will be caused to the community at large by childhood obesity, which they say is rampant at the present time.

Already in those parts of America, in which such studies have been done amongst overweight children, regardless of racial origins, the problem is similar to that which comes, we are told, from Aboriginal communities where the children are allowed to eat junk food because no-one knows any better; and bush tucker is seen as inferior simply because it is not available in shops and vending machines. There is no advertising of the benefits of eating bush tucker of any kind, whether quandong, goanna or any other kind of naturally occurring vitamin rich material, which is also rich in anti-oxidants, or protein rich material, such as that which Australia's native animals have. The Aboriginal children in this current generation are suffering terribly, probably as badly, we are told, as anywhere else on earth. We must, therefore, stop those consequences from occurring across the wider community and address the problems urgently within the Aboriginal population of children, as well.

That is why I have included a look at the types of foods sold and, of necessity then, ways of getting recommendations through to the parents and the operators of school tuckshops. It may be necessary for us to do what we have done with smoking, because this is more serious in its health conse-

quences, I am told, for the younger generation as they grow older, than smoking itself. With that in mind, paragraph (d) invites the committee to collect such evidence as there may be, which the committee believes has rigour at its foundation in determining the truth or otherwise of what is being put to that committee; and make such recommendations arising from that about other general public health, welfare and other benefits that may result from any modifications that are necessary.

In short, this is a serious problem of huge proportions which is escalating on a daily basis, and we as legislators have a responsibility to avoid the consequences of it. We cannot simply sit on our hands and say, 'It was their choice.' That is as bad as saying it was okay to let people go to work at Wittenoom and other places where they were exposed to asbestos. That is as bad as saying that it does not matter whether or not a workplace is safe: it is their choice. To say that we can allow children in our schools to go on killing themselves, certainly reducing their life expectancy, and causing themselves a far less enjoyable experience as adults in consequence of the health effects they will suffer through the ignorance of the bad practices they now have in their diets, and the like, if we allow that to happen while it stares us in the face, then we are as culpable as the directors of any of those companies that have had poor workplace practices that have resulted in the injury or trauma of members of their work force. It is as simple as that.

We have the power to make law. We have the responsibility to discover the scientific truth upon which the policies on which we base our law are determined. We have the responsibility to inform ourselves. There is no better way to inform ourselves than to have a select committee. Even if there is no way we can get this select committee to do its work before parliament is prorogued, let us not shy away from the fact that passing this motion today would give us a reminder in the next parliament to do the job; and to provide the leadership we are elected to provide to head off the problems that will otherwise accrue if we sit on our hands and do nothing. I know members would not want to be accused of knowing about the problem, debating the problem, and yet still doing nothing for another four years, given that the evidence appears to me to be now incontrovertible. It is more serious than greenhouse in its consequences for the health of our society. If the kids cannot work, think and produce when they are adults, then may God help us because no-one else will be there to do so. They will be too busy supporting others amongst their ranks who do have these adverse health consequences we are told they will suffer from as adults in great number if they continue down this path of simply responding to all the ads and fads as to what to eat and drink. Let us stop it now. Let us provide the education the public needs, and let us inform ourselves in ways which ensure that we get it right first time every time.

The Hon. R.B. SUCH (Fisher): I commend the member for Hammond for moving for the establishment of a select committee. As the honourable member points out, being realistic, it is unlikely that this matter could be resolved in terms of establishing a select committee during this current session. Nevertheless, this proposition has merit. I think that it could be modified somewhat to go beyond simply the school environment to include a focus on some of the external influences on what young people are eating. The state parliament does not have direct responsibility for advertising, but, nevertheless, it could look at a range of matters which come under that umbrella.

Putting this whole issue in context, the prevalence of childhood obesity in Australia is now one of the highest in the world, and it is rapidly increasing. In the 10 years from 1985 to 1995, the prevalence of overweight and obesity in Australian children aged seven to 15 years virtually doubled from about 10 per cent to about 20 per cent. I suspect that the more recent figures would suggest that that proportion has increased. The concern is not only for the health of children as children; also, the research shows that childhood overweight and obesity are important predictors of adult obesity.

A child who is overweight or obese has about an 80 per cent chance of being overweight or obese at age 20. The prevalence of overweight and obesity in adult Australians has also reached epidemic proportions. In 2000, 67.5 per cent of adult men and 50.7 per cent of adult women were classified as overweight or obese. All members who have had the privilege of entering this place would realise that it is a bit of an occupational hazard to come in here. Invariably, if you are not careful, you put on some padding that you did not envisage when you first came in here, and that is because, to a large extent, this occupation is a sedentary one.

Also, you are tempted (and not necessarily out of boredom) to indulge in snacks and things, especially at night time. Of course, the challenge is not simply one of what goes in as fuel for the body but the aspect of exercise. It is a double-sided coin. We must be wary of talking about the good old days, which were not always that good. When I was at primary school, we had to walk to school. Not many children now in my observation walk to school, or walk anywhere.

I was staggered when I went to America some years back to find that people did not want to walk anywhere. In fact, the suggestion of going for a walk was greeted with some sort of derision and concern. When I suggested, whilst staying at a motel in California, that I wanted to walk a few blocks, someone said, 'No, take a car.' We are seeing the consequence of that in Australia, and, obviously, South Australia is a part of that. I can understand parents being concerned about the welfare of their children and wanting to get their children to school safely.

I suspect that the risk of being molested on the way to school is far less than the risk of being injured in the car being transported to school. People, children, are transported everywhere. The sign on the back of the car 'Mum's taxi' is more than just a laughing point, it is very true. It is also probably dad's taxi. What it means is that the kids are always in the taxi if they are not sitting in front of the television watching a program. The irony is that people watching television are often watching people who are active. People playing active sports are being watched by people who are inactive.

The consequences of the obesity epidemic, as I say, resulting from too much fuel going into the body and not enough exercise (a combination of both) in terms of the childhood aspects, as well as going into latter life, include psycho-social, social isolation and discrimination, poor self-esteem and depression, learning difficulties and longer term poorer social and economic success, physical/medical problems in childhood, orthopaedic problems, back pain, flat feet, slipped growth plates in hips, knock knees, fatty liver, type 2 adult diabetes, menstrual problems, asthma and obstructive sleep apnoea.

Long term disease risks include type 2 diabetes, cardiovascular disease, stroke, hypertension, some types of cancer,

musculoskeletal disorders and gall bladder disease, which are all associated with increased mortality in later life. The direct medical costs of obesity are at least 5 per cent of total health care costs (but these are dwarfed by the lifetime personal costs in attempts to lose weight), the costs of lost productivity and reduced quality of life. The proportion of the burden of disease attributable to obesity and physical inactivity in Australia is over 11 per cent, which is four times the burden attributable to illicit drugs plus unsafe sex.

One aspect which could improve the motion before the house is the effect of advertising on children. A Coalition on Food Advertising to Children (CFAC) is advocating changes in the advertisements. Australia has the highest number of television food advertisements per hour. Television ads have an influence on children's food choices. Some people will say, 'Look, people are not influenced by those ads.' Well, I wish that someone would tell the food companies to stop wasting their money, because, if they have no effect, I am sure that those companies would stop spending their money on advertisements.

The amount of money that companies spend on media advertising is testimony to this. For example, Nestlé spent between $78 million and $83 million in Australia in 2001. Advertisers specifically target children. Children under the age of eight are easy targets as they are vulnerable. Currently it is estimated that 30 per cent of Australian children are overweight or obese. This is the first generation of Australian children who may die before their parents, purely due to nutritional reasons. Advertisers promote their products as 'cool', which is a strange terminology when you think that nowadays more and more young people are talking about others as being 'hot', but generally the products are regarded as 'cool'. Children are susceptible to this message, especially overweight children who want to be seen as cool by their friends.

Rules and regulations apply to ads shown during 'C' program time. However, the required amount of 'C' programs that must be broadcast by TV stations is only half an hour per day. Outside of 'C' program time, ads are less regulated. For example, the code of practice is voluntary only and it is easy for advertisers to get around the Children's Television Standards.

As an example, McDonald's Happy Meals breach a standard requiring promotions to be secondary to the main product being sold. McDonald's got around this requirement by arguing that toys are an integral part of the product. You are not meant to eat them, and I will not reflect on whether the toys, if eaten, would be better for you than the alternative. They are not sold separately, so, clearly, this is not the case as the Happy Meal may be purchased without the toy or, conversely, the toy may be bought separately for approximately $2. Ironically, McDonald's is now one of the largest toy retailers in Australia. So, we have a company ostensibly selling hamburgers and the like, and I acknowledge that in recent times it has provided some healthier alternatives, although a good hamburger made correctly may be quite healthy. In order to influence children and their parents, the toy is put in as a temptation to attract the child and the parents into McDonald's, then presumably to buy the so-called Happy Meal, which, if it leads to obesity may, in effect, become an unhappy meal.

We have a serious situation, as the member for Hammond has indicated, and I commend him for introducing this motion. I believe, hopefully in the next parliament, that we will take this issue very seriously, because, if not, it will literally kill all of us, including our children.

Ms THOMPSON (Reynell): I thank the member for Hammond for bringing this matter before the house, although at this stage I do not feel disposed to support it, despite the importance of the topic. There are two principal reasons for that. One is that I am aware that the ministers for health and education have already issued guidelines for school canteens to assist them in developing a healthier menu, and I am sure my colleague the member for Taylor will talk more about that later. Another important reason is one that I spoke on in the house just last week. I was asked to attend a meeting of primary school canteen managers, and one of their biggest concerns is that, despite the fact that they attempt to provide healthy food, they are hampered by the requirement to meet costs, to which the member for Hammond could respond, 'Well, we could make a recommendation that they be subsidised.'

The other principal reason why I believe that school canteen managers would not support this motion is that they already feel that they are blamed for childhood obesity, when it is their experience that they provide food for only about 10 per cent of children on any one day. This varies depending on whether the school is based in a community with a high proportion of working parents who are away from home for a long time. Schools in those communities—and one represented at the meeting was Blackwood Primary School which has a large proportion of households where both parents are working—said that they believe that on some days they provided food for about 40 per cent of the children in the school, and that means it is only a very small proportion of a child's food that is coming from school canteens.

My view is that we should be placing priority on assisting parents to provide more healthy food for their children for the rest of the time. Even children who eat at a school canteen every day are not at school for about half the year, and there are weekends, breakfast and dinner. One of the more important issues in terms of providing children with a balanced diet is to focus on breakfast and looking at ways to ensure that children have a healthy breakfast. In this regard, I commend the many community organisations that are providing breakfast programs for children at nearby schools. They usually do it in conjunction with the schools, although some schools provide the programs themselves. I particularly want to mention the Red Cross, which has received a considerable grant from the federal government to assist in providing breakfast programs. I believe that the Red Cross also uses the funds that it raises in other ways, and is working with groups in some very disadvantaged communities to provide very healthy breakfast programs.

One program in my area is provided in conjunction with the Christie Downs Community House, and the support of the Red Cross has meant that, rather than the house having to buy whatever food was cheapest, which might not always have been the most nutritious, they have been able to provide healthy food for children. The Christie Downs Community House is extending its program so that not only do the children have a healthy breakfast they also make their lunch, wrap it up, and take it to school, so that there is a guarantee of two nutritious meals in a day when they are at school. The more important aspect of that is the skills that the children are developing in being able to provide themselves with healthy food. Christie Downs has extended this even further so that now parents are invited to stay for the breakfast program. The

volunteers in the program are working with the parents to increase their knowledge of the importance of breakfast and how to provide a healthy breakfast cheaply and easily, as well as providing a healthy lunch.

Other initiatives are under way in my community which I consider to be more important, in terms of their impact on children's healthy eating, than simply looking at school canteens. For instance, the Noarlunga Health Service is running a project in the suburb of Morphett Vale. Its title is something like Eat Healthy, Be Active, although I am not sure that has been finalised. At the moment I am looking forward to a briefing on how the project is going to develop. Overall, the project will last three years, which is going to focus on ways of supporting people in Morphett Vale to eat healthily and be active. There has been quite an extensive network of consultation with different groups within the community to identify how that might occur. This project is going to have a very positive impact on the problem of childhood obesity and poor eating habits. I do not, in any way, wish to underplay that problem. It is a severe problem in our community, as both the member for Hammond and the member for Fisher have pointed out.

Another initiative undertaken by the Noarlunga Health Service, and supported by a grant recently from the Minister for Health, is Community Foodies. This is based on training some community volunteers in healthy eating. They undertake a 'train the trainer' course so that they are then able to go into different situations within their communities, as peers, and be able to talk with other community members about the importance of providing themselves and their children with healthy food, and showing them how to do it on a minimal budget.

Another project that I have been involved with is one undertaken jointly by Lonsdale Heights Primary School, Christie Downs Community House and, again, the Noarlunga Health Service. For this project I was fortunately able to obtain a grant of $5 000 from the Minster for Health. This project focused on working with children in the preschool years and their parents. Right from their first days in the school environment, both the children and the parents knew how to eat healthily and what the benefit of it was. I was very proud to go to the launch of this project. It was called the launch but in a way it was a celebration of its conclusion. Talking with the parents and some of the younger siblings of these children I found that, by focusing on the preschool children, the whole family was being immediately influenced. Babies in prams had water to drink rather than Fanta, or anything else they might have previously had.

Lonsdale Heights is also one of the many schools I am aware of that has introduced a healthy eating break fairly early in the day, where children bring fruit or a sandwich and have something to eat about 10.30, and then at lunchtime. The first eating time is supervised in the classroom, and children are encouraged to bring healthy food. When I attended an open day recently—again at Lonsdale Heights, but I know other schools do this—the children were very eager to show me the contents of their lunch boxes, showing me how healthy it was. They were right; they did have healthy foods in their lunch box.

I consider that the initiatives that have already begun, in terms of assisting parents to make healthy choices for their children, assisting children to welcome those choices and recognise the importance of healthy eating, is more important than focusing on the poor old school canteen. The member for Fisher raised the important issue of advertising on television. I think there is a great need for the federal government to address the issue of junk food advertising—it is just 'junk' and we should not add the courtesy of 'food'—in children's viewing time. That is a matter of urgency.

The Hon. P.L. WHITE (Taylor): I acknowledge the member for Hammond for bringing forth debate on an important topic, one which highlights the risk to health of unhealthy eating practices amongst children, the impact of obesity in children and, in fact, the flow-on impacts on the whole population through practices learnt by children in their early years regarding unhealthy eating.

I think the honourable member acknowledged, in his contribution, that it was not perhaps the time for this house to set up a select committee in the days before this parliament is prorogued, so for that reason I will not support the motion. However, it is an important issue and this is obviously something that needs to be monitored and assessed by leadership in our community, by government, by school leadership and by the community.

There are risks in eating an unhealthy diet, including many very serious diseases, diseases which take the lives of many Australians. Some of these are heart disease, type 2 diabetes and some forms of cancer. In fact, overweight children may experience musculoskeletal problems, other sorts of impacts that we do not necessarily associate with food, like heat intolerances, even psychological problems including teasing, low self-esteem and unhealthy weight control practices.

We know about the prevalence of those in pre-teens and teenagers and even, in fact, in younger children. Whilst I cannot remember the exact statistics, I know that here in South Australia, as in other states of Australia, we have an alarmingly high proportion of this state's four-year olds who are technically obese. I cannot remember the figures, but it is a significant proportion. As the member for Fisher pointed out, advertising of the so-called junk food is so pervasive. I have two young boys, two gorgeous young boys who have not yet reached school age but who, even before they had been to McDonald's—and any parent who, as I did, set out never to take them through the doors of McDonald's does get there in the end—before they had even stepped through the doors, knew and told me that they loved McHappy Meals and cheeseburgers. The advertising is incredibly good. Maybe my husband had done a bit of secret visiting, I do not know.

I must say in defence of school canteens that over the 11 years that I have been the local member I have noticed a marked improvement in the foods being sold by canteens in my area. This improvement has been led by the influence of parents, who are concerned about the health impacts on their children of what their children eat. So concerned was I a couple of years back, when I was Minister for Education, that the Minister for Health (Lea Stevens) and I got together and developed some healthy eating guidelines for schools. It was a program called Eat Well SA, distributed to schools and preschools after extensive consultation with representatives from the health and education agencies, the school canteen networks, parents' groups, the Cancer Council and the Heart Foundation.

This was an effort involving our public, independent and Catholic schools sector, greatly supported, to come up with a comprehensive framework setting about encouraging schools to teach, in their curriculum, opportunities about food and nutrition; to promote the consumption of fruit and vegetables; to make healthy foods available not only in school canteens but in the other places in schools where food

is consumed by students; and to help students acquire food skills. Schools and preschools are in an ideal position to play a key role in developing children's food preferences and eating patterns. We want our children to develop lifelong knowledge and skill around healthy eating, because the benefits of healthy eating include greater life expectancy.

The research also tells us that there is less financial cost to our health system arising out of better eating choices by the community, and greater productivity resulting therefrom. Healthy eating, and we know this quite specifically, can improve behaviour and attention spans of children in class. That is the reason why a number of schools embark on breakfast programs. It is like that ad on TV where the kid disappears half-way through the lesson: that really does happen in classrooms if children run out of fuel; and the best way to run out of fuel is to load up on sugar and unhealthy things or not to eat at all. Schools are very much aware of the problem. There has been an improvement in healthy eating practices amongst schools, but there can be no doubt that we have an unacceptably high proportion of obese children in our schools.

In fact, we also have an unacceptably high proportion of obese adults in our community. Along with the UK and the US, we lead the world in that statistic. A couple of years back, and I am not sure what the figures are today, I recall that the estimated annual cost to the nation of excessive weight in Australia was about $1.5 billion and rising. It is important that as a community we take every step possible to reverse that trend. The government has put a lot of effort and funding into its across-government program under the label of Be Active. That is a program that involves not only school children but everyone in the community: sporting clubs, recreation clubs, getting people either to play sport or less structured activities, but getting people active.

It used to be thought that you could only reduce weight by playing physical sport, and of course Australia is a nation of sports lovers, but there are a lot of people, particularly children who, no matter how hard you try, are not going to cooperate in sporting activity. We need to have strategies to ensure that those children are at least active. Under the banner of Be Active, the government has comprehensively across all our departments and agencies taken every opportunity to fund and encourage the community to raise those activity levels and thereby reduce obesity. I support the member for Hammond in his motive to see greater debate on this very important topic and, while we should commend the efforts that have been made by a lot of schools, there is further work to be done.

Mr CAICA (Colton): I believe it is quite appropriate that I hear this angelic music in the background as you enter the chamber, Mr Speaker. It is very fitting, the choir of angels. I commend the member for Hammond for the motion he has brought before the house, despite the fact that, with the greatest respect, I think it is extremely narrow in that it focuses purely on tuckshops. I thank the member for Hammond with respect to his idea about vendors and his explanation about what constitutes a vendor. I do not know how often the member for Hammond has attended school council meetings in recent times, but I have very good relationship with my schools, and I attend all school council meetings as often as I can.

The Hon. I.P. Lewis interjecting:

Mr CAICA: That is a fantastic and outstanding achievement by the member for Hammond. I do not know how many times I have been to school council meetings this year, but I am sure that it is equal to that number. The meetings have standing agenda items, such as finance, grounds, out-of-school care and, indeed, the canteen. From my attendance at school council meetings, I have seen the determination and focus of the council, in consultation with the canteen manager, on nutrition and healthy eating. I do not think that the greatest problem exists necessarily with the quality of the food available at school canteen tuckshops. The particular focus of the various school councils I attend is nutrition and healthy eating.

If we look at some of the comments made by other speakers, you, sir, talked about all the other issues associated with the problem that everyone acknowledges exists in Australia today—that is, childhood obesity. There are many reasons why the problem exists, one of which may be, to a certain extent, the food available in school canteens, but it is not the sole cause of obesity. I have friends—young mums and dads and grandparents—who say, 'The child can eat what he wants. It's only puppy fat.' It is almost a state of denial. We knowingly allow children to eat food they should not eat at any point in time. With the greatest respect, I think that it is a more complex problem than the narrow focus of this motion. However, I commend the member for Hammond for raising the issue, as it has allowed a debate to occur. It is not something that we will necessarily be able to conclude in this term of parliament, but it is something that is going to be raised in the next term of parliament, as a result of the fact that it has been raised on this occasion. So, for that reason alone, I do commend the member for Hammond.

The member for Reynell talked about the evidence she has gleaned from the information she has read and digested, namely, that only 10 per cent of children eat or access food available from canteens, which is a very small amount of the population of school children, taking into account that there are only 38 or 40 weeks of school a year and that 10 per cent of children might eat food five days a week from the canteen. If we assume that that food is not nutritious and contributes to obesity, we would say that there is still their breakfast and their dinner and that the food from the canteen is still a very small amount of the food they consume during their day. So I would be saying that it is what we do outside school—namely, the education, information and support we receive outside school, complemented by what we learn at school—that will have the greatest effect on the eating habits of our children. I look at James, my son, who will soon be 18, and, of course, I am very biased. He is a beautiful young lad, but I do remember—

Mr Koutsantonis: He certainly is.

Mr CAICA: He is a good lad. I remember his reception/year 1. Annabel and I would pack a lunchbox, and in that lunchbox would be an apple, and he would return with that apple most—

An honourable member interjecting:

Mr CAICA: Amongst other good food. We fed him up well before he went to school. But he would often return with that apple.

Members interjecting:

Mr CAICA: The point I am going to try to make, without the interjections, is that it took his reception/year 1 teacher, who was a lovely lady, to say, 'James, apples are good. This is good food,' and she sat down with him, cut up the apple and he ate it. Ever since he has been eating an apple. This is despite the fact that prior to that time I would encourage him to eat it. I would say, 'Try it, mate, try it.' So it was the

teacher. So what I am saying is that an enormous amount of support needs to come from elsewhere, the majority of which might well come from school, and it needs to be complemented by the range of foods available in the tuckshop and the school canteen. It needs to be nutritious and it needs to be healthy. However, a whole lot of other factors impinge upon and support healthy eating.

The Hon. I.P. Lewis: That is paragraph (d).

Mr CAICA: Yes; paragraph (d) provides:

(d) consider any other general public health, welfare and other benefits that may well result for the wider community from the adoption of the Committee's recommendations.

The fact is that we do not know what the committee's recommendations will be.

Debate adjourned.

ASHBOURNE, CLARKE AND ATKINSON INQUIRY

The SPEAKER: Before calling on government business, following things that happened in the chamber earlier today, I will quote from McGee New Zealand Practice as follows:

Members cannot evade the rule against using unparliamentary language by quoting from someone else's statement. If the words in the statement would have been ruled unparliamentary had they been used in the House, the statement may not be quoted. Any quotation must be as free from unparliamentary language as the member's own speech.

McGee reinforces what is in our standing orders as follows:

The Standing Orders specifically prohibit imputations of improper motives, unbecoming references to a member's private affairs and all personal reflections. Imputations of improper motives cover allegations of any form of corruption. Members have a duty to expose anything in the nature of bribery or corruption on the part of other members, but they must not do this by making veiled suggestions in the course of debate. Such allegations must be brought forward by giving notice of motion charging the member unequivocally with impropriety. Everything must be out in the open in the same way as must an attack on a judge, if such charges are to be bandied about in the House.

They are direct quotes from McGee, who is one of the authorities on parliamentary practice.

Mrs REDMOND: On a point of clarification, Mr Speaker: your comment appears to suggest that imputations—and I understand the standing order against imputations—can be equated with unparliamentary language, which I have always understood to be a separate standing order, that one must not use unparliamentary language and that it is a very separate thing to the rule about imputations. Your ruling appears to be saying that they are one and the same thing. Could you please confirm whether my understanding of your ruling is correct?

The SPEAKER: That means unparliamentary language in the broadest sense. The point the chair is trying to make is that you cannot quote something that in itself is unparliamentary in the expectation that it will be accepted as within the standing orders and the practices of the house. If it is unparliamentary, it is unparliamentary whether it is in someone else's statement, even though you might be reading it as a member to the house.

Mrs REDMOND: Sir, with respect, I just want to be very clear about this because it is clearly a reference to the matter that I tried to grieve on this afternoon. My understanding of what you read from the New Zealand practice—and if you would not mind reading that again, I would like to listen to it again—is that it talks specifically about unparliamentary language which is a different standing order to imputations against members or reflections on members.

The SPEAKER: There are two elements in this. One is that you cannot use someone else's statement to say what you perhaps would like to say but would normally be regarded as unparliamentary. It is unparliamentary, whether it is someone else's statement you are quoting or whether it is originated by the member. The other point is that if a member has an allegation of any form of corruption or improper behaviour, then that must be done by way of substantive motion on which the house must vote. It cannot be simply by way of a comment or debate as part of grievance or any other mechanism.

Mrs REDMOND: I ask you to read again specifically what the New Zealand authority says.

The SPEAKER: It will be well and truly recorded in *Hansard*, which will be available in a few minutes. I think the member could read that.

Mr WILLIAMS: I seek a further point of clarification on what you have just brought to the attention of the house.

Mr Caica: Say it slowly, Mr Speaker, next time.

The SPEAKER: The member for Colton is out of order and out of his seat.

Mr WILLIAMS: He is out of his seat and I think that he is reflecting on the chair, to be quite honest.

Members interjecting:

The SPEAKER: The member for MacKillop has the call.

Mr WILLIAMS: I took, from what you said, that it is disorderly for any member to impugn improper motive on another member of the house. Earlier this week, I raised a matter with you, Mr Speaker, when the minister for education was answering a question. The matter I raised was that every time—week after week, day after day—the minister for education stands in this house and impugns improper motive on the questioner. It has happened time and time again, and I raised it with you. It seems curious to me that you raised this issue with us tonight when I raised that very matter with you several days ago and did not get a response anywhere near like what we have heard this evening.

The SPEAKER: The chair did respond and said that what the minister for education was doing was very close to being out of order because, whilst the minister said something like 'I can't take a question from a member at face value', which does suggest or imply that the member may not be putting forward something in a bold, honest way, it is a borderline comment. However, it is something that the minister should not persist in doing because it does, even in a very minor way, reflect on a member asking a question because it suggests that the member is not being fully frank and honest about the question being asked or the information given. In the absence of evidence to the contrary, members should not judge other members and, if they feel that it is improper or misleading, then they should do it by way of substantive motion. If you check the *Hansard*, you will see that the chair did make comment about it at the time. It may not have been as robust as the member for MacKillop might have expected but, nevertheless, it made the point that it was very much on the edge of being unacceptable but it may not have been the gravest infringement.

Mr WILLIAMS: The opposition appreciates what you have done this evening, because the opposition has been somewhat confused in recent times about what is within and without the bounds of what is parliamentary and unparliamentary. I suggest that it might be proper and worthwhile to convey the information that you have conveyed to the house

this evening to the house at the beginning of question time tomorrow.

The SPEAKER: All members should read *Hansard*. The purpose of having a chair is that many of these things have an element of subjectivity, and it is like the issue of relevance. One person's relevance might be someone else's irrelevance. It is highly subjective, and a chair has to make a judgment as to whether or not it offends the standing orders. Like any umpiring, it is not an easy task to be absolutely impartial, even though the chair wishes to be that way. The member for Hammond.

The Hon. I.P. LEWIS: Separate from the concerns which have been raised in consequence of the remarks which you have made to us, Mr Speaker, may I respectfully inquire as to whether you would give serious consideration, in light of your remarks, to the appropriateness or otherwise of motions 3 and 6 under 'Other Motions' for tomorrow, Thursday 1 December, before they are called on for debate?

The SPEAKER: The chair has made the point before that members, in putting forward motions, must not embody within them a conclusion that it is up to the house to decide for itself. In other words, members should not put forward a motion which prejudges the outcome by making a whole series of allegations. Members put forward a motion which brings the matter to the attention of the house and then it is up to the house to consider the merits or otherwise of the debate and decide accordingly. It is inappropriate for a member to canvass what is maybe just a mere allegation and, at worst, possibly an attempt to smear someone's reputation or impugn their reputation. It is quite inappropriate to do that by putting it in a motion and, therefore, in a sense, providing hurtful arrows that may have no real substance and the house has not considered the evidence for and against.

The chair will follow very closely the motions that are put forward for debate tomorrow, but I trust members will regard themselves as having an honourable role in this house rather than a chance to be hurtful to another member by way of impugning their reputation, and I would trust that members on the last sitting day of the session would not resort to trying to engage in behaviour which is undignified and will bring no credit on themselves or the parliament.

CHILDREN'S PROTECTION (KEEPING THEM SAFE) AMENDMENT BILL

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

No. 1—Clause 1, page 3, line 3—
Delete '*(Keeping Them Safe)*' and substitute:
(Miscellaneous)

No. 2—Clause 5, page 4, line 31—
After 'parents' insert:
and grandparents

No. 3—Clause 5, page 4, line 33—
After 'parents' insert:
, grandparents

No. 4—Clause 5, page 5, lines 7 and 8—
Delete all words in these lines and substitute:
family (including the child's grandparents) and community, to the extent that such relationships can be maintained without serious risk of harm; and

No. 5—Clause 8, page 6, after line 8—
Insert:
(1) Section 8(h)—delete paragraph (h) and substitute:
(h) to provide, or assist in the provision of, services—
(i) to assist children who are under the guardianship or in the custody of the Minister; and
(ii) to assist persons who, as children, have been under the guardianship or in the custody of the Minister, to prepare for transition to adulthood;

No. 6—Clause 8, page 6, after line 12—
Insert:
(3) Section 8—after its present contents as amended by this section (now to be designated as subsection (1)) insert:
(2) The Minister must—
(a) assist in the provision of—
(i) services directed at enhancing the quality of care of children and family life by strengthening and supporting families, and thus preventing or reducing the incidence of child abuse and neglect; and
(ii) support services to children who have been abused or neglected and their families; and
(b) ensure that those support services are offered to children who are known by the Department to have been abused or neglected and their families and that genuine efforts are made to encourage such children and their families to avail themselves of the services.

No. 7—Clause 9, page 7, line 11—
Delete 'Chief Executive' and substitute:
responsible authority for an organisation to which this section applies

No. 8—Clause 9, page 7, line 16—
After parenthesis insert:
in an organisation for which the authority is responsible

No. 9—Clause 9, page 7, line 21—
After parenthesis insert:
in an organisation for which the authority is responsible

No. 10—Clause 9, page 7, line 24—
Delete 'Chief Executive may, at any time, as the Chief Executive' and substitute:
responsible authority for an organisation to which this section applies may, at any time, as the authority

No. 11—Clause 9, page 7, line 30—
After parenthesis insert:
in an organisation for which the authority is responsible

No. 12—Clause 9, page 7, lines 31 to 35—
Delete paragraph (b) and substitute:
(b) carries out, or is to carry out, as an indirect service provider, prescribed functions for an organisation for which the authority is responsible.

No. 13—Clause 9, page 7, line 36—
Delete 'Chief Executive' and substitute:
responsible authority

No. 14—Clause 9, page 7, lines 39 to 43 and page 8, lines 1 to 6—
Delete subsection (4) and substitute:
(4) If a person comes into possession, in the course of relevant employment, of information about the criminal history of another, the person must not disclose the information except as may be required by or authorised under law.
Maximum penalty: $10 000.
(5) The Chief Executive may, at the request of the responsible authority for a non-government organisation to which this section applies, exercise powers of the responsible authority under this section if satisfied that—
(a) the responsible authority has sought, but failed to obtain, the cooperation of a person on whose criminal history (if any) the responsible authority is required or authorised to obtain a report; or
(b) there is some other good reason for doing so.
(6) This section applies to—
(a) government organisations; and
(b) non-government organisations to which its operation is extended by regulation.
(7) The regulations may, however, exempt organisations, persons and positions, or particular classes of organisations, persons and positions, from the application of this section.
(8) In this section—

employment includes the performance of functions as a contractor or sub-contractor, or as a volunteer; and *employer* includes an organisation or person for whom the functions are performed;
government organisation means a government department, agency or instrumentality;
indirect service provider—a person carries out functions for an organisation as an indirect service provider if the person carries out the functions for some other body or person which, in turn, makes the person's services available to the organisation;
managing authority of a non-government organisation, means the board, committee or other body or person in which the management of the organisation is vested;
non-government organisation means an organisation that is not a government organisation and includes a local government organisation;
organisation to which this section applies—see subsection (6);
prescribed functions means—
(a) regular contact with children or working in close proximity to children on a regular basis; or
(b) supervision or management of persons in positions requiring or involving regular contact with children or working in close proximity to children on a regular basis; or
(c) access to records relating to children; or
(d) functions of a type prescribed by regulation;
prescribed position means a position in an organisation to which this section applies that requires or involves prescribed functions;
relevant employment means employment by—
(a) a responsible authority; or
(b) an organisation that prepares a criminal history report for a responsible authority; or
(c) an organisation to which a responsible authority communicates information contained in a criminal history report;
responsible authority means—
(a) for a government organisation—the Chief Executive; or
(b) for a non-government organisation to which this section applies—
(i) the managing authority of the organisation; or
(ii) if the managing authority has delegated its responsibilities under this section to a body approved by regulation for the purposes of this definition—that body.

No. 15—Clause 9, page 8, lines 29 and 30—
Delete paragraph (b) and substitute:
(b) is a government department, agency or instrumentality or a local government or non-government organisation.

No. 16—Clause 10, page 8, after line 37—
Insert:
(2a) Section 11(2)(j)—delete 'non-government agency' and substitute:
non-government organisation

No. 17—New clause, page 9, after clause 10—
Insert:
10A—Substitution of sections 16, 17 and 18
Sections 16, 17 and 18—delete the sections and substitute:
16—Power to remove children from dangerous situations
(1) If an officer believes on reasonable grounds that a child is in a situation of serious danger and that it is necessary to remove the child from that situation in order to protect the child from harm (or further harm), the officer may remove the child from any premises or place, using such force (including breaking into premises) as is reasonably necessary for the purpose.
(2) An officer's powers under this section are subject to the following limitations:
(a) a police officer below the rank of inspector may only remove a child from a situation of danger with the prior approval of a police officer of or above the rank of inspector unless he or she believes on reasonable grounds that the delay involved in seeking such an approval would prejudice the child's safety;
(b) an employee of the Department may only remove a child from the custody of a guardian with the Chief Executive's prior approval.
(3) An officer who removes a child under this section must, if possible, return the child to the child's home unless—
(a) the child is a child who is under the guardianship, or in the custody, of the Minister; or
(b) the officer is of opinion that it would not be in the best interests of the child to return home.
(4) If an officer removes a child under this section, and the child is not returned to the child's home under subsection (3), the officer must deliver the child into the care of such person as the Chief Executive, or the Chief Executive's nominee, directs.
(5) If the Minister does not already have custody of a child who is removed from a situation of danger under this section, the Minister has custody of the child until—
(a) the end of the working day following the day on which the child was removed; or
(b) the child's return home,
(whichever is the earlier).

No. 18—New clause, after clause 10—
Insert:
10B—Amendment of section 19—Investigations
Section 19(1)—delete subsection (1) and substitute:
(1) If the Chief Executive—
(a) suspects on reasonable grounds that a child is at risk; and
(b) believes that the matters causing the child to be at risk are not being adequately addressed,
the Chief Executive must cause an investigation into the circumstances of the child to be carried out or must effect an alternative response which more appropriately addresses the risk to the child.

No. 19—New clause, after clause 10—
Insert:
10C—Amendment of section 20—Application for order
Section 20—after its present contents (now to be designated as subsection (1)) insert:
(2) If the Chief Executive suspects on reasonable grounds that a child is at risk as a result of the abuse of an illicit drug by a parent, guardian or other person, the Chief Executive must apply for an order under this Division directing the parent, guardian or other person to undergo a drug assessment (unless the Chief Executive is satisfied that an appropriate drug assessment of the parent, guardian or other person has already occurred, or is to occur, and that a report of the assessment has been, or will be, furnished to the Chief Executive).

No. 20—Clause 11, page 9, line 10—
After 'authorising' insert:
or directing

No. 21—Clause 11, page 9, after line 13—
Insert:
Example—
Such an order could, for example, direct a parent, guardian or other person to undergo a drug assessment.

No. 22—New clause, after clause 11—
Insert:
11A—Amendment of section 37—Application for care and protection order
Section 37—after subsection (1) insert:
(1a) If the Minister is of the opinion that a child is at risk as a result of the abuse of an illicit drug by a parent, guardian or other person who has the care of the child, the Minister must apply to the Youth Court for an order under this Division requiring the parent,

guardian or other person to enter into a written undertaking for a specified period (not exceeding 12 months)—

(a) to undergo treatment for the drug abuse; and

(b) to submit to periodic testing for drug use; and

(c) to authorise the release of information regarding the treatment, and the results of the tests, to the Chief Executive,

(unless the Minister is satisfied that the parent, guardian or other person is undergoing, or is to undergo, such treatment, is submitting, or is to submit, to such testing and has authorised the release of such information and the results of such testing to the Chief Executive).

No. 23—Clause 12, page 9, after line 16—

Insert:

(a1) Section 38(1)(a)—delete 'any guardian of the child' and substitute:

a parent, guardian or other person who has the care of the child

(b1) Section 38(1)—after paragraph (a) insert:

Example—

A parent, guardian or other person could, for example, be required to enter into an undertaking to undergo treatment for drug abuse, to submit to periodic testing for drug use and to authorise the release of information regarding such treatment, and the results of such testing, to the Chief Executive.

No. 24—Clause 14, page 10, after line 17—

Insert:

(2a) Subject to this section, the Guardian holds office for the term (not exceeding 5 years) stated in the instrument of appointment and is then eligible for re-appointment.

(2b) The office of the Guardian becomes vacant if the Guardian—

(a) dies; or

(b) completes a term of office and is not re-appointed; or

(c) resigns by notice of resignation given to the Minister; or

(d) is convicted either within or outside the State of an indictable offence or an offence carrying a maximum penalty of imprisonment for 12 months or more; or

(e) is removed from office by the Governor under subsection (2c).

(2c) The Governor may remove the Guardian from office for—

(a) breach of, or non-compliance with, a condition of appointment; or

(b) failure to disclose a personal or pecuniary interest of which the Guardian is aware that may conflict with the Guardian's duties of office; or

(c) neglect of duty; or

(d) mental or physical incapacity to carry out duties of office satisfactorily; or

(e) dishonourable conduct; or

(f) any other reason considered sufficient by the Minister.

No. 25—Clause 14, page 10, after line 24—

Insert:

(ab) preventing or restricting the Guardian from communicating with any body or person; or

No. 26—Clause 14, page 11, lines 19 and 20—

Delete 'suffer from disabilities' and substitute:

have a physical, psychological or intellectual disability

No. 27—Clause 14, page 11, line 36—

Delete '12' and substitute:

6

No. 28—Clause 14, page 11, line 37—

Delete 'under subsection (2)' and substitute:

from the Guardian

No. 29—Clause 14, page 12, line 5—

Delete 'up to' and substitute:

not less than 5 and not more than

No. 30—Clause 14, page 15, line 10—

Delete '12' and substitute:

6

No. 31—Clause 14, page 18, line 28—

After 'injury,' insert:

under the guardianship, or in the custody, of the Minister or was

No. 32—Clause 14, page 20, line 2—

delete 'or relative' and substitute:

, relative or foster parent (within the meaning of the *Family and Community Services Act 1972*)

No. 33—Clause 14, page 20, line 31—

Delete '12' and substitute:

6

No. 34—Schedule 2, page 22, items referring to sections 16, 17 and 18—

Delete these items

Consideration in committee.

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

That the Legislative Council amendments Nos 1 to 17 be agreed to.

The Hon. I.P. LEWIS: It would please me no less, and I am sure many honourable members, if they knew what it was that was contained in the substance of the proposition moved by the minister so that we can better inform ourselves of the consequence of the proposition the minister has put. I therefore invite him, in the absence of that material, to explain in detail what it is that he has moved in terms of its effect on changes to the law as it stands—not the bill, but changes to the law.

The ACTING CHAIRMAN (Mr Koutsantonis): A motion was just passed by the house to consider the amendments forthwith, which the member for Hammond supported.

The Hon. I.P. LEWIS: I do not quarrel with that decision.

The ACTING CHAIRMAN: I understand. They have been circulated and the debate in *Hansard* has been circulated with the reds being available in the house, but I will give the minister an opportunity, if he wishes, to go into some detail about the amendments.

The Hon. J.W. WEATHERILL: Amendment No. 1 was to change the name of the bill to 'miscellaneous', a churlish amendment to seek to deprive us of the capacity to call it 'Keeping Them Safe' but, as is the wont of the upper house, they are all for churlish amendments and we were happy to allow them to move such a thing. Items 2 to 4 included—

Mrs REDMOND: I have a point of order, Mr Acting Chairman. The minister just referred to the amendments from the upper house as being churlish. Does that come within the ambit of the impugning of motive?

The ACTING CHAIRMAN: It does not come under the ambit of reflecting on the vote of another place. There is no point of order. The member will take her seat. Is there a further point of order?

Mrs REDMOND: Yes, I have not finished making my point of order, and it was not about—

The ACTING CHAIRMAN: Well, what number?

Mrs REDMOND: It was impugning motive in terms of the Speaker's ruling when he came into this place at 7.30.

The ACTING CHAIRMAN: He referred to the amendments. The minister is entitled to make comments on the amendments. The member for Hammond asked the minister's opinion of the amendments and, while the minister gives his opinion—

The Hon. I.P. LEWIS: With great respect, not wishing to in any sense cause a misunderstanding, my inquiry was in order that the minister would explain for me, and perhaps the benefit of other interested honourable members, what each of the amendments means rather than what necessarily his opinion might be.

I will not cavil from hearing his opinion of them—that will help me also—but I do not want him to do that in any way which would cause quarrels to arise between the chambers.

The Hon. J.W. WEATHERILL: Don't worry, we already have a quarrel; don't worry about that. First, the changing of the bill to '(Miscellaneous)' to remove the '(Keeping Them Safe)', which happened to be the name of our well-received policy. Nevertheless, they have chosen to do that and, reluctantly, we have agreed to that amendment. It includes grandparents when referring to family. We had some initial concerns about having grandparents referred to specifically, as it provides a special preference for them over other relatives; and that is especially important in the Aboriginal context. Nevertheless, in order to try to reach an agreement we were happy to include grandparents with that caveat.

The minister's function in clause 5 was to mention specifically assisting children under the guardianship or custody of the minister. We thought that went without saying and we were content to agree to that amendment. We have accepted amendment No. 6, which provides that the minister's function is to assist families and prevent child abuse and neglect and to ensure support services are offered to children who are abused and neglected and to their families; we have accepted that amendment. Amendments Nos 7 to 16 were a number of sections concerning the powers for criminal history checks for non-teaching staff in independent schools. This amendment was developed in consultation with our department, the Association of Independent Schools of SA and the Catholic Education Office. This was a government amendment we proposed in the upper house. Amendment No. 17 strengthens the powers to remove children from dangerous situations, as requested by Commissioner Mullighan. There was seen to be a gap in the legislation in relation to guardianship children.

The ACTING CHAIRMAN: I will put those amendments. All those in favour say aye.

The Hon. I.P. LEWIS: May I, Mr Chairman, ask—

The ACTING CHAIRMAN: I ask the member for Hammond to get to his feet faster next time, before I move them, but go ahead.

The Hon. I.P. LEWIS: You are very alert and your response time is much sharper than mine.

The ACTING CHAIRMAN: I am younger.

The Hon. I.P. LEWIS: Parliament is a broad church, and I know that you are a tolerant man and you will forgive me.

The ACTING CHAIRMAN: I do.

The Hon. I.P. LEWIS: Be it a consequence of my age or any other thing that delays me in responding in a manner which, in the twinkle of an eye you would, I am sure, be otherwise able. May I ask the minister to address what the consequence for the changes in Nos 18 and 19 will be to the existing law? Are they matters currently before the chair?

The ACTING CHAIRMAN: No, they are not; we are doing Nos 1 to 17.

Motion carried.

Amendment No. 18:

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

That the House of Assembly disagree with amendment No. 18 made by the Legislative Council and make the following alternative amendment:

New clause, after clause 10—

Insert:

10B—Amendment of section 19—Investigations.

Section 19(1)—delete subsection (1) and substitute:

(1) If the Chief Executive—

(a) suspects on reasonable grounds that a child is at risk; and

(b) believes that the matters causing the child to be at risk are not being adequately addressed; and

(c) believes that an investigation is the most appropriate response

the Chief Executive must cause an investigation into the circumstances of the child to be carried out.

I will give a brief history of this clause in its passage through both houses. The present clause provides that the chief executive 'may' investigate a notification in relation to child abuse. An amendment was proposed in this house to provide that the chief executive 'must' investigate such a notification. In the upper house, the present amendment No. 18 has been inserted, which provides an important difference. At least in the first two respects it is identical. It does not include our paragraph (c); so it does not include the words 'believes that an investigation is the most appropriate response'. It includes a further gloss in that the chief executive 'must cause an investigation into the circumstances of a child' or must effect an alternative response which more appropriately addresses the risk to the child.

I need to make a few general points about this clause which I ask to be taken into account in relation to both this amendment and amendments Nos 19 and 37. They are fundamental to the way in which our child protection system operates or does not operate at present. The first thing to understand is that child abuse is a very broad concept. It covers everything from neglect through to sexual abuse and the most heinous criminal assaults on children. This provision applies equally to notifications at either end of the spectrum. The truth is that about 60 per cent of the notifications concern those matters which could be categorised as neglect. We also know that, common with every similar jurisdiction in the world, there has been a dramatic and explosive increase in the number of notifications to child protection systems; for those systems that have, like us, intake services where notifications are collected centrally.

One of the important changes made in the 1970s across most jurisdictions was to include the notion of mandatory notification of child abuse applications—child abuse notifications—in our system. That has led to an increase in those notifications. What has occurred also (and, indeed, what is contemplated in the bill, which is accepted by all parties) is that there should be a further expansion in the categories of those people who are mandatory notifiers. If one adds up all the people who are mandatory notifiers and all the people who are voluntary notifiers, what we have is a very low threshold for notification for child abuse, and some of the abuse can be at a particularly low level. There is an opportunity to make a notification about concerns within a family for a range of reasons.

They could be poverty, drug abuse, domestic violence, mental illness or intellectual incapacity—a plethora of issues that have the capacity to lead to the abuse of children, and, as I say, from the very lowest level to the very highest level. In a very real sense, our child protection agencies have now been put into a paradigm for which, perhaps, they were not necessarily initially designed, namely, the investigation and removal of children from circumstances where they are at real risk of harm.

What we have seen in most jurisdictions is a dramatic explosion in the notifications; and child protection agencies, in attempting to perform their statutory function, are drowning under the weight of these notifications. It is absolutely critical that the child protection agency has a very clear

understanding of its core task, that is, to focus on the most serious cases of real risk of harm to children. Bearing in mind the very low level of threshold for notification and the very high level of threshold that is required for intervention and the removal of a child from a dangerous situation (because, bear in mind, we must satisfy a court that it is an appropriate thing to do to remove a child from a dangerous situation), a massive area exists between the notifications and those cases where we take those important statutory steps to keep children safe with which we must deal as a community.

My only point (and it is the point I have made from day one with this system) is that we do not make all that the responsibility of the child protection agency. That is a responsibility for the whole of government and, indeed, the whole of community. It is critical that, in that area where families get into trouble for a range of reasons (many reasons which are beyond even the control of state governments), it is critical that we make partnerships with as many people as possible to solve those dysfunctions within those families.

We reserve the statutory child protection response for those cases where children are at real risk of harm. If we do not do that, we will end up with the New South Wales system where it simply cannot find the needle in the haystack, and we will have young children with 200 child protection notifications choking on their own vomit in the bed of their drug-taking mother who has been associated with the system for so many years that the child protection agency is so swamped with notifications that it cannot understand the difference between that and someone who has been running around with their shoes off and creating a concern for the neighbours.

You cannot trigger an investigatory response with every one of the child protection notifications. Even if you are triggering a response that requires us only to consider that a matter is being adequately addressed, we will have to monitor those situations—even when they are in the province of another organisation. It is absolutely crucial that we understand that a critical role is to be played not only by the general community but also by non-government organisations, health departments, schools and the police.

Everyone in the community must play their proper role. If we squeeze all this and drop it at the door of the child protection agency, it will become so clogged it will be unable to perform its statutory charter. That is the fundamental reason why I disagree with these amendments. We have all the powers to investigate, we have all the powers to drug test and we have all the powers to require people to undergo treatment but, for God's sake, leave us with the discretion about when we do it.

What will happen is that you will overburden the system to such an extent that you will make it unworkable. I think that the most frightening thing about these amendments is that we had a year-long Layton inquiry before which everyone in this community had their opportunity to put their point of view, and just about everyone did. It was a very extensive inquiry. It received hundreds of submissions. It was chaired by an eminent jurist—the first woman in the world to sit on an independent body of experts for the United Nations, and now a judge of the South Australian Supreme Court.

She considered all this material, heard all these points of view and specifically rejected the notion of minimising the discretion in relation to the investigatory process. Also, she specifically rejected the notion of universal mandatory treatment regimes. What I find difficult about the other house is that some well-meaning people come in at the end of the process—and, in a number of cases, not even making a submission to the Layton inquiry—and tack on these things as self-professed experts on child protection after a moment's consideration of these issues.

There are massive unintended consequences. On the face of them they appear to be reasonable amendments. There are massive unintended consequences as a result of these amendments, and the government simply cannot support them. What I find most galling about this is that, if they feel so strongly about those things (and I do not doubt that the members in the other house who have moved these amendments have strong views about these matters) and they believe that they should go forward, why were they not promoted as separate items so that this bill can go forward? Everyone agrees with 99 per cent of this bill, but they opportunistically attach their own hobbyhorse—

Ms CHAPMAN: I rise on a point of order, sir. Clearly, the minister is reflecting on members of another house and their contributions to this debate. He is clearly doing so. He has made critical comment in relation to their motive and to their latent involvement, allegedly, in relation to consideration of this matter. Mr Chairman, I ask you to bring the minister into order in relation to that.

The Hon. J.W. WEATHERILL: I remove the word 'opportunistic'. There is a—

Ms Chapman interjecting:

The Hon. J.W. WEATHERILL: I have withdrawn. I removed the word 'opportunistic'. I withdraw that.

Ms CHAPMAN: On a point of order, sir: I wait for your consideration on the matter. It is clearly not just a question of the use of the word 'opportunistic'. The minister has made a number of statements reflecting on members of another house, in a matter which relates to their alleged latent involvement, for example, in relation to the debate on this matter, criticising their failure to make a contribution, etc.

The ACTING CHAIRMAN: Member for Bragg, I understand. I do not uphold the point of order because the minister is simply arguing the merits of the amendment, which he is completely entitled to do. He is entitled to talk about the unintended consequences and, from my recollection, he called members in the upper house 'well-meaning' and he withdrew the part that I found offensive, so I think we should continue.

The Hon. J.W. WEATHERILL: This is a very important bill, a bill that many of us here ought to be proud of, and to be associated with the parliament in passing. If this parliament is to be marked by anything, it has been all of us attempting to grapple with the question of child abuse. Three weeks after we came into office, we commissioned an inquiry into child abuse. Not that we agreed with his approach, but the member for Hammond has made questions of child abuse an important feature of his contributions to this house. It has been an ongoing and critical feature of the work of this house, week after week in every session that I can recall since coming here. We have a report which cost an extraordinary sum of money—I think it was over $1 million—to prepare. It was a very thorough exercise with 206 recommendations, many of which have now been incorporated into this bill, and all of that work is at risk because some amendments have been placed into this bill that were not even canvassed—or to the extent that they were canvassed, they were rejected—by the Layton review.

I am flabbergasted, and I hope that, if these amendments are passed, the upper house may reflect on its position. All

I can suggest is that it would be a very sad state of affairs if this bill were to be jeopardised by the insistence on some provisions, which do no more than repeat the very powers that we ourselves have incorporated into this bill, that is, the power to investigate, the power to require a drug assessment, and the power to require drug treatment. All are government initiatives, but the amendments of the upper house seek to rob us of the capacity to use our judgment about when we do that. I will not go into detail but there are massive costs associated with engaging with families in a way which can be counterproductive to the outcome that we are seeking to achieve, that is, to strengthen the families, and to protect the children within those families. Failed interventions in these families using coercive measures—when, at the very least, we should attempt voluntary measures first—are likely to be counterproductive.

To demonstrate the extent to which these amendments are ill thought through, the whole question of, for instance, drug testing, has not even been considered as to its practicality. I am reliably advised that, in the Family Court, when parents are requested to undertake drug testing, or ordered to take drug testing, such is the dearth of medical professionals available to conduct those drug tests, that there are extraordinarily long waiting lists. The effect of this amendment would be to knock off a voluntary—

An honourable member interjecting:

The Hon. J.W. WEATHERILL: I know, but it demonstrates the lack of attention that was given to these amendments regarding the practicalities. These are things that would have been unearthed in the Layton review if these points had been made, but because these things have been promoted at the eleventh hour, the practicalities of these amendments and how they would operate have not been considered. Take, for instance, the drug test and the fact that voluntary people would be knocked off the list to test people who are court ordered, and we know the prospects of success in relation to rehabilitation for unwilling participants in those rehabilitation programs. I hope the upper house is prepared to leave us with the discretion. I have proposed an amendment which qualifies my discretion, so, in a sense, we have acknowledged some of the points. I have tried to bend over backwards to reach a compromise to accommodate the upper house.

Mrs REDMOND: I remind the house how this came about, and I indicate that the opposition supports the amendment in the form proposed by the upper house, and does not support the amendment proposed by the minister. My recollection of the second reading debate, and then the consideration in committee of this bill, is that the member for Mitchell moved an amendment in this chamber about what appears currently as section 19(1), which states that if the chief executive officer suspects on reasonable grounds that a child is at risk, the chief executive officer may cause an investigation into the circumstances of the child to be carried out. The member for Mitchell moved an amendment, which we supported, saying instead of 'may cause an investigation to be carried out' surely if the chief executive officer suspects on reasonable grounds that a child is at risk, he must cause an investigation to be carried out.

The amendment now before us, put up by the upper house, comes to a reasonable compromise. It provides that, first, the chief executive officer must suspect on reasonable grounds that a child is at risk. I agree with much of what the minister said about the number and level of notifications, and there is a very low threshold and, indeed, a lot of the effect of this bill will be that by increasing the number of people who become mandated to report suspicion, and knowing that people these days are very concerned with covering their backsides, we are going to end up with an enormous increase in the number of people who are notifying because they feel that they are at risk if they do not notify, even on the flimsiest suspicion.

So we are going to have a needle in a haystack in terms of identifying real problems. But that is not what this clause talks about. This clause is about the chief executive officer suspecting, on reasonable grounds, that a child is at risk. There can be plenty of notifications where the child is not, in fact, at risk. But if the chief executive officer gets to the point of believing that the child is at risk and that the matters causing the child to be at risk are not being adequately addressed, then the chief executive officer has to do something. The chief executive officer must cause an investigation to be carried out, or must effect an alternative response which more appropriately addresses the risk to the child.

A number of things have been put up by the minister in the course of this matter proceeding from here to the other place and through the various discussions we have had. The department seems concerned to maintain their discretion, and whilst I have no difficulty with there being a level of discretion it seems to me quite reasonable to be saying as legislators that if a child is at risk and there are reasonable grounds to suspect that that is the case, and that the matters causing that risk are not being adequately addressed, then at the very least the department has to do something.

It is very broad in terms of what this clause says it should be doing. They must cause an investigation to be carried out. It does not, in any way, define what is meant by 'investigation'. There is no definition in the legislation and nor is it proposed that there be a definition put into the legislation. An investigation could be simply a paperwork investigation, or anything from that to a full-on investigation in a most comprehensive sense, with people from the department visiting the family on numerous occasions and reporting back—it could take that approach. Then to make it so it still leaves further discretion, there is an alternative. Even if the executive, having decided, yes, there is a child at risk and the matters causing the risk are not being adequately addressed, the chief executive officer does not even have to go down the path of this broad discretion of the investigation, but has the discretion to then choose some alternative response which more appropriately addresses the risk to the child.

I know, from talking to the mover of that amendment, that her view, and mine, is that the alternative response could be as broad as simply making sure that the organisation which currently has the contact with that child feels that it has got the matter under control and it is aware of what is going on. It does not suggest that there has to be an actual intervention by the chief executive, or by the delegate of the chief executive pursuant to this clause. It seems to me that it is simply unreasonable of the minister to say that what is being proposed, in its present form, is not a suitable alternative. It does not require every matter to be investigated unless there are grounds to suspect that the child is at risk and that the risk is not being adequately addressed. Then there is a whole range of discretionary things that the chief executive can do in response to that. For those reasons, without wishing to hold the house on this matter, clearly we still support the clause in its original form and do not support the amendment proposed by the minister.

Mr HANNA: I thank the member for Heysen for acknowledging the amendment that I moved in this place. The Hon. Kate Reynolds has moved an amendment which is

substantially directed at the same goal. Our concerns arise out of the fact that there are probably thousands of neglected children in the streets and homes of Adelaide, as we speak, who are not the subject of adequate investigation by the minister's department.

The Rann Labor government is not adequately addressing this problem of child neglect and child abuse. There have been a few fancy moves on behalf of the government and some really substantial things, like setting up the Mullighan inquiry. They were pushed into that and there has been a good result so far. But the fact is that there are young people in my electorate who are at risk, or who have been at risk, and I have publicly referred to some of them without identifying the young people concerned. We have 12-year-olds regularly breaking into homes to get money for drugs, running away from home repeatedly; we have 15-year-olds who are pregnant to 20-year-old drug dealers with whom they live, being involved in all sorts of criminal acts. These are just examples I know of from my own local community. I know from others that this is happening right across Adelaide.

It is because of the critical lack of action on the part of the minister's department that the rest of us in parliament are saying that something needs to be done. The simplest way to do it is to say that where someone in the department knows that a child is at risk, knows that the problem is not being addressed, then that needs to be investigated and it should be mandated in the legislation.

If I can characterise the minister's argument, he seems to be saying that we simply do not have the resources—in other words, do not have the money—to address the suffering of children on our streets and in our homes. To me that is a repugnant argument. It seems to me that our priorities are all the wrong way around if we cannot spend the money to make sure these claims of abuse—because that is what it boils down to—are not being investigated. The resources simply have to be put in to allow that to happen.

As far as the Layton report is concerned, there are many concerns raised in that report that have not been the subject of action by the government. I was one of the people who made a submission to the Layton report, so I hope that is not going to be held against me. Basically it comes down to this: the minister's amendment is a fancy way of saying we should return to the current situation, where it is an option for child abuse cases to be fully investigated. The rest of us, I hope, are saying that it should be compulsory.

As a footnote, this is one of those moments when I am glad I am no longer with the Labor Party, because I would not want to be bound by party rules to vote for legislation which says it is an option whether or not to investigate cases of child neglect and abuse.

The ACTING CHAIRMAN: Member for Hammond. I was paying attention this time, member for Hammond.

The Hon. I.P. LEWIS: I appreciate your superior powers of observation and thank you for your indulgence of my slower than average responses, as measured against your more athletic self, Mr Acting Chairman. The minister has attractive turns of phrase and argument in support of his proposal circulated now to the house, in which he has pointed out that the government wants it to read that if the chief executive officer suspects that the child is at risk and believes that matters causing the child to be at risk are not being adequately addressed, and then goes on to say, 'believes'—and this is the appropriate word—'believes that an investigation is the most appropriate response': if the CEO does not believe and does not want to believe that it is the most appropriate response, then it does not matter. If they believe it, then the chief executive officer must cause an investigation into the circumstances of the child to be carried out.

What it means is that the CEO, however you want to describe the person at the head of the administrative agency, to live within their budget will have to come to conclusions and beliefs that they would not otherwise have come to. The ministers said 'for God's sake,' and I would add that also for the children's sake we must investigate those things. I have some sympathy for the desire of the minister to put a cap on the expenditure. We do not want the mess there is in New South Wales. However, what I want to say to the minister are the same sorts of things that I was saying to people in this parliament in general, in this house in particular, and to officers of the department prior to the last election, before the minister left the practice of the law and became a member of this place, which he did at the last election.

I was saying that this is an example of the commonwealth cost shifting. It has created the problem and it fails to address it. The problem arose way back in my parliamentary career in my observations of society. Indeed, it predates that. When the ill-advised Murphy laws changing family relationships were introduced, they were overly driven by radical feminists rather than realists. They preached the gospel of political correctness, and what is happening now is not just that but also compounded by the fact that the wet ninnies of our society have said that it is okay to take cannabis and other drugs socially, which is an absolute nonsense. What has happened is that we have the condition that the minister referred to in his remarks about drug abuse and the necessity to test the parents, carers or people associated with the children who are causing this problem, and they are bloody well paranoid in consequence of overindulgence in tetrahydrocannabinol.

That is where the root causes come from. They believe themselves justified in doing what they are doing and blame everyone else. Their relationship with their spouse has broken down, the marriage has been dissolved, so they set out to blame the other party, and the court until recent time has, more often than not, accepted the word of the mother, in spite of the fact that there is no evidence or not having bothered to test that evidence. It comes from the simple fact that the Family Court allows perjury. People can go in there and lie and get away with it. They can destroy the reputation of honourable and honest citizens who may have been their partners or folk associated with them. That is what has caused this problem, and they now use the children as pawns.

The child's life is the poorer in consequence of the parents' or carers' self-indulgence in drugs, and then the blame, and the lies they tell of their partner to cover it up. This is the backlash against political correctness and the stupidity of the practices of the Family Court and the inappropriateness of the early legislation. This is the backlash and we now have to wear it. They are the grapes of wrath, because it was not fair ever to allow perjury to occur in any of our courts. It has had horrible consequences for the children of those relationships, since the party that appears able to lie the best is the one who wins in this lying match, and the sooner the minister and, more particularly, the Attorney-General—and I do not care whether it is Labor or Liberal in the states—goes to the commonwealth and tells them to fix this mess and stop shifting the cost for their incompetence with the laws that they have, the better off all children will be and the greater will be their chances of

success in their respective futures than is the case at the present time.

The minister properly drew attention to the fact that there is not only mandatory reporting but also a whole lot of voluntary reporters and notifiers, and those voluntary reporters and notifiers are often improperly conspiring with the elements in the Family Court that seek out of vengeance or, if you like, some other malicious intent on the part of one party against the other party in the partnership to use the children as pawns. That is the horrible thing, and I crave the minister's attention to that point. I commend him for the stated insight that I have heard him deliver tonight, and this is a new dimension to the debate that was not part of our second reading and committee stages.

I commend the member for Mitchell for his submissions to the Layton inquiry which, regrettably, arose, I am quite sure, out of my very strong statements, albeit as an Independent in the previous parliament, to various bureaucrats and other people in agencies of the commonwealth, especially, although not only and exclusively, about the need to address those matters. So, I congratulate the member for Mitchell, and I excuse myself as Speaker. I did not want to impute improper motives least of all, or impugn the current government since, after all, I had said I would enable that government to form government. I wanted all these matters to be clearly laid out in a way that was beyond political contention; hence my call in May and June 2002 for a royal commission into these matters—not just the practices within the agencies, or the abuses that had gone on in government and private institutions by people who were paedophiles and people who behaved inappropriately in schools with inappropriate punishment regimes, and so on—but all the matters now canvassed in these amendments.

The contention arises between our house and the other place over which is the more desirable, because we are shifting the costs away from the commonwealth into the pockets of the states by allowing the malpractice of the Family Court to produce it, and the kind of culture that has grown up over the last 20-odd years, not just amongst the lawyers who practise in the Family Court but more especially the people who want to manipulate it for their own ill-gotten and, more particularly, narrow politically correct motives. I thank the minister for his exposé and add to his request and plea to the rest of the house that it be not only for God's sake but for the children's sake.

However, I differ from him. I do not think that the chief executive should be put in a position where he is tempted to come within the cap of the expenditure allowed to him by finding, on a prioritised basis, that he did not believe an investigation was necessary in so many of the cases that came to his attention as enabled him to keep his staff numbers down, and the amount of money he spent on that investigation, within the limit of the budget.

That is where we are up to, and that is why I am saying that the worst of all worlds now comes, not the best. I have accepted the argument that is put by the other place, supported and advocated here by the member for Heysen, that the three (a), (b) and (c) provisions in 10B, as the minister explains them, are less desirable than the unfortunate but, nonetheless, necessary proposition that the chief executive must cause an investigation into the circumstances of the child to be carried out, or must effect an alternative response which more appropriately addresses the risk to the child.

Having outlined those reasons, I trust that the minister understands that this is my personal view that I come to without malice toward him or favour toward the other place or the opposition. It is just the least worst of all things. We could have done better, but it is too late now, and we must do something. That is the something I prefer, because it compels the investigation and will drive, I am sure, the attorneys-general and the ministers of the states to go back to the commonwealth and tell it, 'Clean up your act. Fix your foul family law. It's crook.' It needs to be fixed so that it requires people in the courts to tell the truth and not swear that they are doing so, knowing that they are doing exactly the opposite.

The Hon. J.W. WEATHERILL: I have two matters in response. The first thing that needs to be said about resources is that the state government has put another $210 million into child protection, so we have put our money where our mouth is. The other point that needs to be made is that it is not only a question of resources. I think we need to be frank that it is a question of resources because, if you require us to do everything, we will have to do less of what we should be concentrating on. That is the truth of the debate. There are many cases when an investigative response would make things worse. It is a misunderstanding of the complexity of an intervention in a family to think that investigating a family is the best way of supporting it, especially when you look at the statistics about substantiation, which are something like 20 per cent, and especially when you consider that all the research indicates that, when you investigate a family and fail to substantiate, the family is less likely to engage with the sorts of supportive services necessary to turn that family around. I leave aside all the complexities associated with the thing causing the risk may not be the issue that needs to be treated, and all the dissipation of resources associated with that.

Mrs REDMOND: Mr Acting Chairman, I do not want to speak again, but I want to be clear about the motion you are about to put, namely, the amendment moved by the minister amending the proposed amendment from the upper house. Is that correct?

The ACTING CHAIRMAN (Mr Koutsantonis): It is No. 18 on the amendments distributed.

The Hon. I.P. LEWIS: May I say that I agree with the minister, and that is why I used the expression 'the least worst' of all the options available to us.

I do not believe that it is the family that needs to be investigated. In the particular case, since we have to put up with the Family Court and its inappropriate and unjust practices, it is not the family that has to be investigated, it is rather the behaviour of one of its members perhaps—the caregiver.

Mr Hanna: The circumstances of the child is what it says.

The Hon. I.P. LEWIS: Yes; the member for Mitchell has that right. I thank the minister for his explanation of it in that it allows us all to more clearly understand. I assert that we do not have to go through everything the family has done, rather what has motivated the parent or caregiver to do inappropriate things or the things they should have done and could have done but left undone that have adverse impacts and implications for the development of the child.

The committee divided on the motion:

AYES (19)

Atkinson, M. J.	Bedford, F. E.
Caica, P.	Ciccarello, V.
Foley, K. O.	Geraghty, R. K.
Hill, J. D.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
Maywald, K. A.	McEwen, R. J.

AYES (cont.)

O'Brien, M. F.	Rankine, J. M.
Such, R. B.	Thompson, M. G.
Weatherill, J. W. (teller)	White, P. L.
Wright, M. J.	

NOES (17)

Brindal, M. K.	Brokenshire, R. L.
Chapman, V. A.	Goldsworthy, R. M.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L. J.	Hanna, K. (teller)
Lewis, I. P.	Matthew, W. A.
McFetridge, D.	Meier, E. J.
Penfold, E. M.	Redmond, I. M.
Scalzi, G.	Venning, I. H.
Williams, M. R.	

PAIR(S)

Breuer, L. R.	Brown, D. C.
Conlon, P. F.	Buckby, M. R.
Rau, J. R.	Evans, I. F.
Stevens, L.	Kerin, R. G.
Rann, M. D.	Kotz, D. C.

Majority of 2 for the ayes.

Motion thus carried.

Amendment No. 19:

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

That the House of Assembly disagree with Amendment No 19 made by the Legislative Council and make the following alternative amendment:

New clause, after clause 10—Insert:

10C—Amendment of section 20—Application for order

Section 20—after its present contents (now to be designated as subsection (1)) insert:

(2) If the Chief Executive—

(a) knows or suspects on reasonable grounds—

(i) that a child is at risk as a result of drug abuse by a parent, guardian or other person; and

(ii) that the cause of the child being at risk is not being adequately addressed; and

(b) is of the opinion that an assessment (including a drug assessment), in pursuance of an order under this Division, to determine the capacity of the parent, guardian or other person to care for and protect the child is the most appropriate response,

the Chief Executive must apply to the Youth Court for an order under this Division for such an assessment.

I adopt all the remarks I made in relation to investigation and the situation is much more stark in relation to the drug testing, drug assessment and drug treatment regimes that will come up in a later amendment.

It is critical that we have the discretion to consider when we should do this. We have already given ourselves the power to mandate the assessment and treatment, but we must have the discretion about when to do it because, while drugs may be a risk factor for the child, it may not be the primary factor, and more significant primary factors that we would want to address first in the assessment and investigation period would be potentially medical assessments in the treatment of children, homelessness, arranging alternative carer placements, removal of alleged perpetrators, and a whole range of other matters which we might want to do before drug assessing a parent. That is one of the critical unintended consequences of this.

One of the critical issues for getting drug abusers who are not willing to address their addiction is to attempt to use a range of strategies to cause that to happen voluntarily, and there is a range of skills that can be brought to bear in relation to this matter to allow that to happen. But we accept that in some cases we reserve the right to use the mandatory arrangements. Once again, this really is a case of adopting a one-size-fits-all solution to what is an incredibly complicated set of arrangements within the family environment. When the drug assessment mandate obstructs or diverts workers from addressing other issues that affect directly the safety and wellbeing of children, we would not do this. All we are asking for is the discretion to make that judgment.

Mrs REDMOND: Once again, we are in a situation where the opposition actually supports the amendment in the form in which it has come from the other house and opposes the amendment in the form proposed by the minister. I think I need to make it clear that I agree with the minister's earlier comment that we are all at one in trying to find the best mechanisms by which we can deal with protecting children.

The form of the amendment as proposed by the other place, we believe, shows sufficient flexibility to cope with all the issues that are raised by the minister and about which he says he is concerned; but, at the same time, it is clear that abuse of illicit drugs in our community is a significant problem, and it is particularly significant in placing a number of children at risk, whether of neglect or actual positive abuse. Neglect is by far the most common, but if parents are off their faces with drugs they can quickly fall into the situation where they abuse their children by reason of neglect, whether that is simply not getting up to take the kids to school or failing to feed them or look after them appropriately.

It seems to us only reasonable to say that there has to be a suspicion on reasonable grounds (so it has to be a suspicion based on reasonable grounds) that the child is at risk and that risk is a result of the abuse of the illicit drug by a parent—so you have a few hurdles to get over in the first place: it is not just a case of saying, 'This child is at risk so the parent has to be drug assessed.' You actually have to find that there are reasonable grounds to find that the child is at risk and that the risk to the child is because of the illicit drug use by the parent. Then there is another hurdle, because what must happen is that the chief executive has to apply for an order. The order has to come from the courts, so there is still another hurdle.

So it is not as though in every case there necessarily will be a drug assessment, but it is reasonable to say that where those preliminary matters are in evidence it is necessary to have a drug assessment of the person. I do not want to hold up the house unnecessarily. I realise that members are anxious to get onto another debate that is scheduled for this evening, but it is important to understand that all that this amendment in its present form as it has come from the upper house does is to say if there is a suspicion on reasonable grounds that a child is at risk as a result of abuse of an illicit drug by a parent, they must apply for an order for an assessment. That is all it does. Nothing could be simpler.

I do not agree with the minister's assertion that this will create all sorts of difficulties in the system. It is necessary for us to try to deal with this problem of illicit drugs and the effect it is having on the safety of children in our community.

Mr HANNA: I will be brief in supporting the Nick Xenophon amendment in relation to children who are directly at risk as a result of the abuse of drugs by their parent or guardian. The rhetorical question I put is: why would you not at least want to know what the facts of a situation are? This is in circumstances where the department suspects on reasonable grounds that a child is at risk as a result of that drug abuse. Why would you not want to know if their carer

or parents are on heroin or amphetamines every night? Why would you not want to at least know? In order to do that, you might have to assess them. I do not think that is too much to ask.

The Hon. J.W. WEATHERILL: In closing, can I say that in many of these cases if we were so worried about the child and their health and wellbeing, as those who have contributed to the debate appear to be, we would not leave them in the family. What is at stake here is the unintended consequence. What could be the case is there could be some other risk to the health and wellbeing of the child which is also going on in the family, and that is the thing that we may want to focus on. Indeed, one might want to reflect on what might be the cause of the drug taking. It might be domestic violence or sexual abuse. There may be a whole range of other ways in which we want to engage the perpetrator in a way that is going to ameliorate the situation for them, thereby reducing the risk to the child. What is at the heart of all of this debate is that, ultimately, there is not trust in our agency—

Mr Hanna: You got that right!

The ACTING CHAIRMAN (Mr Koutsantonis): Order!

The Hon. J.W. WEATHERILL: —to make conscientious professional judgments about the best interests of the child using their professional skills and bringing them to bear on the most complex public policy and decision making. Intervening in families where there are allegations of abuse is ferociously difficult work. Our staff take away children from mothers who have just had their children in circumstances where that mother does not want to give up the child, but we reach a conscientious judgment that that child is not safe in that family. At other times we make finely balanced judgments about leaving children in families where we have concerns about that family, but we put in place measures to strengthen those families, because we know it is a ferociously horrible thing to rip a child away from their family. These quibbles are about not trusting us to make a conscientious judgment in the best interests of South Australian children. I find that offensive; and I defend the workers in my department who, I must say, almost without exception, do a fantastic job.

The Hon. I.P. LEWIS: At first blush, my assessment of the proposition from the other place, which was moved by the Hon. Nick Xenophon, is that it is not as strong as the minister's own proposal, but, regrettably, too much discretion still resides with the chief executive, or the person to whom the chief executive can delegate under the act (as it stands) the prerogative to make the decision. Section 20 provides that it must be the chief executive, but elsewhere in the bill it provides that the chief executive can delegate that responsibility. I am not like the minister. I am not blind to people such as those in the police force where there is the odd bad apple in the barrel. In this case there is the odd incompetent professional—which means they are not professional—in the department, or someone who has become personally involved and does not understand they ought to take themselves off the case. Indeed, I know of instances where people have deliberately sought and inveigled their way onto a case so they can bring about a deliberate outcome against the best interests of the child. It worries the hell out of me. Other workers choose to ignore the guidelines and practices of the department.

It is a worry altogether that I have to choose between the least worst options, but in this case I will choose the minister's because it provides that if he or she knows, or suspects on reasonable grounds, that the child is at risk as a result drug abuse by a parent, guardian or other person, and that the cause of the child's being at risk is not being adequately addressed by anyone—that is a bit of a prevarication—and is of the opinion that an assessment, including a drug assessment, in pursuance of an order under this division will enable the chief executive to determine the capacity of the parent, or whoever else is there, to care for and protect the child is the most appropriate response. That is where the two bob each way comes.

The officer is left in law with absolute discretion to decide; even though I know, and the minister himself knows, and he knows I know, there are instances where that has occurred. Indeed, matters have been raised in this house where children have been allowed to remain under the care of someone who gets zonked out, high, screwed, call it what you like, but they just are not normal people; yet the children stay there because it is all too hard. If you do get yourself involved, you are said to be partisan, because you take the side of one or other of the adults. Frankly, I do not much care for them. I know they have feelings and I tell them that I understand that. The bottom line is that it is the child who matters more than either or any of the adults.

The Hon. G.M. Gunn: You have to err on the side of the child.

The Hon. I.P. LEWIS: Always. They are defenceless in law and they rely upon the state, the crown, and that means the minister and the minister's agent to whom the minister, therefore, has delegated authority to do what is in their best interests. They are relying on that. I think what the minister is saying is probably better than what the Legislative Council has supported from the Hon. Nick Xenophon. It is my regret that it is not tougher. If it were the assessment of an adult that was involved, and the adult's welfare, there would have to be a panel of three psychiatrists, or something like that. We go to great lengths to protect the civil liberties of adults, but I am not sure we are doing the best we could do for the children for the same cost as we are incurring in the process.

I want to make one comment, which relates to that measure of competence to which I have referred. I do not believe that the job and person specifications that in the past have been in use—and I have not looked at them in the past several months since the new CEO took over; and I hope they have been addressed—or the appointment process for staff in this government agency are as good as they could be. I have come across the odd person, and I do not mean that in the sense that they are not even or small in number, but just different. Frankly, if I was assessing the appropriateness of having a sheep dog left to work with the sheep, or not, with the level of competence and aptitude that dog was displaying being equivalent to some of the staff, well, I can tell members that a dog would not get breakfast or any meal beyond. They are just full of missionary zeal and desire to be useful, but not much else. They do not have a capacity to engage in a conversation with someone who seeks to discuss with them what is going on, what they have done, what they have contemplated and what they have considered as opposed to what they have refused to consider and the people to whom they have refused to give an audience just because it is their subjective view of those other people.

They say, 'I don't like the fact that he's wearing a suit and a tie and it's a male'; or, alternatively, 'I don't like the fact that she's too dressed up—strikes me as being too rigid.' If you find out those sorts of things, as I have tried to on some occasions, you get to do that only if you toddle off to the social settings into which those people go and sit down with them and get them in a relaxed frame of mind so that they

reveal how they feel. No-one has ever had that problem with me. My state of mind is always pretty relaxed even though the opinions I express are fairly intense.

At least in here and in life I leave no-one in any doubt as to why I believe what it is that I believe. I acknowledge that, from time to time, I am woolly around the edges, but at least if I have a belief I am able to say why I have that belief and the background against which I have come to that belief. It is not self-righteous on my part to say that, it is just desirable for us all to understand that that is the base of professionalism. There must be as much objectivity as the mind of the person can produce in discerning what is evidence and what is opinion and what is fact and what is opinion, and marrying the facts and the evidence together so that any opinion is consistent with the facts and the evidence rather than an opinion that then is constructed in a way which requires one to ignore certain facts, deny knowledge of them and avoid certain logical processes of reasoning.

I say to the minister that I go with the least worst, again, and I thank him for his willingness to explain the reasoning behind the proposition which he is putting as compared to that which comes from the other place.

The committee divided on the motion:

AYES (20)

Atkinson, M. J. t.)	Bedford, F. E.
Caica, P.	Ciccarello, V.
Foley, K. O.	Geraghty, R. K.
Hill, J. D.	Key, S. W.
Koutsantonis, T.	Lewis, I. P.
Lomax-Smith, J. D.	Maywald, K. A.
McEwen, R. J.	O'Brien, M. F.
Rankine, J. M.	Such, R. B.
Thompson, M. G.	Weatherill, J. W. (teller)
White, P. L.	Wright, M. J.

NOES (16)

Brindal, M. K.	Brokenshire, R. L.
Chapman, V. A.	Goldsworthy, R. M.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L. J.	Hanna, K.
Matthew, W. A.	McFetridge, D.
Meier, E. J.	Penfold, E. M.
Redmond, I. M. (teller)	Scalzi, G.
Venning, I. H.	Williams, M. R.

PAIR(S)

Breuer, L. R.	Brown, D. C.
Conlon, P. F.	Buckby, M. R.
Rau, J. R.	Evans, I. F.
Stevens, L.	Kerin, R. G.
Rann, M. D.	Kotz, D. C.

Majority of 4 for the ayes.

Motion thus carried.

Amendments Nos 20 and 21:

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

That the House of Assembly agree with amendments Nos 20 and 21 made by the Legislative Council.

For the member for Hammond's benefit—

The Hon. I.P. LEWIS: Is the minister going to help me get some better understanding? I would welcome that, and thank him for his concern for my insight.

The Hon. J.W. WEATHERILL: I was attempting to assist the member for Hammond before. These amendments are consequential to the previous amendment No. 19 and refer to the orders that the court may make. In amendment No. 20, the bill includes provision for an order authorising assessment. This amendment directs such an assessment. Amendment No. 21 includes an example of what such an order may contain. So, they are consequential upon the orders that would flow.

Motion carried.

Amendment No. 22:

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

That the House of Assembly disagree with amendment No. 22 made by the Legislative Council, and make the following alternative amendment:

New clause, after clause 11—

Insert:

11A—Amendment of section 37—Application for care and protection order

Section 37—after subsection (1) insert:

(1a) If the Minister

(a) knows or suspects on reasonable grounds—

(i) that a child is at risk as a result of drug abuse by a parent, guardian or other person; and

(ii) that the cause of the child being at risk is not being adequately addressed; and

(b) is of the opinion that the most appropriate response is an order under this Division for one or more of the following purposes:

(i) to ensure that the parent, guardian or other person undergoes appropriate treatment for drug abuse;

(ii) to ensure that the parent, guardian or other person submits to periodic testing for drug abuse;

(iii) to authorise or require the release of information regarding the treatment or the results of the tests to the Chief Executive,

the Minister must apply to the Youth Court for such an order.

For the benefit of members, I point out that this amendment continues the logic which we applied to the assessment of the treatment process. So, for all the reasons I raised before—and I mentioned earlier in the debate that my remarks applied equally to the assessment and the treatment process—I adopt those remarks.

Mrs REDMOND: I will simply indicate that the opposition supports the amendment in the form in which it has come down from the upper house, and opposes the amendment proposed by the minister for the same reasons as we canvassed earlier in the debate in relation to the assessment.

The Hon. I.P. LEWIS: Notwithstanding the sincerity with which the member for Heysen has said ditto, I am not sure that I understand what she is referring to in that context, or why the minister prefers his proposals to those coming to us from the amendments of Mr Xenophon. Mr Xenophon says that, if the minister is of the opinion that a child is at risk as a result of the abuse of an illicit drug by a parent, guardian or other person, who has the care of the child, the minister must apply to the Youth Court for an order for the person in question to enter into a written undertaking for a specified period of up to a year, to undergo treatment and submit to periodic testing, and authorise the release of the information about the treatment and the results of the test to the chief executive. Then comes the bit that always make me think, 'Well this is very bad.' He puts in brackets, if the minister is satisfied that the parent, that is, the adult in question, is undergoing or is to undergo such treatment, is submitting or is to submit to such testing, and has authorised a release.

The minister can be satisfied but wrong. Satisfaction can come out of a mistaken belief or—not that this minister would ever do such a thing—out of a mischief. This current minister in all his competence is not going to be minister

forever. The honourable member for Stuart knows, as I do, having been here a long time, that ministers come and go.

The Hon. G.M. Gunn: Some not quick enough!

The Hon. I.P. LEWIS: Yes, as he says, some not quick enough, and others I lament when they move on. Ministers come and go, and they have varying degrees of perspicacity (I think that is a good word in this instance) and then there is always the contemplation of their aptitude in dealing with Sir Humphrey, or is it Madam Humphrey?

The Hon. G.M. Gunn: It could be a combination of both.

The Hon. I.P. LEWIS: It could be a combination of both or even more. I will not go there any further, but the minister says, where I have explained what the Hon. Nick Xenophon wanted—

The ACTING CHAIRMAN: Order! The member for Mitchell can either leave the chamber and have a conversation, or he can sit in his seat.

The Hon. I.P. LEWIS: So that those people who choose to examine the record to see why it is that I said and did what I did, I, therefore, take the liberty, as is my right, to explain this. Against what Mr Xenophon wanted, the minister says, 'if he knows or suspects on reasonable grounds'. It is not a matter of opinion there, it is a matter of knowledge or suspicion—which could be an opinion, I suppose—that a child is at risk as a result of drug abuse by a parent, guardian or other person (that is, the adult in question) and that the cause of the child being at risk is not being adequately addressed.

The minister must have knowledge or suspicion that that is happening, and you rely on his or her opinion that the most appropriate response is an order under this division for one or more of the following purposes: to ensure that the parent guardian—that is the adult—undergoes appropriate treatment and to ensure that the parent submits to periodic testing, and has authority to require the release of the information. Then, in those circumstances, the minister must apply to the Youth Court for such an order. On balance I think I prefer the proposition of the Hon. Mr Xenophon, indeed, as supported by the other place, in that it strikes me to be more proscriptive and direct, albeit subjective in its statement that it has to be a period not exceeding 12 months.

There are some people who, upon being addicted, cannot be broken of that addiction within 12 months, so that is an inadequacy in the Xenophon proposal from the other place, which is not to be found in the minister's, but then the minister does not specify that the treatment has to continue until a cure or abstinence and freedom from the effects of the drug has been achieved. So neither case is adequate in that respect, but at least we are not in the stupid situation, as might arise in the instance of the government's amendment, that after three months we let the adult go and leave the child to take their chances yet again. The adult, in my opinion, ought to be required to continue to seek and obtain that treatment for their addiction until it can be fairly said that they are free of the symptoms, especially where those symptoms of the addiction previously caused the problem in their capacity to be a parent and to look after the best interests of the child. It strikes me, in that instance, they can be trusted again with the child. I will be supporting the Hon. Mr Xenophon's proposition.

The committee divided on the motion:

AYES (19)

Atkinson, M. J.	Bedford, F. E.
Caica, P.	Ciccarello, V.
Foley, K. O.	Geraghty, R. K.

AYES (cont.)

Hill, J. D.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
Maywald, K. A.	McEwen, R. J.
O'Brien, M. F.	Rankine, J. M.
Such, R. B.	Thompson, M. G.
Weatherill, J. W. (teller)	White, P. L.
Wright, M. J.	

NOES (17)

Brindal, M. K.	Brokenshire, R. L.
Chapman, V. A.	Goldsworthy, R. M.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L. J.	Hanna, K.
Lewis, I. P.	Matthew, W. A.
McFetridge, D.	Meier, E. J.
Penfold, E. M.	Redmond, I. M. (teller)
Scalzi, G.	Venning, I. H.
Williams, M. R.	

PAIR(S)

Breuer, L. R.	Brown, D. C.
Conlon, P. F.	Buckby, M. R.
Rau, J. R.	Evans, I. F.
Rann, M. D.	Kotz, D. C.
Stevens, L.	Kerin, R. G.

Majority of 2 for the ayes.

Motion thus carried.

Amendments Nos 23 to 34:

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

That the Legislative Council's amendments nos 23 to 34 be agreed to.

Motion carried.

ROAD TRAFFIC (DRUG DRIVING) AMENDMENT BILL

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

No. 1—Clause 5, page 4, lines 17 and 18—
Delete subclause (9)

No. 2—Clause 6, page 4, line 26—
Delete the penalty provision and substitute:
Maximum penalty:
(a) for a first offence—a fine of not less than $500 and not more than $900;
(b) for a second offence—a fine of not less than $700 and not more than $1 200;
(c) for a third or subsequent offence—a fine of not less than $1 100 and not more than $1 800.

No. 3—Clause 6, page 5, line 2—
Delete '3 months' and substitute:
6 months

No. 4—Clause 6, page 5, line 4—
Delete '6 months' and substitute;
12 months

No. 5—Clause 6, page 5, line 6—
Delete '12 months' and substitute:
2 years

No. 6—Clause 11, page 8, line 37—
Delete the penalty provision and substitute:
Maximum penalty:
(a) for a first offence—a fine of not less than $500 and not more than $900;
(b) for a subsequent offence—a fine of not less than $1 100 and not more than $1 800;

No. 7—Clause 11, page 11, line 2—
Delete '3 months' and substitute:
6 months

No. 8—Clause 11, page 11, line 4—

Delete '12 months' and substitute:
2 years
No. 9—Schedule 1, page 25, line 22—
Delete '3 months' and substitute:
6 months
No. 10—Schedule 1, page 25, line 23—
Delete '6 months' and substitute:
12 months
No. 11—Schedule 1, page 25, line 24—
Delete '12 months' and substitute:
2 years
No. 12—Schedule 1, page 26, lines 1 to 4—
Delete subsection (4) and substitute:
(4) For the purposes of subsection (3), the *prescribed period* is 5 years.

SITTINGS AND BUSINESS

The Hon. M.J. ATKINSON (Attorney-General): I move:

That the sitting of the house be extended beyond 10 p.m.

Motion carried.

DUST DISEASES BILL

Second reading.

The Hon. M.J. ATKINSON (Attorney-General): I move:

That this bill be now read a second time.

The situation is that I have a second reading explanation to give and, normally, it would be a courtesy, given that this bill arrived only last night in the house, to inform the house by reading the second reading explanation. However, I take the view that these are extraordinary circumstances in that we want to get this bill done and move on to other things on the *Notice Paper*, so I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

The SPEAKER: Is leave granted?

The Hon. I.P. Lewis: No.

The SPEAKER: Leave is not granted. The honourable minister.

The Hon. M.J. ATKINSON: Let it be noted that I sought to expedite proceedings but a member prevented me.

Mr Meier interjecting:

The Hon. M.J. ATKINSON: Yes, and I shall miss you, too.

The SPEAKER: Order! The member for Goyder is out of his seat and out of order. The Attorney does not have to make a second reading speech.

The Hon. M.J. ATKINSON: I think that, if I introduce a bill, there has to be a second reading speech so that the courts can interpret—

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: No. This bill will end up very different, by consent and by agreement, from how it was introduced in another place. So, if the courts are going to understand this bill and what the parliament is trying to achieve—

Ms Chapman interjecting:

The SPEAKER: Order, member for Bragg!

The Hon. M.J. ATKINSON: That is just an offensive, infantile remark.

The SPEAKER: I suggest that the Attorney—

The Hon. M.J. ATKINSON: The Hon. Nick Xenophon introduced this bill into another place on 9 November 2005. Between 2 November and today, there has been much discussion between me and my advisers and Mr Xenophon and his advisers. The government has decided to support the bill (we always were), but we will move amendments to it. The catalyst for this bill was the decision of the High Court of Australia. In December 2004, in BHP v Schultz the High Court ruled that the New South Wales court had not interpreted and applied the jurisdiction of the Courts (Cross-vesting) Act correctly when it refused to cross-vest Mr Schultz's proceedings to South Australia. Mr Schultz suffered from asbestosis, and his case was not urgent. Since then, some applications to cross-vest urgent cases from New South Wales to other states have failed, and the proceedings have remained in the New South Wales Dust Diseases Tribunal. However, Mrs Haylock's case (and Mrs Haylock suffers from mesothelioma) was cross-vested to South Australia—fortunately, without any order for costs against her.

The practical effect of the Schultz case has turned out to be greater than its legal effect. Although most South Australian residents who suffer from asbestos diseases may still issue their proceedings in the New South Wales Dust Diseases Tribunal, they would risk—risk—a successful application by a defendant to have their action transferred to South Australia, particularly if the case is not an urgent one, and they would risk a cost order against them at Sydney rates. I am informed that one Sydney firm of lawyers is not issuing any new proceedings in the New South Wales Dust Diseases Tribunal for clients who reside in South Australia for that reason.

The number of proceedings issued in South Australian courts by people who suffer asbestos diseases has increased. However, I am advised that, compared with personal injuries claims generally, there are not many. The bill would require the District Court to deal with dust diseases cases expeditiously and without the unnecessary formalities of an evidentiary or procedural kind. There are special provisions about evidence that are intended to speed the resolution of these cases. If this bill is passed, it is expected that most, if not all, dust diseases cases will be heard by the District Court, which is the main civil trial court in South Australia. The chief judge has informed the government that the court can and does give high priority to urgent asbestos cases and deals with them expeditiously and will continue to do so.

Dust diseases actions are not the only urgent cases that come before the courts, and not all dust disease cases are urgent. Nevertheless, the chief judge is prepared to establish a dust diseases list, and he can do that by rules of court or by administrative direction. There has been recent publicity about waiting times in the court, but I do not believe that it has been suggested that truly urgent civil cases are waiting too long. To illustrate how quickly the District Court can move when it is necessary, I give an example. A plaintiff was diagnosed with mesothelioma. He issued proceedings in the New South Wales Dust Diseases Tribunal. More than four months later, the matter came before the tribunal.

At about 5.25 p.m. on a Friday, a judge of the tribunal stayed the proceedings on the ground that it had no jurisdiction. This had nothing to do with the ruling of the High Court in the Schultz case, which was not decided until later. After close of business on the same Friday, proceedings were issued in the District Court of South Australia. Service was effected late on the Sunday and was accepted by the defendant without objection. On the next day (a Monday), the plaintiff's evidence was taken at his bedside. Alas, the plaintiff died very soon after. The proceedings were then amended to substitute his widow as plaintiff as executrix of

the estate. Because of the 2001 amendments to the Survival of Causes of Action Act 1940, the deceased plaintiff's entitlement to general damages—that is, damages for non-economic loss—as well as his entitlement to damages for financial losses and expenses, survived for the benefit of his estate and, hence, the beneficiaries under his will.

The widow also made her own separate claim under the Civil Procedure Act 1936. As the plaintiff had died, the case ceased to be so urgent as to warrant giving it priority over other people's cases, and it proceeded in court in the normal way. The widow's claims were not formulated for about 11 months. The court record indicates that it was informed that she was not in financial difficulty or in need of funds. After that, the adult children made their own claim for damages for loss of dependency. Their claim was not formulated for some months. The claims were settled about a month after formulation of their claims.

This true example shows that the District Court goes to great lengths to expedite urgent cases. In this case, it took the plaintiff's evidence within one working day. It also shows that the speed with which a case is finalised depends upon the plaintiffs and their lawyers, as well as upon the defendants and their lawyers.

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: Yes—and the rules, as the member for Bragg says. The bill would extend to actions continued by personal representatives of a deceased plaintiff under the Survival of Causes of Action Act 1940 and to actions brought for damages for family members for wrongful death under the Civil Liability Act (often called 'Lord Campbell's Act claims') and for impairment or loss of consortium or solatium. The bill would also change the substantive rights and liabilities of parties in several ways. The bill would allow for the award of damages to an injured person for his or her impairment or loss of capacity to provide voluntary domestic services to other people. These damages are sometimes referred to as Sullivan and Gordon damages after a case decided by the New South Wales Supreme Court in 1999. These damages have not been allowed in South Australia before. There is also considerable conflicting judicial authority—

Members interjecting:

The SPEAKER: Order, the members for Morphett, Kavel and Schubert need to pay attention. The Attorney has the call.

The Hon. M.J. ATKINSON: The opposition is merely mocking the deliberation on this important bill. They think it is a joke.

Members interjecting:

The SPEAKER: Order! The Attorney needs to get on with it.

Ms CHAPMAN: The Attorney-General was clearly reflecting on members. I ask him to withdraw that statement.

The SPEAKER: I do not believe it is a reflection, but it is unnecessary provocation. The Attorney should desist and get on with completing the second reading statement.

Mr GOLDSWORTHY: On a point of order: Mr Speaker, you are pulling up the members for Morphett, Schubert and me. We were only having a private quiet conversation.

The SPEAKER: It is not private and it is not quiet.

The Hon. M.J. ATKINSON: These damages have not been allowed in South Australia before, so there was conflicting judicial authority on the point in other jurisdictions. The High Court resolved the issue on 21 October 2005 in CSR Limited v Eddy. It ruled that this head of damages is not known to the common law; it overruled Sullivan v Gordon. These damages may not be awarded in the absence of specific legislation such as clause 10(3) of this bill. Another change to substantive rights and liabilities is that the Civil Liability Act 1936 would be amended to reverse the effect of Public Trustee v Zoanetti in dust disease cases. This case, which was decided by the High Court in 1945, requires the courts in relatives' wrongful death claims to set off the benefits against the detriments accruing to the relatives as a consequence of the death of the injured person. There are some statutory exceptions. This bill would add another one.

Another change to substantive rights and liabilities is that the bill would aggregate the common law rule that damages are to be assessed once and for all. Under the bill a plaintiff would be able to issue proceedings for less serious disease or condition, have liability determined and have damages awarded for the condition. Then, if the plaintiff later (perhaps many years later) develops mesothelioma or asbestosis-induced carcinoma, the plaintiff could issue proceedings for assessment of damages for the later disease. I foreshadow that I intend to move an amendment to encourage the court to award exemplary damages in some types of case. For these reasons, and because the caps and restrictions on damages that apply to other personal injury plaintiffs as a result of the Ipp reforms—that is, the tort law reform that we dealt with early in this parliamentary term—passed last year, do not apply to asbestos disease actions, people who bring a dust disease action are likely to be awarded higher damages than other tortiously injured South Australian plaintiffs.

If the bill is passed, I propose that it be reviewed in 2006. Amongst other things, the changes to the New South Wales dust diseases legislation that came into effect on 1 July 2005 will be considered. They are not reflected in this bill, as introduced by the Hon. Nick Xenophon in another place. Mr Speaker, I wished to insert this speech in *Hansard* without my reading it. The member for Hammond was within his rights to refuse me leave. My having been refused leave, it was my duty to the law and its interpretation to give a second reading speech. I would be rightly condemned by everyone, including the opposition, had I not given a second reading speech in support of this bill. It is plain irresponsibility of the member for Bragg to suggest that I should not have given a second reading speech. I commend the bill to the house.

Ms CHAPMAN (Bragg): The reason that we are dealing with this bill at this hour on the penultimate day of sittings of this government—

The Hon. I.P. LEWIS: On a point of order: have we had an explanation of the clauses?

The Hon. M.J. ATKINSON: No, there is no explanation of clauses.

The SPEAKER: There is no explanation of clauses.

Ms CHAPMAN: —is for two reasons: first, because the government is refusing to sit after tomorrow and, effectively, this parliament will not be dealing with issues until well into next year or have an opportunity to deal with the urgency of this legislation; second, because although it is quite well known to this government that the decision was handed down in December 2004, the government has done nothing to deal with what is clearly a matter which needs to be dealt with expeditiously. I thank and place on the record the work of the Hon. Nick Xenophon in bringing this matter to the attention of the parliament and for ensuring that there is some remedy to the circumstances that now prevail. I also thank the Hon. Angus Redford for raising his concerns and indicating quite clearly to the government and to the Hon. Nick

Xenophon that we would support the import of this bill and, in particular, to provide for the more expeditious remedies for those who are suffering from disabilities resulting from exposure to asbestos, and to be able to make the amending provisions to other legislation to facilitate that.

I also point out to the house that the government has not been genuine in really wanting to deal with this matter in an expeditious manner and to be able to answer the many hundreds of people out there already who face early death from the effects of asbestos exposure and the conditions that follow from it leading into the most serious conditions such as mesothelioma which is probably well-known to the house. They are not only conditions which are latent so that it might not be identified that the victim has such symptoms of these diseases, but also they are rapid in their fatality of the victim within months. Once the diagnosis has been made, the victim may lose their life. So, there is a case for urgency and expeditious procedure to enable the determination of these cases and, in certain circumstances, for there to be special consideration and presumptions introduced into the evidence that is canvassed in this legislation.

However, I want to place this on the record. The basis of this legislation I will cover in a number of the amendments which are proposed to be put by the government, which are effectively presented as a compromise out of negotiations between the government and the Hon. Nick Xenophon. Since the time that the government has had clear notice of the opposition's position on this, we have been dealing with legislation in this house which I want placed on the record as not being legislation that is without merit but clearly could be identified as legislation which, if it had been put in some priority in relation to the urgency of this legislation, surely would have been placed after this bill, which would have given ample opportunity for this matter to be dealt with in proper order.

We have had the Chiropractic and Osteopathy Practice Bill, to restructure those professions. We have had the Parliamentary Committees (Public Works) Amendment Bill, which of course had the proposal in it that we increase the threshold for referral of projects from $4 million to $10 million—which seems utterly useless, because it has hardly any work to do in any event because the government is not doing anything. We have had the Victoria Square Bill in the last few months to deal with the tram going to nowhere. We have had the Mining (Royalty No. 2) Amendment Bill to increase the rates upon which the royalty—

Mr Caica: Don't make a political speech.

Ms CHAPMAN: This will be on the record as the legislation that this government thinks is a priority above the fact that we have people out there facing early death who are in need, and this is the type of legislation that this government has had on the agenda paper and required us to debate as a priority.

Members interjecting:

The SPEAKER: Order! The member for Bragg will take her seat. The members for Colton and Torrens will not interject. Members will restrain themselves. The member for Bragg should not be provocative.

Ms CHAPMAN: That legislation included the Mining (Royalty No. 2) Amendment Bill, which was to increase the base rate of royalties to be paid, to increase the funding in the coffers of the government. Then we had the Dog Fence (Miscellaneous) Amendment Bill. Now, that was really important legislation!

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

The SPEAKER: The member for Torrens.

Mrs GERAGHTY: My point of order is relevance. The member is talking about all sorts of other issues but not talking about this bill, which she claims, and which we believe, is a very important bill and needs to be dealt with now.

The SPEAKER: The member does not give a speech. The point of order is relevant. All members need to address the bill if they are speaking to it, and need to focus on it. The member for Bragg.

Ms CHAPMAN: Perhaps I will remind the house, and particularly the member who has raised the objection, of the fact that we are dealing with this bill immediately upon its having been brought down from the upper house last night, and we are being asked to deal with this matter urgently. This government has had clear notice, and I am simply highlighting, since notice of agreement has been given on this issue, what this government has seen as its priorities in the last few months. So let us get back to it.

The Dog Fence (Miscellaneous) Amendment Bill was a really important piece of legislation. We had to rush in here, before we dealt with the lives and compensation of these people who are about to die, to work out a new definition of 'wild dog'. Then we had the Justices of the Peace Bill. We have had justices of the peace for 100 years in this state, but we had to give them five-year terms instead of life terms. We have had the Defamation Bill. We have been debating that for 30 years in an attempt to introduce uniform defamation legislation. Could that not have waited just a few months so that we could deal with this legislation which is much more important? Then, of course, we had the Collections for Charitable Purposes (Miscellaneous) Amendment Bill, just this month. Then there was the Electrical Products (Expiation Fees) Amendment Bill. That was a really important bill to enable the giving of an expiation notice instead of a fine.

Mr CAICA: I rise on a point of order, sir. Each speaker is urging the importance of this legislation. I raise relevance. I am at a loss to understand what the member for Bragg is talking about with respect to this particular bill.

The SPEAKER: I point out to members, in taking a point of order, that they must not give a speech. The member for Bragg.

Mr Goldsworthy: You are wasting time, Caics.

The SPEAKER: The member for Kavel is out of order!

Ms CHAPMAN: Just this month, of course, we have dealt with the Occupational Therapy Practice Bill. That is another really important, urgent piece of legislation that has had priority over the passage of this legislation which we are now having to debate within a 24-hour period to rush it through because this government has had a different set of priorities to what is necessary for the real people out there in the electorate.

The other matter is that, of course, we are having to deal with this before we have even seen draft guidelines from the District Court which are proposed under the amendments to be able to hasten the procedure. We are having to deal with that, and we have even had a second draft of the amendments given to us at 9.30 tonight, which was about 21 minutes ago, and we are expected to be able to deal with those amendments. We have indicated for months that we have been prepared and ready to deal with this issue because of its importance and urgency, so I want this clearly on the record, for those victims out there who have been waiting since

December 2004 to have this issue dealt with. They need to know what the real priorities of this government have been.

In relation to the bill itself, can I say that, of the anticipated amendments (the deal done between the government and the Hon. Nick Xenophon), there are aspects of it that we will oppose, and I indicate to the house what they will include. Most importantly is the provision for the award of exemplary damages, and the rather crude attempt of codification of our common law position in relation to exemplary damages. The purpose of this bill, if one is to follow the contribution by the Hon. Nick Xenophon in another place, is to attempt to replicate the rights, benefits and access to expeditious hearing under a process and entitlements available to litigants in the New South Wales tribunal.

We support, in general terms, the thrust of that. In the course of doing that, there is an attempt to have that replicated in a manner which has not been entirely acceptable to the government, but, because the government is not prepared to provide for the intended parity of damages, which applies through the New South Wales tribunal and the law that applies in New South Wales, as part of the settlement arrangement it says, 'But we will insist there are exemplary damages.' What will become evident during the committee stage, and all the amendments proposed (some of which we readily accept and on which I will not be speaking other than to indicate where it is agreed), in relation to the exemplary damages this is a way of coming in and saying, 'We want to have a clause that will punish the defendants, not according to the rules that apply under common law, but under a new structure'—and I will detail the defects of that in due course.

What I want to say in relation to the exemplary damages proposed addition is that it goes against the entire purpose of this legislation. The purpose of this legislation is to give victims, who have had this condition diagnosed, urgent access to the court process, and prompt attention and expedition of the determination of their case, not only priority ahead of other cases in the civil list but also to be able to bypass processes where there may be multiple defendants or where a defendant may have died, in order to ensure there is no delay in the hearing and determination of those cases. We support that.

In the attempt to ensure that is a swift process, which does not add any further trauma to the plaintiff who is obviously facing imminent death, they are given the benefit of a lot of presumptions of law in evidence. I do not need to detail them, because we will agree to them; but that is the whole purpose of this legislation. Then to add in it a punishment clause for the defendants is entirely against the intent, sentiment and benefit of this legislation. It is unnecessary for the purposes of dealing with some remedy and adequate compensation for the plaintiffs. It does absolutely nothing for them. It makes no provision for them, yet it will impose upon them an obligation, particularly once their lawyers advise them that they may need to make that application. It imposes upon them an extra burden which is of no direct benefit to them; and, to carry the burden of that, when they have enough on their plate, I say is unacceptable. But the most important, fundamental reason for opposing that process and introducing the exemplary damages is that, quite frankly, the drafting of this legislation (in relation to the second amendment presented to us) does not reflect accurately the common law position. We will have complete chaos when litigation on these matters goes to court. Isn't that the very thing we are attempting to avoid here in order to ensure that plaintiffs, who are facing imminent death, are properly provided for; and to be free of a burden of this type of unnecessary pressure, certainly unnecessary cost and certainly unnecessary legal argument before judges of the District Court? We will be strongly opposing that.

In relation to the determinations, which will relate to clause 10 (which relates to damages), I understand what is foreshadowed as an agreed position between the Hon. Nick Xenophon and the government is that there will be provision that, despite what is in any other act, when determining damages in this type of confined dust disease action there will be compensation in relation to the domestic services; that is, the volunteer services provisions. What is to be added as a notation is that it is to be determined in accordance with the principles of Sullivan v Gordon. That is a case which, we suggest, introduces a lower obligation than initially proposed by the Hon. Nick Xenophon. We will look at and review that matter between the two houses, when this bill goes back to the other place. They are the matters we will be raising. I indicate to the house that we will not be wasting any time dividing on it. We have made our position clear, so we will be happy to proceed immediately to committee.

The Hon. P.L. WHITE (Taylor): I will not delay the house for long, other than to give my support to this important piece of legislation which aims to do the right thing for a group of people who are afflicted with the very debilitating disease mesothelioma, and other similar dust-related diseases. I could not let pass the comments by the member for Bragg. I recall a piece of legislation—the Survival of Causes of Action (Dust-Related Conditions) Amendment Bill—debated in the previous parliament. I noted the honourable member's comments about waiting too long for this piece of legislation. I remind members of the house of the debate on the Survival of Causes of Action (Dust-Related Conditions) Amendment Bill when the Liberal government had to be dragged, kicking and screaming, into a piece of legislation aimed at fast-tracking asbestos claims for South Australians afflicted with this disease. It is a bit rich to take a pot shot at the current government. I commend the Attorney-General for doing the right thing. The legislation is rushed. He has had to work against the clock, but I commend him for it. It is an important piece of legislation. I hope that it will make the difference for this unfortunate group of afflicted people in South Australia.

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I want to speak in support of the bill as amended, particularly as it clarifies the definition of a dust disease, because the original draft was vague and unworkable in terms of pathological diagnosis. I particularly want to support the notion for compensation for individuals and their next of kin under these circumstances, and I say that as a migrant who grew up with some familiarity of asbestos.

I continued to be shocked for many years after my arrival about the way in which South Australia and Australia generally had been negligent in relation to mining, manufacture, building and legislation by exposing Australians to the risk of asbestos long after the rest of the world was aware of the danger and long after many people had moved to make the use of this substance safe; indeed, well into the 1970s, when any rational builder or developer would have known the risks that were being incurred and the limitation of use of asbestos around the world.

Indeed, when I went to medical school in 1968 my college was within a mile or two of the Cape asbestos factory. One of the first diseases we learnt about was asbestos and

mesothelioma, because it was one of those conditions that we saw regularly in our hospital. Even though it was an extraordinarily rare condition, it was one with which we were very familiar. The familiarity was most shocking because the diagnosis was difficult. It was one of those diagnosis that required extraordinary diligence on the part of a pathologist; but, most of all, the plural fibrosis, mesothelioma and associated tobacco-induced bronchial carcinomas were especially common in women who had never worked in the Cape asbestos factory, who had never been in near proximity to the premises but who died nonetheless because they took their husband's overalls, shook them out and washed them.

That exposure was sufficient to give another class of individuals a rash of mesotheliomas that we saw regularly within my experience. The question remains: why was South Australia still using asbestos when it was known to be dangerous, and when a mere junior medical student knew the risk of it and was conditioned to be scared to go near asbestos in the 1960s? This is an extraordinary question, and we must ask why legislation was not in enacted much sooner to avoid its use; but, more particularly, why were handymen and families working on buildings still allowed to put this substance within buildings? Most amazingly, of course, Canada still produces and mines this material, and it fights in international courts for the right to export this deadly substance to Europe.

The Hon. M.J. Atkinson: Which country?

The Hon. J.D. LOMAX-SMITH: Canada; it fights for the right to export this substance in international ports, and, with lesser position, does export it to the Third World. I have read in some documentation that much of the tsunami rebuilding is using asbestos products. That being the case, I am deeply ashamed at the thought that my donations are supporting this deadly trade and leaving a legacy of tragedy worse even than the natural disaster that my donations were sent to remediate. I am very anxious to support this legislation.

Very significant legislation is coming on later this evening, which I also want to pass. I want to speak on that, so I will not speak any longer, but I urge the opposition to support the bill in its entirety and to ask how this time bomb has been allowed to be left in our midst; but, more importantly, why are we standing by and allowing this deadly export to be dumped in the Third World and in the new housing for those people who are currently homeless? This is an international outrage and shame.

Mr WILLIAMS (MacKillop): Thank you, Mr Speaker.

Mr Caica interjecting:

Mr WILLIAMS: No, Paul, I do not think that I will take 20 minutes. I will not go into the legalese on this issue, because, to be quite honest, I do not understand very much of it, just as I imagine the majority of members in this place do not understand much of it. However, I do want to make a couple of comments. The Minister for Education just made a couple of comments about asbestos, and I think that there is probably more asbestos in schools in South Australia than anywhere else. I have had some significant issues in my electorate because schools are clad in asbestos-based material, and it causes significant problems.

In the schoolyard, obviously, children are playing with balls, footballs, netballs and soccer balls and, from time to time, this material gets cracked. From my experience, with age it becomes quite brittle. Even running around and bumping into the wall, quite often this material becomes cracked; and, in my opinion, it poses a hazard. I will not say a significant hazard, because I am not sure. I do not know how significant it is, but it does pose a hazard. It must pose a hazard, because at one of my schools (which is probably 150 kilometres from Adelaide), for a couple of years, the local contractor, who is licensed to handle this material, has not been allowed to remove the material when it becomes cracked, or just through the general usage of the schoolyard by the children.

He must go along and seal off the cracked or damage portion of the school building with plastic and tape. He must contact the department in Adelaide, which sends a special team to remove the asbestos and clean up around the area. He can then go back in and replace it with a more appropriate material. At the rate that this is happening in that school, I would hazard that we will still have this process happening for the next 50 years, or even longer—probably for the rest of the useful life of that school and the buildings therein.

I raise this because asbestos is not only in that school, it is in virtually every school. I had an experience of another school, which is not in my electorate. However, it is not far from where I live—about 15 or 20 miles (I will talk in the old miles). One of my brothers happened to be the chairman of the school governing council. Some significant work had to be done on the school, and I know that the cost of doing that work blew out from several hundred thousand dollars to about $1 million as a result of asbestos in the school. Significant changes were being made (shifting walls and things), and, again, the process of specially trained people with special equipment were required to remove the existing structure and to handle it in a very specific way. Interestingly, that school had an issue with the watering system in the yard. It had a cracked pipe. My brother was telling me the story, and it came to his attention that it was an asbestos pipe and yet the children were still drinking the water that was flowing through the pipe. He raised this issue with the department because he saw that as a significant issue. Whether it is right or wrong, the department's attitude was that, because it was in the water, it would not be a problem, and the children would not breathe it in. It might go into the alimentary canal but that did not seem to be a problem. I do not know whether that is correct or not, but that is what he was told by the department, because he thought that the department should be removing all the old asbestos pipes in the schoolyard—which were becoming brittle and starting to fail—and replace them with a more modern material.

It is an issue that we have lots of asbestos in our schools. From my experience with the Public Works Committee in the last parliament, I know that this was a real issue with the refurbishment of major buildings in and around Adelaide. We had a significant issue with an upgrade at the Festival Centre when it was discovered that there were asbestos fibres in the air-conditioning ducts, and I know that that was a very costly and traumatic exercise for the Festival Centre Trust at the time. It is my understanding that, in any building that was constructed before the mid-seventies, significant amounts of asbestos will be found.

It also came to my attention late last year that asbestos is a naturally occurring mineral and there are places in South Australia where asbestos was mined, and there are places in South Australia where asbestos comes to the surface and is exposed in its natural state. There is at least one place in South Australia, not a long way from Adelaide, where that occurs. I think that, when we are debating these sort of bills,

and I certainly do not understand the legal nature and the process that we go through in the courts—

The Hon. M.J. Atkinson: For someone who does not understand it, you are interjecting on me a lot.

Mr WILLIAMS: I know that that is specifically what we are addressing here tonight, but I am sure that there are people, like the Attorney-General, who do not understand a number of other aspects of asbestos, and that is why I am bringing those that I am aware of to the attention of the house tonight. Let us not lose sight of the fact that asbestos is a naturally occurring mineral. It occurs naturally in South Australia and has been mined in South Australia. The problem did not all arise because of the Wittenoom mine, and blue asbestos was the main form of asbestos that came out of that mine. It seems from epidemiological evidence that blue asbestos—

Mr Caica: Kills you.

Mr WILLIAMS: Well, it has a greater propensity to cause asbestos and mesothelioma than other forms of the mineral. I think that, because of Wittenoom, this has become a more significant problem than it would otherwise have been. As the shadow spokesman for mineral resources in South Australia, I am aware that there are mine sites throughout this country where miners are extracting all sorts of metals, but, occasionally, the mineralisation that they are wanting to extract is associated with asbestos. So, we also must understand that, sometimes by accident, sometimes inadvertently and sometimes knowingly, we are going to come across asbestos in our daily lives as a result of its previous use in the buildings that we occupy and use from day to day and also when carrying on that sort of industry within this state. I am an enthusiastic supporter of a growing minerals industry in South Australia. I am absolutely certain that we will have mines operating with traces of asbestos in them, and that will have to be managed as we go along.

I will not attempt to canvass the matters that the lead speaker for the opposition has raised. The opposition has indicated that it will support the spirit of this bill—

The Hon. M.J. Atkinson: You will just hold it up as long as you can.

Mr WILLIAMS: I take offence at what the Attorney-General has just said. The Attorney-General is playing games here tonight, and he wants to give the impression that the opposition is using some sort of delaying tactic.

The SPEAKER: Order! The member for MacKillop needs to focus on the bill, and the Attorney should refrain from an out-of-order interjection.

Mr WILLIAMS: Thank you for your direction, sir, and I will not respond to the Attorney's interjection, but I will respond to his second reading contribution in which he started playing those games. My colleague has spoken in a rather fulsome way about what has occurred in this place over the last couple of months and the priorities of this government. Let me leave the house in no doubt about the effect that it has on me as a member of this place, to leave my family and drive for four hours on a Sunday evening in order to attend this parliament, and to be mucked around for 2½ hours on a Monday. That is what happened this week, Attorney. You lot brought us up here; we had question time, and in 2½ hours we were out of here. So, do not talk to me about wasting time.

The Hon. M.J. ATKINSON: On a point of order, sir: it is unparliamentary for the member for MacKillop to refer to the government as 'you lot', and I ask him to desist.

The SPEAKER: It is inappropriate because it could also suggest that the member is referring to the chair, which would be out of order. The member for MacKillop needs to focus on the substance of the bill.

Mr WILLIAMS: I withdraw and apologise. I must admit I am rather amazed that the Attorney takes offence at being called 'you lot'. With some of the banter that has gone around this place in the time that I have been here, I think that that would be one of the lesser pieces of unparliamentary language that I have heard. Let me come back to the point, the games that are being played here tonight go nowhere with me. When this government calls the parliament together on a Monday and the Premier stands up here in question time in answer to a Dorothy Dix question and says how many days the parliament has been sitting under his premiership—

The SPEAKER: Order! The member is deviating from the bill.

Mr WILLIAMS: Sir, I know I am deviating from the bill, and I will take your advice on that. I am responding to the nonsense that the Attorney put on the record when he started his second reading speech. I find it offensive that the Attorney suggests that we are wasting time when the parliament was called here on Monday and sat for 2½ hours. Why were we not discussing something as important as this then?

The SPEAKER: The member has made that point and does not need to make it again.

Mr WILLIAMS: Thank you, sir. I have made the point and it is a point that I think needs to be made because, if anybody is playing games tonight, it is the Attorney. I will close my remarks there.

Mr CAICA (Colton): I will be extremely brief. These are, indeed, as the member—

An honourable member interjecting:

Mr CAICA: Yes, of course I will be; I will be supporting the bill, as you will be supporting the bill. I will give the member for MacKillop an example in brevity. This is an extremely important bill that will be supported by both sides of the house. We went through the presentation and the comments by the member for Bragg with respect to priorities—purely a political speech. This is extremely important and we needed to deal with it in a timely fashion. Regarding her vile comments in relation to whose fault it is that there has been some form of delay, I would remind the house that it was only last night that the third reading stage was dealt with. Today amendments have been drafted and, in the most timely fashion, those amendments are going to make the Hon. Nick Xenophon's bill far more workable than was otherwise the case. Sir, it is something that both sides of the house will support.

We hear terminology—and I do accept what the member for MacKillop said with respect to the legal dialogue which is going on and which I do not understand. I assume that the plaintiffs are those people who are going to die. We talk about there being a plaintiff's paradise with respect to certain aspects of the legislation. I would say, for those people who are suffering, there will be no paradise in this lifetime and—

Ms Chapman: Who said that?

Mr CAICA: I have heard it from others. You did not say it. I heard it from others with respect to aspects of this particular legislation. Let us get on with it; let us get it into committee; let us dispose of it; and let us make sure that those family members who remain after the plaintiffs—that is, the victims—pass on have what they are entitled to. How can you

replace mothers, fathers, grandfathers and grandmothers with respect to those who are dying from these diseases, and the many others who are going to die in the future from these diseases? Let us move on.

Mr GOLDSWORTHY (Kavel): My remarks will be relatively brief. As the member for Bragg, our lead speaker, pointed out, this group of amendments that the Attorney-General is looking to move basically rewrites the proposals that were tabled and debated in the upper house.

The Hon. M.J. Atkinson: All agreed with Nick Xenophon—all of them.

Mr GOLDSWORTHY: I understand that. We certainly welcome this piece of legislation. As the member for Bragg pointed out, it is not before time. The government has had almost 12 months to deal with this.

The Hon. M.J. Atkinson: You were in government for eight years.

Mr GOLDSWORTHY: No, I was not in government for eight years personally.

The Hon. M.J. Atkinson: No, your party was.

Mr GOLDSWORTHY: I was not. I have been here for the last 3½ years.

The Hon. M.J. Atkinson: You only worked as an adviser to the last government.

Mr GOLDSWORTHY: That is right. But, as I said, we certainly welcome it. The government has been tardy in introducing this legislation and we are debating it the day before the parliament is due to get up for the rest of the year—well, until after the election in March next year, unless we sit in January or early February, as we should. The house should sit early next year instead of the government trying to hide away from the public gaze—

The SPEAKER: The member is deviating from the bill.

Mr GOLDSWORTHY: —and accountability of the community. I understand that the existing legislation does allow for compensation to be paid if the plaintiff dies prior to the settlement of the compensation claim, but I am advised that that can take from six to 12 months. Obviously, if a parent is passing away and they are leaving their loved ones behind—their children or their partner—compensation needs to be settled hastily. This legislation seeks that that be done in a number of weeks instead of a number of months.

As the member for Bragg and the member for MacKillop stated earlier, it is quite correct that asbestos products were heavily used in a lot of different building activities. A significant number of Housing Trust homes constructed in the 1950s and 1960s were built of asbestos sheeting and related products. My wife and I lived in a home predominantly made of asbestos when we first married, until we built a newer home. I am not sure whether I have inhaled some dust that was contaminated with asbestos, over a period of time. I do not know. Maybe I will know in the next 10, 15, 20 or 30 years. That was 15 years ago, so I have 12 years until something might show up. Be that as it may, that is the current situation.

Many of our schools were built from asbestos products. I know that the Transport SA building at Walkerville has a significant amount of asbestos. I have a close friend who contracts work—

Mr Caica: You haven't got any friends.

Mr GOLDSWORTHY: You are my friend, Paul, you know that. He contracts work to the TSA. Whenever there is a problem with asbestos in that building at Walkerville, the area has to be cordoned off and extreme caution has to be taken. And rightly so: it is an extremely dangerous substance if the fibres become airborne and people inhale them. As I said, a lot of Housing Trust homes and all that new development that took place in the 1960s up through Elizabeth and Salisbury and down south in Brighton and Novar Gardens, when all that land was opened up those homes were built out of asbestos, so who knows the consequences of damage related to inhaling these airborne particles. Only time will tell the level of disease caused by that contamination.

Obviously, people who have been employed in the mining and manufacture of these products have suffered as a consequence, having contracted these shocking terminal diseases. I wonder how many other folk out in the community have been involved in it in a more passive sense. We were not aware of the seriousness of working with asbestos products 15 or 20 years ago and people carried out renovation work, and so on, sawing through this material with either an electric saw or hand saw without any protective breathing apparatus and inhaling that substance. I know my father used asbestos products extensively when he renovated our home in the Hills. He is 77 and is probably one of the lucky ones.

The Hon. M.J. Atkinson: And still as good as he ever was! Top bloke. He spoke the truth about Speaker Trainer.

The SPEAKER: The member for Kavel needs to get back to the bill.

Mr GOLDSWORTHY: I am being distracted unnecessarily by the Attorney-General.

The SPEAKER: The member should not be distracted. He should ignore interjections, which are out of order.

Mr BRINDAL: I have a point of order as to relevance.

The SPEAKER: The member for Kavel needs to focus on the bill.

Mr GOLDSWORTHY: Thank you for your direction: I will endeavour to do that. We have a number of amendments proposed by the Attorney that cover aspects such as the object of the bill, ensuring expeditious hearing and determination of dust disease actions, transfer of actions to the District Court, costs, evidentiary presumptions and special rules of evidence and procedure, damage, and procedure where several defendants or insurers are involved. A whole raft of amendments are proposed by the Attorney. Although we put our trust in the Attorney we are not going to put all our trust in him, because we have some amendments and do not agree to some of the amendments that will come to light as we work through the committee stage of the bill. This is an important piece of legislation and we support it in essence, with some reservations.

Mrs GERAGHTY (Torrens): I am going to speak only briefly but I rise to support this bill. The member for MacKillop raised the issue of asbestos water pipes, and it reminded me that recently we had a situation at home when we had to have our sewer pipes replaced. When the plumbers had left there was a pipe lying on the ground, and it was actually asbestos. It was just lying on the ground amidst the rubble that they had thrown there. When I realised it was asbestos, I actually rang the plumber and said to the fellow, 'Look: there is a piece of asbestos pipe lying here out in the rest of the rubble that you've dug up out of the ground and I'm really concerned about it. I think you should have at least covered it immediately.'

He said no, that there was no asbestos there at all. In fact, it was asbestos. When my husband came home I had already covered it, and he had a look at it and said yes, it was asbestos.

Mr Brokenshire interjecting:

Mrs GERAGHTY: We have it sealed in black plastic and are waiting to have it removed along with the other debris, broken bits of asbestos that they left lying over the whole garden. It took us a week to pick it up bit by bit. It brought to my attention that these plumbers, while they may be very good and experienced at their work, are very uneducated about the dangers of asbestos. That is of great concern while people are working in other people's homes, that they can leave asbestos and bits of broken asbestos lying around the home. I was most unhappy about that.

I also had a school in my electorate that, going back many years, had asbestos in its buildings, as do most of our schools. The workmen came in to do some work and, from the first floor of the school, threw bits of asbestos out the window into dump trucks. The member for Mawson was in the parliament at that time and he might remember that I gave a grieve about the appalling way those contractors left the school grounds, with asbestos lying everywhere. In the girls' toilets, from memory, they cut off the pipe and just left it there. I give credit to the previous government. That contractor no longer, as far as I am aware, undertook any more work in our schools.

Our houses (those that were built many years ago) have asbestos in them. My house has asbestos eaves around the building. Over time, we have done renovation work on our home. We did not know that it was asbestos when we first commenced and were not really aware of the dangers of it. So, we ripped off this stuff, rebuilt parts of our house and, no doubt, have exposed our children to asbestos fibre. I have to say that I feel quite horrified about it now, but it was many years ago and we were unaware of it. We are still doing a bit of work, we have this damn stuff stuck up in our eaves and it is major drama about what to do with it.

Mr Brokenshire: What are you going to do with it?

Mrs GERAGHTY: What I think we really need to do is to make sure that we pass this bill for those people who are already suffering from this dreadful disease. I received an email from a past trainee of mine just on Monday this week asking me to support the bill and encourage my colleagues to do so. Her aunt is Melissa Haylock, and she told me of the devastation that her family is dealing with at the moment because, unfortunately, Melissa is suffering from this dreadful disease. In passing this bill, I think that it is incredibly important that we also start an education campaign to advise people.

Mr Brokenshire: Move an amendment.

Mrs GERAGHTY: I have no intention of moving an amendment during this bill, because I think that it is important that we pass it. However, I make the observation that I think that we need to educate people about the dangers of asbestos. It is not just ourselves we may be inflicting this dreadful disease upon but also the children of the future. What we are seeing now, I suspect, is probably a small part of the number we will see in the future. As a parent, like many other parents I feel quite guilty that we may have caused our children to be exposed to this disease most unintentionally, but we were not aware and educated about it. So, I ask the opposition: please, let's get on with this. Somebody may die shortly. The member for Mawson laughs, but I do not think that it is a laughing matter.

Mr BROKENSHIRE: On a point of order, I take this very seriously, but I want that retracted, because there is no way I was laughing at the importance of this bill. I was laughing at the way the member was delivering her speech.

The SPEAKER: Order! The member does not give a speech. If the member takes offence—

Mrs GERAGHTY: In closing, I say to the member for Mawson that, if he is laughing at the way I am delivering this speech, I am emotional about it. I actually think that it is important, and I do care about what is happening to these poor souls who are dying right now. I care greatly about those in the future who are going to be likewise afflicted. I think that this is really important and, if you do not care, be it on your conscience, because it darn well will not be on mine or on that of anyone on this side of the house. Shame on you!

Mr BROKENSHIRE (Mawson): First of all, I put on the public record that I support what the member for Torrens had to say. I have a history of treating these things very seriously, and I for one would never, ever laugh at this situation, because it is extremely serious. I simply had a slight smile on my face, because I was having a bit of a message across the chamber, which I often do with the member for Torrens. I commend her in entirety for her speech; in fact, my thoughts and feelings are exactly the same. Whilst this bill is, to a point, being rushed through, I am very happy to support it, because it is a very important piece of legislation. In fact, it is only in more recent times, when we have seen some of the victims in this chamber and read very sad stories in the media, that it has stimulated the parliament, all of a sudden, to get its act together. So, let us get this right. I want on the public record, in *Hansard*, that I see this as nothing more than the most serious of debates. So, I say to the member for Torrens that she is totally wrong in what she had to say.

To give credit where it is due, the Dust Diseases Bill is one that an honourable member in the other house (Hon. Nick Xenophon) takes credit for, and I am happy to put that on the public record. This should be a bipartisan bill and, by and large, it is bipartisan. In the 1930s, James Hardie knew that asbestos was a material that had horrendous consequences if it was handled in the wrong way. Of course, through the 1940s, 1950s, even the 1960s and right up into the 1970s asbestos was still being promoted, marketed and used in buildings right throughout South Australia and Australia. It is only in more recent times that cement-type products were developed, which overcame the dangers contained in the materials used since before the 1930s. It was not only used in houses and buildings. In World War II, my father served in the engine rooms of ships that were full of asbestos by virtue of the insulation that was wrapped around all the pipes in the boiler and engine rooms. People who served to protect this country were exposed to the risk of contracting this shocking and dreadful disease, as were people in industry who worked with the product. I believe that James Hardie should be thoroughly condemned by the community and all parliaments because it put its self-interest above that of that of the community of South Australia and Australia.

So I am very pleased to support this bill. I point out to the house that the opposition supports the Hon. Nick Xenophon's amendments and, of course, the government does not want to go as far with some of the amendments as do the Hon. Nick Xenophon, the opposition and other members in another place. I do not really understand that but, during committee, I am sure the Attorney-General will have a chance to explain his amendments to the house. Because there is a lot of other business to be done, I will not speak for too long, but I want to reinforce the fact that it is great to see bipartisanship on this, in both houses.

The Dust Diseases Bill is one that I support 150 per cent. I regard it as one of the most serious pieces of legislation that we have got through and, whether Liberal or Labor governments (successive governments, Labor and Liberal), it has taken a long time to get to this point, and I believe that we all should be proud to support this legislation, which I believe will be passed through both houses before the close of business tomorrow night and the end of this session, unless we come back in February.

I say to the victims that I hope there is some fair and reasonable compensation going to them in an urgent fashion, and I hope that that compensation will assist them to have a better quality of life. I trust that we will see accelerated medical efforts that may be able to address the tragic circumstances of some of those people who, sadly, as has been highlighted during this debate, have terminal illnesses as a result of this. Again, I say that I would never see this as anything other than the most serious of matters, and I am very pleased to support this bill and see it passed with expediency, knowing that we can sit back with some comfort as a parliament that on very important issues such as this (and this would be one of the most important bills that we have debated, I believe, in recent years) we have assisted the victims—and not only the victims, because although the victims are the ones who suffer the horrendous consequences the families, spouses and children also suffer the consequences.

So, it is with a great deal of pleasure that I support this bill, and we will ensure that, once this bill is carried through the houses, the legislation is gazetted into law as soon as possible and that the appropriate fair compensation and other support as a result of this bill will be delivered to those victims forthwith. I support the bill.

The SPEAKER: The member for Hartley.

The Hon. M.J. Atkinson: Yes, we know what you are going to do.

Mr SCALZI (Hartley): I will be very brief. I support this very important bill. I commend the Hon. Nick Xenophon in another place for prompting the government to make this a priority. As the member for Mawson has said, this should be, and is, a bipartisan—or tripartisan—bill that should be supported for the sake of those unfortunate victims of disease as a result of being exposed to asbestos. I will not hold up the house, and I will leave to his conscience the Attorney's comments about why I am speaking.

As I said, this is an important bill. I support it. I commend the Hon. Nick Xenophon. I trust that the bill will be passed tonight and that the victims of asbestos exposure who suffer horrendous medical conditions will be at least assisted, because nothing can compensate for what happens when one contracts that terrible illness. So I wholeheartedly support the bill.

The SPEAKER: If the Attorney speaks, he closes the debate. The member for Hammond.

The Hon. I.P. LEWIS (Hammond): I agree with you, Mr Speaker. When the Attorney speaks he will close the debate, I know. In the meantime, I trust that the contribution I make might enable him to better understand my assessment of the legislation. All members have commended the Hon. Nick Xenophon in the other place for taking the initiative on this bill. I discussed it with him before the last election. Indeed, if I am not mistaken, I was one of the very few people who went to the Slater and Gordon briefing on asbestosis and mesothelioma and the claim that they were mounting when that seminar was held in the Trades Hall on South Terrace in 2002. I thank whoever it was in Trades Hall—or anywhere else, for that matter—who sent me the invitation to participate. I know there were no members of the Liberal Party present, and there were not too many members of the Labor Party present, either. Both side of politics probably already knew everything there was to know about it. I did not feel that I knew everything, but I knew sufficient to alarm me about its effects on the people who were prone to it.

One thing we need to make clear is that not every human being is prone to getting cancer as a consequence of exposure to asbestos. That is the first point. The same fact applies, as it turns out, to other carcinogens, particularly the condensates from tobacco smoke. The other point that needs to be borne in mind in balance of that is that those who are prone to develop a pathology (which we refer to as cancer) as a result of exposure are predisposed to varying degrees according to their genomes and that there will be some who succumb to the slightest exposure and suffer the most horrible symptoms as the disease racks their body and ruins their lives and takes them to an early grave. There will be others who can be exposed to it and die with the problem, but not of it. It does not alter the fact that it is so serious as to warrant the kind of legislation which, in principle, we find here before us this evening.

Before I go further, I also commend the Attorney-General because I am damned sure that, if it had not been for the Attorney-General's guile, the legislation would not have come to this parliament. It would not have been picked up after passage through the other place and brought in here for us to determine whether or not we agree with it, and, if so, in what form. I commend him, no less than I commend the Hon. Nick Xenophon.

Let me return to the remarks I was making about my understanding of the pathology and a few things to do with it. Occupational health and safety, and our concern to ensure that places of work are safe, is what drives us, in the main, to deal with these matters and to compensate people who were innocently injured as a consequence of working where they were. However, it beggars belief that a number of people abroad still think that in the course of doing work it is possible, indeed sensible and civilised, to trade off good health, or the risk of suffering adverse consequences for good health and making illness a result, for higher wages. That is just bloody stupid in the extreme yet I know members in the parliament who believe that if the job is risky in that respect then recompense needs to be much higher. Well, risky it may be, so long as the skill level required to do the job enables it to be done by substantially eliminating the risk. There is nothing in life without risk. Everything we do has some risk. Every breath we take is another one we will not, and every moment we live is another moment we cannot. The point to be made here—

Mr BRINDAL: I have a point of order, Madam Acting Speaker, on relevance. I do not know how every breath we live is another breath we don't take. It is very poetic, but I think at 10.50 p.m. we may like to get on with the debate.

The ACTING SPEAKER (Ms Thompson): There is no point of order.

The Hon. I.P. LEWIS: Notwithstanding the member for Unley's pre-supposition that the subject matter of other things on the *Notice Paper* is something to which he wishes to go, and he is entitled to whatever opinion he has of the way he

would describe priorities, nonetheless, that is the domain of the government.

Mr BRINDAL: I rise on a point of order. The member for Hammond describes motives. He is not allowed to do so other than by substantive motion. I ask you to pull him back into gear.

The ACTING SPEAKER: I ask the member for Hammond to return to the bill. I thought his first topic was related to the bill. I understand the urgency to which the member for Unley is referring. However, the member for Hammond can address the bill and continue his remarks.

The Hon. I.P. LEWIS: Thank you, Madam Acting Speaker. I will leave the member for Unley's bellicose disposition to himself. I wish to make it plain that occupational health and safety, which is the philosophical basis from which we derive our concern about the Dust Diseases Bill, should be taken seriously and not seen by some members, regardless of which side of politics they belong to, as being tradeable. Risk management by the individual of the circumstances in which they work is one thing—and that is a measure of skill and competence. For instance, you do not ask someone to be a rigger unless they have good spatial skills and they are not afraid of heights. The member for Unley can tell me what that phobia is, and I will leave him to dwell on that. If you put someone who cannot handle heights in the role of a rigger you will invariably find that they will fall and kill themselves. Others cope well with that.

However, in the case of exposure to asbestos it is not possible, and in many other instances it is not possible, for the individual to manage their own risk any differently from others because they do not know whether they are predisposed to become afflicted by it. Asbestos does not infect people but, rather, it afflicts them, and its presence in their body systems affects their physiology to the extent that the irritation causes damage to the chromosomes, where that irritation is occurring almost continuously and severely, to the point where it becomes a cancer. That is the nature of the thing; the same as it is with many of the carcinogens in tobacco smoke. It is no less horrible to die as a consequence of passive smoking than it is to die from mesothelioma. I do not see it any differently from that. I will not and do not need to go into what happens when people know that there is a grave risk of becoming a victim of cancer as a result of continuing to smoke: I was. However, they still persist and do it, and so is the case of asbestos.

Mr BRINDAL: I rise on a point of order, Madam Acting Speaker. I do not understand the relevance. What has smoking, passive smoking and cancer of the lungs caused by smoking got to do with mesothelioma or the bill that we are discussing?

The ACTING SPEAKER: I do not accept the point of order. I ask the member for Hammond to continue.

The Hon. I.P. LEWIS: Of course, what the member for Unley alludes to is his ignorance of physiology and the nature of pathology.

Mr BRINDAL: I rise on a point of order, Madam Acting Speaker. The pot should never call the kettle black.

The Hon. I.P. LEWIS: If only we had a pot.

The ACTING SPEAKER: Order! I ask the member for Unley to cooperate. We want a speedy debate.

The Hon. I.P. LEWIS: Here we have a black kettle, no doubt. Sadly for the member for Unley, I thought him to have said some earlier time that he would neither hear, see nor feel (and I am glad for that) me at any time. I do not mind. He is a cheerful chap, mostly.

The ACTING SPEAKER: Order!

Mr BRINDAL: Madam Acting Speaker, I find that—

The ACTING SPEAKER: Order!

Mr BRINDAL: I take personal objection to the member for Hammond's misquoting me. I never said that I would feel the member for Hammond. That is a disgusting and despicable remark—

The ACTING SPEAKER: The member for Unley will come to order!

Mr BRINDAL: —and is typical—

The ACTING SPEAKER: Order!

Mr BRINDAL: —and I ask him to withdraw. I have taste, Madam Acting Speaker.

The ACTING SPEAKER: Order! The member for Unley will not speak over the chair. The honourable member is aware that, at an appropriate time, he can make a personal explanation. That is not a point of order.

Mr BRINDAL: I am objecting to the words used, and I ask that he apologise and withdraw.

The ACTING SPEAKER: I do not accept that there was a need for that. The member for Unley can make a personal explanation at the appropriate time. The member for Hammond, please proceed.

The Hon. I.P. LEWIS: I apologise to the member for Unley for ascribing to him the capacity to feel. I did not know that he regarded himself as being bereft of any such capacity. I know that we can all live with that, and I am sure that he can, too. My point here, before any interruption to my dissertation, was that there are things, and the risk to which we expose ourselves in coming into contact with them is not possible for us to manage. We have imperfect knowledge, even if it were possible, and firms know that and have known it for a very long time.

The very fact that firms who made and sold tobacco products sought to obscure the truth about the disease which tobacco products caused for so long and argue the contrary is vital in this context because it is identical to the immorality of the firms that knew of the adverse consequences of exposure to asbestos. That is very sad, because those same firms in the asbestos industry sought to obscure the adverse health consequences for the people whom they employed after they became aware that there would be adverse consequences for their health; and, if for no other reason than that, we should all support this kind of legislation. It is called, after all, the Dust Diseases Bill.

Smoke is a dust. It is not just asbestos. So are a good many other minerals, and so is tobacco smoke. The simple definition of 'dust' is a solid contaminant in the atmosphere, and tobacco smoke is a solid contaminant in the atmosphere we breathe, regardless of how it gets there. It is for that reason then, and by that means for the benefit of the member for Unley, that I link up what I was saying to what he believes the title of this bill is, enabling him to come to terms with my concern about it. I would be no less concerned—

The ACTING SPEAKER: Order! Will the member for Hammond please address the bill rather than the member for Unley.

The Hon. I.P. LEWIS: Then I shall leave the member for Unley to his own cogitations.

Mr Brindal: You are a pig ignorant fool.

The ACTING SPEAKER: If the member for Hammond wishes to continue his remarks relating to the bill, please do so.

The Hon. I.P. LEWIS: The member for Unley has just called me a pig ignorant fool, and I make the observation that it takes one to find one—poor man.

The ACTING SPEAKER: Order! It is the obligation of the chair not to allow quarrels in this place. The house has been subjected to a public quarrel for sometime now. Could the honourable member please contain his remarks to the bill.

The Hon. I.P. LEWIS: Indeed. Contaminants of the atmosphere are dust where they are suspended solids. One wonders often how big some solids are before they are incapable of being suspended. Now, I do not reflect on the member for Unley in that respect at all. I want to say, though, that there are other things to which people are exposed in the course of their work more than asbestos, and that we should be no less compassionate in dealing with the people's diseases that arise from exposure to those substances and things than we are to those who suffer from exposure to asbestos.

I wanted to say one other thing in that I urge the minister to understand that we ought not to discriminate in favour of something, a substance, which causes a particular disease just because that particular substance and the diseases it causes have had more exposure. We ought to look also at contributory factors in contemplating the correct form this legislation should and can take to the cause of the disease which will cause the unfortunate and premature death of the worker. If you smoke whilst you have been handling asbestos, you increase the risk of mesothelioma many times. That is, not only by two or three times, but by a degree of order which is multiplied exponentially. It is something in the order of the square or more of risk that is increased if you take two such irritating substances that are carcinogens together.

The Hon. M.J. Atkinson: You are, on your day, one of the most insightful members of parliament, but why now?

The Hon. I.P. LEWIS: Sorry? I did not hear what the Hon. the Attorney had to say.

The Hon. M.J. Atkinson: I said, on your day, you are one of the most, if not the most, insightful members of parliament, but why now?

The ACTING SPEAKER: Order!

The Hon. I.P. LEWIS: As may be. I say that so that those who care to listen, as the Attorney and, more particularly, those who may care to read what I have to say later, will understand the sincerity of my concern and the background reasoning to it. That is not to chide him; it is merely to explain my motives for taking the time of the house tonight on this issue, and ensuring that we do not in the future ignore other diseases which have arisen as a result of exposure to disease-causing characteristics in the workplace. The Dust Diseases Bill is not exclusively about asbestosis. It ought to be about any similar work-related illness and disability. I congratulate both the Attorney and the Hon. Nick Xenophon—

The Hon. M.J. Atkinson: Two of your comrades.

The Hon. I.P. LEWIS: As they have been for a long time, though sometimes one would wonder. In most circumstances in which I have been involved in risk in my life I have found that I do better by managing it entirely alone. I stand here as a living testament to my ability in that respect, and have the scars to prove that I have been up close and personal.

Time expired.

Mr MEIER (Goyder): I do not want to hold the house up long. Everyone recognises that this is a very important piece of legislation, and it is very important that it passes as soon as possible. I think members should recognise very clearly that this piece of legislation will bring South Australian victims in line with other states, and that is a very important step forward. I think it is wrong that victims in this state are treated in a less progressive manner than in other states, and I support this legislation. My first real association with seeing the killer blue asbestos was back in 1983 when I was present while some renovations were being done in an old house where the water pipes were exposed. The plumber there said, 'Be very careful now, this is blue asbestos. This asbestos literally wisps into the air and if you get some of that in you then things may not be good for you at all.' At that stage, back in 1984, I was always under the assumption that that was the only asbestos that was the killer asbestos, and the plumber on site then said, 'The way to treat it is to wet it and then it is relatively safe,' and that is the way it was removed from that particular wall and replaced with a modern insulation. Of course, I have learned since then that it is not only blue asbestos. It can be other asbestos and, once the fibres are separated from the main body, that can be very dangerous.

I guess my opinion might be slightly different on this if I was not made aware that James Hardie, as one company, was aware back in the 1930s of the danger of it, and it was repeated again in the 1940s and 50s. So, it has been there for a long time and is, therefore, something that they had every opportunity to change. James Hardie had every opportunity to say, 'We recognise the dangers of it,' because they did recognise the dangers of it. Therefore, the people who have suffered from it, who worked with it, should, in a rightful, legal sense be able to claim compensation, and they should be able to have their disabilities appropriately compensated for. It therefore has my full support. It is disturbing that it appears that the latency of mesothelioma can be as long as 37 years. How they identify 37 years rather than, say, 40 years, I have no idea but it is a long period of time. I must admit that even in my persona grata I am a little concerned, because I have done some demolition work occasionally, and I have certainly demolished some asbestos type stuff, and I hope that 37 years will not catch up with me.

We are not talking about anything that may catch up with me, because I would not be covered under this. It would not be as a result of a particular company. Whatever happens, I guess that is the problem. But for people who regularly worked in a company where asbestos was dealt with, or removed, or smashed, while they were on the work-site, then I think it is only right and proper. It is a pity that it has taken so long. It is a pity that on the last night of sitting we are having to debate this at this hour, and I recognise well that of the five items on the list, this is the first one. So, we have a long way to go with the other items. But it is so important to get this through. It is very important that at least we as a parliament do not hold it up, and therefore from that point of view I am happy to support it. I trust that a medical breakthrough might also occur over the next 10 to 20 years where victims or potential victims perhaps can be spared from some of the pain and suffering. I am sure that there will be every incentive to work towards this end, particularly in light of some of the compensation pay-outs that are obviously going to occur in the coming years.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. M.J. ATKINSON: Last night, when it was thought that the bill might be debated, I had some amendments put on file. There has been further negotiation that resulted in some minor changes to those amendments, so they are tabled as amendments to be moved by the Attorney-General [2]. As you have pointed out, to save confusion about the amendments, parliamentary counsel has drafted some of the amendments to be moved in the form of deleting a whole clause and substituting a different clause, rather than deleting part of clauses. I move:

Page 2, line 6 to page 3, line 15—
Delete clause 3 and substitute:
3—Interpretation
In this Act, unless the contrary intention appears—
defendant includes a third-party against whom contribution is sought;
dust disease means one or more of the following:
(a) asbestosis;
(b) asbestos induced carcinoma;
(c) asbestos related pleural disease;
(d) mesothelioma;
(e) any other disease or pathological condition resulting from exposure to asbestos dust;
dust disease action means a civil action in which the plaintiff—
(a) claims damages for or in relation to a dust disease or the death of a person as a result of a dust disease; and
(b) asserts that the dust disease was wholly or partly attributable to a breach of duty owed to the person who suffered the disease by another person;
injured person means a person who is suffering from, or who has suffered from, a dust disease.

The amendment will limit the bill to diseases and pathological conditions resulting from exposure to asbestos dust. It is these that are causing anxiety to some people in South Australia. The difficulties facing parties to claims for common law damages for asbestos diseases result mainly from the uncommonly long period of latency of these diseases. Workers who were exposed to asbestos have a claim for common law damages only because their cause of action arose before the abolition of common law damages for tortiously injured workers, and the substitution of no-fault statutory entitlements to workers' compensation. Any worker who was exposed to any type of disease-causing dust, after 30 September 1987, has a right to workers' compensation, but not to common law damages, thus the bill would be of no benefit to them. Finally, and in any event, the member for Adelaide, the Minister for Education and Children's Services, who is herself a pathologist, has commended these very changes.

Ms CHAPMAN: I indicate the opposition supports this amendment. May I suggest, as we are now confining exclusively the conditions that arise out of asbestos, that it would be more appropriate ultimately for this to become the asbestos diseases bill.

Amendment carried; clause as amended passed.

Clause 4.

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

Page 3, lines 16 to 22—
Delete clause 4 and substitute:
4—Object of this Act
The object of this Act is to ensure that residents of this State who claim rights of action for, or in relation to, dust diseases have access to procedures that are expeditious and unencumbered by unnecessary formalities of an evidentiary or procedural kind.

The substituted objects clause would retain the first part of the objects clause, but remove the second part. It is not possible simply to transplant the Dust Diseases Tribunal into our District Court. The Chief Judge has advised, in the strongest terms, that clause 6 would be unworkable. For that reason the government opposes the second part of the objects clause. However, the reason originally advanced for the bill is retained in the objects clause. I will read the substituted clause:

The object of this Act is to ensure that residents of this State who claim rights of action for, or in relation to, dust diseases have access to procedures that are expeditious and unencumbered by unnecessary formalities of an evidentiary or procedural kind.

Ms CHAPMAN: The opposition supports the amendment.

Mr HANNA: Of course, I support the object of the act as set out here. The object of the act is to ensure that residents of this state who claim rights of action for or in relation to dust diseases have access to procedures that are expeditious and unencumbered by unnecessary formalities of an evidentiary or procedural kind. I, too, want to honour the Hon. Nick Xenophon for initiating the bill. I appreciate that the government, with various amendments, is in some ways improving it and making it workable. I am not happy with all of the amendments but I propose only to speak to this one. There is considerable goodwill in the chamber at present and an intention to get the bill through, so I am not going to hold up the committee.

I think we are all aware of the need for expeditious procedures for people who have suffered from dust diseases, and their families. As a lawyer who has acted for people with similar diseases, I can certainly relate personally to the issues that have been raised by the bill.

Amendment carried; clause as amended passed.

Clause 5.

The Hon. M.J. ATKINSON: The government opposes this clause. It would result in there being no time limit for all dust disease actions. Instead I will move an amendment later to amend the Limitation of Actions Act to provide that, in the case of a personal injury that remains latent for some time after its cause, the time limit of three years begins to run when the injury first comes to the knowledge of the injured person. As the bill would allow courts to award provisional damages, a time limit should not cause hardship to plaintiffs. Further, this proposed time limit would not affect the ability of the court to grant an extension of time under the Limitation of Actions Act in appropriate cases.

On the other hand, a time limit will give potential defendants, and the insurers of the minor proportion who are insured, some comfort. They do not have to make provision in their books for possible claims that have become statute barred. It will discourage would-be plaintiffs from sitting on their rights when the latency period of a disease is long. Delay in issuing proceedings will compound problems arising from the lapse of time, such as death and incapacity of witnesses, fading memories and loss of documentary and other evidence. It is not just the James Hardie type of companies that are defendants. Medium and small sized businesses have been sued, and potentially individuals could be sued, too.

Ms CHAPMAN: The opposition supports the government's position on this matter. I simply add to it by saying that is on the basis as foreshadowed by amendment No. 14. In relation to notice to defendants, it should not be overlooked that the average latency period for asbestos-related diseases is some 37 years, as has been traversed at some length in the debates tonight. Whilst there is now knowledge of the danger of asbestos, it is well-known that members of

our community are exposed on a daily basis to the potential risks of asbestos in homes, schools and public buildings, many of which are either owned by or under the responsibility of government, and I do not doubt for one moment that we will see governments as defendants in these matters in the future.

Clause negatived.

Clause 6.

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

Page 3, lines 25 to 37—Delete clause 6 and substitute:

6—District Court to ensure expeditious hearing and determination of dust disease actions

The District Court will give the necessary directions to ensure that dust disease actions have priority over less urgent cases and are dealt with as expeditiously as the proper administration of justice allows.

The Chief Judge objected strongly to clause 6 of the bill and advised me that it would be unworkable. It is not possible to transplant the New South Wales Dust Diseases Tribunal into our District Court. Further, it would be confusing to call a division of our court a tribunal. Although the Chief Judge did not say so in his letters to me, others have said that clause 6 of the bill is offensive to our courts. There is no need to establish a special division of the court by legislation. The Chief Judge is willing to establish a special list and this can be done by rules of court or administrative direction by the Chief Judge.

My amendment would require the District Court to give the necessary directions to ensure that dust disease actions have priority over less urgent cases and are dealt with as expeditiously as the proper administration of justice allows. Quite apart from all that, it is not appropriate to change the constitution of the court by the sidewind of legislation such as this. If it is to be changed, it should be by amendment of its constituting act.

Ms CHAPMAN: The opposition supports the amendment, for the reasons the Attorney indicated. I think that also covers amendment no. 5.

The Hon. I.P. LEWIS: I will ask the question under this clause but could ask it under any one of a number of clauses, including clause 10. I do not ask the Attorney to try to second guess why the Hon. Nick Xenophon did not include a provision in the legislation anywhere, and perhaps here would have been as good a place as any, which prevents lawyers from getting involved in cases where they say no win, no fee, when we are changing the law here to completely reduce the normal burdens of proof required. The lawyer could step up and say, 'No win, no fee, but if I do win I want 30 or 40 per cent of the proceedings.' Presumably, the court will award damages proportional to the effect on the individual.

The preparation and presentation of the case for the plaintiff in these instances, given the simplifications that we are making here, would not warrant any such payment to lawyers in that order, because it is a foregone conclusion that if they have the disease they will get the compensation, so why should that amount which is considered just in the opinion of the courts for pain and suffering and other reasons of the victim be then taken from the victim in the kind of arrangement that I have noted? I ask the house to please remember that the people who suffer are not necessarily of average or above average intelligence; many of them are below average intelligence.

By definition, they have to be and, more often than not, such people who work in labouring positions in society are those who do not have high IQs and who would not be able to mount their own case for damages. At the same time, when they go to a lawyer, they can be easily taken in to signing an agreement with the lawyer that alienates a large part of what they should have kept to look after themselves and their families by way of fees. For that reason, I ask the Attorney to tell me if in fact that is simply an oversight and, if it is, will he fix it when we review it next year? Alternatively, if it is not an oversight, why should lawyers be able to make such arrangements as will strip away those essential payments determined by the court for the benefit of the victim and the victim's family?

The Hon. M.J. ATKINSON: Lawyers' fees are a matter to be dealt with in the Legal Practitioners Act. In South Australia, lawyers are not allowed to take a percentage of the damages. Lawyers in South Australia are allowed to offer no win, no fee arrangements and, if the lawyer wins, the lawyer can charge a higher fee, but it is not a percentage of the damages and may not be.

Amendment carried; clause as amended passed.

Clause 7.

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

Page 4, lines 1 to 6—Delete clause 7 and substitute:

7—Transfer of actions to the District Court

A dust disease action commenced in the Magistrates Court or the Supreme Court before the commencement of this act will, on application by any party, be transferred to the District Court.

The deletion of clause 7(1) is consequential upon my previous amendment. The substitute clause leaves clause 7(2), which is all that is required.

Ms CHAPMAN: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Clause 8.

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

Page 4, lines 7 to 12—Delete clause 8 and substitute:

8—Costs

(1) Costs of proceedings in dust disease actions before the District Court will be allowed or awarded on the same basis as for other actions in the District Court.

(2) However, if the District Court considers it appropriate, costs of an action that falls within the jurisdictional limits of the Magistrates Court may be allowed or awarded on the same basis as for a civil action in the Magistrates Court.

This amendment was recommended by the Solicitor-General. The substituted clause is essentially the same as clause 8 of the bill except that it would give the court a discretion, rather than a duty, to award costs on the Magistrates Court scale if the damages recovered are within the jurisdictional limit of the Magistrates Court.

Ms CHAPMAN: I indicate that the opposition supports the amendment. I had the opportunity to confer with and have a briefing by Ms Tanya Segelov. She is a solicitor at Turner and Freeman which, as has been referred to in another place, is responsible for the carriage of a number of claimants' actions in New South Wales and, of course, South Australian residents who have been to date attempting to make application there. It seems that there is a different way of interpreting this.

I place on the record my concern at the endeavour to have these matters dealt with in the arena of special consideration, once the rules or guidelines are drawn up, by the Chief Judge of the District Court to be dealt with in his court. Consistent with that, proposed clause 8(1) will make provision for the costs of those proceedings to be dealt with at the District

Court scale. Whilst it would be open to deal with the matter at the Magistrates Court if the amount allocated, for example, were less than $20 000, it would seem to me somewhat inconsistent to be attempting to divert everyone to the District Court for the determination of these matters, going through the process of that court and then the claimant being left with a costs order that was relative only at the Magistrates Court level and, therefore, being potentially left with a significant difference of cost. So, I read that somewhat differently. I place on the record my concern about that but indicate that we will support the same.

Amendment carried; clause as amended passed.

Clause 9.

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

Page 4, lines 13 to 31—Delete clause 9 and substitute:

9—Evidentiary presumptions and special rules of evidence and procedure

(1) If it is established in dust disease action that a person (the injured person)—

(a) suffers or suffered from a dust disease; and

(b) was exposed to asbestos dust in circumstances in which the exposure might have caused or contributed to the disease,

it will be presumed, in the absence of proof to the contrary, that the exposure to asbestos dust caused or contributed to the injured person's dust disease.

(2) A person who, at a particular time, carried on a prescribed industrial or commercial process that could have resulted in the exposure of another to asbestos dust will be presumed, in the absence of proof to the contrary, to have known at the relevant time that exposure to asbestos dust could result in a dust disease.

(3) The following rules apply in a dust disease action:

(a) the Court may admit evidence admitted in an earlier dust disease action against the same defendant (including in a dust disease action brought in a court of the Commonwealth or another State or Territory);

(b) the Court may dispense with proof of any matter that appears to the Court to be not seriously in dispute;

(c) the Court may invite a party to admit facts of a formal nature, or facts that are peripheral to the major issues in dispute, and may, if the party declines to do so, award the costs of proving those facts against the party.

(4) If—

(a) a finding of fact has been made in a dust disease action by a court of this State, the Commonwealth or another State or Territory; and

(b) the finding is, in the Court's opinion, of relevance to a dust disease action before the court,

the court may admit the finding into evidence and indicate to the parties that it proposes to make a corresponding finding in the case presently before the Court unless the party who would be adversely affected satisfies the Court that such a finding is inappropriate to the circumstances of the present case.

The amendment would remove the existing clause 9, entitled 'Special rules of evidence and procedure', and replace it with a clause 9 entitled 'Evidentiary presumptions and special rules of evidence and procedure'. Subclause (1) would create a rebuttable presumption of cause and effect. If a plaintiff proves that the injured person suffered a dust disease as defined in the act and that the injured person was exposed to dust in circumstances in which exposure might have caused—might have caused—or contributed to the disease, then it is presumed that the exposure caused the disease unless the defendant proves the contrary.

This has the effect of reversing the onus of proof as to causation. The idea has been taken from the Workers Rehabilitation and Compensation Act 1986. Subclause (2) would create a rebuttable presumption that a person who, at a particular time, carried on prescribed industrial or commercial processes that could have resulted in the exposure of another to asbestos dust knew at the relevant time that the exposure could result in a dust disease unless the contrary is proved. This, in effect, reverses the onus of proof as to knowledge in prescribed circumstances. It would save the plaintiff having to prove that the defendant knew.

In general terms, the persons who would be prescribed would be mining and asbestos product manufacturing companies about whom there is ample evidence of knowledge. Subclause (3) of the substituted clause is to provide for other means of easing proof and saving time in appropriate circumstances. The court would be able to admit evidence admitted in earlier dust disease actions against the same defendant, including in actions brought in any other Australian court. The court would be able to dispense with proof of any matter that appears to the court to be not seriously in dispute. This is the same as the clause in the bill. The court would be able to invite a party to admit facts of a formal or peripheral nature and, if they are not admitted, award the cost of proving those facts against the non-admitting party. This is also the same as in the bill.

Subclause (4) would allow the court to adopt a relevant finding of fact made by another Australian court. This includes the New South Wales Dust Diseases Tribunal. The court would have to tell the parties that it proposes to make a corresponding finding in the case before it, unless the party who would be adversely affected by it satisfies the court that the finding is not appropriate in the present case. This would allow the District Court to adopt a variety of findings of fact, including those as to the aetiology of asbestos diseases and findings about the conditions in the factories and workshops of some defendants at particular times.

The government does not agree with the provision in the bill that would prohibit the court from making an order that the parties attempt to resolve all or part of their dispute by mediation unless the plaintiff requests it. It is the policy of the government and the courts here in South Australia to encourage early settlement by alternative dispute resolution methods. The New South Wales legislation was changed earlier this year to make mediation compulsory unless the tribunal ordered otherwise. Our court can be relied upon not to order mediation if it would delay an urgent case too much.

Accordingly, clause 10(4) of the bill is not repeated in the substituted clause. Also, the government does not agree with clause 9(2) of the bill, that the plaintiff does not have to give notice of the proposed claim to the defendants. The court rules require this, but they also provide for dispensation with compliance in urgent cases. In urgent cases, the plaintiff could issue the proceedings together with an application for dispensation. Clause 9(2) is directly contrary to the direction taken by the 2005 amendments to the dust diseases legislation of New South Wales.

Ms CHAPMAN: For the reasons outlined by the Attorney, the opposition supports this amendment. I think that it is important to place on the record that unquestionably it is this clause which will have the most significant effect in shortening and saving in costs for the plaintiff's case and assist the victims in this matter. In relation to compulsory mediation, for the reasons the Attorney has indicated, and I think that the courts have indicated, it would not be appropriate to follow that course. The opposition supports this amendment.

Amendment carried; clause as amended passed.

Clause 10.

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

Page 4, line 32 to page 5, line 11—Delete clause 10 and substitute:

10—Damages

(1) If it is proved or admitted in a dust disease action that an injured person may, at some time in the future, develop another dust disease wholly or partly as a result of the breach of duty giving rise to the cause of action, the Court may—

(a) award, in the first instance, damages for the dust disease assessed on the assumption that the injured person will not develop another dust disease; and

(b) award damages at a future date if the injured person does develop another dust disease.

(2) The Court should make an award of exemplary damages in each case against a defendant if it is satisfied that the defendant—

(a) knew that the injured person was at risk of exposure to asbestos dust, or carried on a prescribed industrial or commercial process that resulted in the injured person's exposure to asbestos dust; and

(b) knew, at the time of the injured person's exposure to asbestos dust, that exposure to asbestos dust could result in a dust disease.

(3) Despite any other Act or law, the Court must, when determining damages in a dust disease action, compensate, as a separate head of damage, any loss or impairment of the injured person's capacity to perform domestic services for another person.

Note—

This subsection is intended to restore the effect of Sullivan v Gordon (1999) 47 NSWLR 319.

The amendment would substitute a new clause 10 without changing the whole clause. Subclause (1) is the same as the subclause (1) passed in the other place. It provides for the award of provisional damages.

Subclause (2) is a new clause that would encourage the court to award exemplary damages to the plaintiff if it is satisfied that the defendant knew that the injured person was at risk of exposure to asbestos, or carried on a prescribed industrial or commercial process that resulted in the injured person's exposure to asbestos and that the defendant knew at the time of the exposure that it could result in a dust disease.

Subclause (3) is to reverse the effect of the High Court decision on 21 October of this year in the case of CSR v Eddy, and give an injured person, for the first time in South Australia, a right to a separate award of damages for his or her loss of impairment of capacity to perform domestic services for others. From the time the act resulting from the bill comes into operation, the courts could be required to award these damages. They are often called Sullivan v Gordon damages, after a New South Wales decision in a case of that name. There is no need to refer in this bill to damages awarded to an injured person for services that are rendered gratuitously to the injured person in the expectation that these damages will be passed on by the injured person to the persons providing the services. These are often called Griffiths v Kirkemeyer damages, after the High Court case in which they were first allowed. The four words 'the injured person or' in brackets at the end of clause 10(4) of the bill refer to these and they are not included in the substituted clause 10(3).

Ms CHAPMAN: I indicate that the opposition opposes this amendment. I place on the record, however, that we take no objection to the provisions that are proposed under subclause (1), which essentially enable a preliminary award to be made and, at a subsequent date, if a subsequent condition becomes exposed, subsequent proceedings to take place. But I will ask the minister a question based on the fact that there is a foreshadowed transitional clause in proposed amendment 15, which essentially will mean that this legislation will be retrospective to all of the cases where actions may arise either in the past or in the future, but it will not interfere with the regime that applies to cases in which the trial of that case (that is, the oral hearing of that case) has commenced.

My question to the minister is: in relation to clause 10(1), if a trial has commenced in relation to the first instance hearing (that is, when the first disease was identified—for example, when there was some condition that was an asbestos-related pleural disease), if a claim was made and was forced to be dealt with under the current rules, would that prohibit that same claimant from being able to have an award of damages under the new rules at a future date when they developed a further dust disease?

The Hon. M.J. ATKINSON: I think the member for Bragg is correct in her point, and the only thing I would add is that the plaintiff could apply for provisional damages under the Supreme Court Act or the District Court Act. As to the Liberal Party's position against exemplary damages, the Liberal Party position may be vindicated by the passage of time. Only time will tell.

Ms CHAPMAN: I will not cover all the reasons why we oppose the exemplary damages, because I referred to those reasons in my second reading contribution and will be reviewing subclause (3) in relation not so much to the addition of the words as a separate head of damage but as to the reversion of principles in the Sullivan v Gordon case. They are matters to be considered when the bill is between the houses.

Amendment carried; clause as amended passed.

Clause 11.

The Hon. M.J. ATKINSON: The government opposes clause 11. It would change arbitrarily and retrospectively the substantive rights of defendants and insurers as between each other without consultation. Those defendants and insurers who have seen the bill and contacted my office have objected strenuously. It is inconsistent with the changes made to the New South Wales legislation about apportioning liability between defending parties. When those changes have been in operation for a little longer, the government will seek out information and opinions about how well they are working with a view to considering whether they should be copied here.

Ms CHAPMAN: The opposition accepts the indication by the government that it will review that matter and consult with the insurance industry, which is what I understand the Attorney to say, and accordingly supports the government's position.

Clause negatived.

Clause 12.

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

Page 5, lines 21 to 42—

Delete clause 12 and substitute:

12—Procedure where several defendants or insurers involved

The Court will determine questions of liability and quantum of liability to the plaintiff before dealing with questions of contribution between defendants or insurers unless, in the opinion of the Court, any delay resulting from dealing with the questions together is inconsequential in the circumstances.

The government opposes clause 12 of the bill but will substitute a new clause to cover that part of it that the government considers to be desirable—that is, that the court

will determine questions of liability and quantum to the plaintiff before dealing with questions of contribution between defendants or insurers. In my amendment this is qualified to the extent that the court may deal with these issues together if it is of the opinion that any delay resulting from dealing with them together will be inconsequential.

Ms CHAPMAN: We accept the government's indication of the qualification, which is an important addition, and we support the government's position.

Amendment carried; clause as amended passed.

New clause 12A.

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

Page 5, after line 42—

After clause 12 insert:

12A—Dust disease action may be brought directly against insurer in certain cases

(1) If the defendant to a dust disease action—

(a) is dead or has been dissolved; or

(b) is insolvent; or

(c) cannot be found,

a dust disease action that might have been brought against the defendant (the absent defendant) may be brought instead directly against an insurer who insured the defendant against a liability to which the action relates.

(2) An insurer against whom an action is brought under subsection (1) has the same rights, powers, duties and liabilities in relation to the action as the absent defendant would have had if the action had been brought against the absent defendant.

(3) The extent of the insurer's liability cannot, however, exceed the extent to which the insurer would have been liable to indemnify the absent defendant if the action had been brought against the absent defendant.

This amendment inserts a new clause to deal with cases where the defendant is dead or has been dissolved or is insolvent or cannot be found. In those circumstances, the plaintiff may sue the insurer directly, if there is one. This will save plaintiffs the time and cost of applying to the court for an order to have a company that has been dissolved reinstated for the purpose of allowing the plaintiff to sue it and get access to any insurance that may be available. The insurer would have the same rights, duties and liabilities in the action as the defendant would have had. However, the insurer's liability cannot exceed the extent of the liability under the insurance policy. The new clause would eliminate the need for clause 13 of the bill.

Ms CHAPMAN: The opposition supports the position in relation to the amendment moved by the government. At present, there is a procedure to enable a declaration to be made in the Supreme Court. The only thing this amendment actually does is circumvent the need to do that; and be able to go directly to the insurer. We support the amendment.

New clause inserted.

Clause 13.

The Hon. M.J. ATKINSON: The government opposes clause 13 of the bill. The amendment I moved to insert new clause 12A removes the need for obtaining leave of the court to sue; so this clause is not needed.

Ms CHAPMAN: We accept that position and support the government.

Clause negatived.

New clause 14.

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

Page 6, after line 11—After clause 13 insert:

14—Regulations

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

There might be a need to supplement the bill by the making of regulations that would not be authorised expressly by other provisions in the bill. Although none has yet been identified, it is as well to include the authority now rather than having to amend the act further, if further regulations are found to be necessary. This is an example of the benefit of government scrutiny of the bill. Private members do often forget the need for regulations.

Ms CHAPMAN: The opposition had noted the omission and the government's proposal to introduce this amendment. I think the government is not being full and frank in relation to this. Clearly, it recognises that regulations will be required to identify the prescribed processes that will be necessary under the new regime that applies; so I place that on the record. I indicate we support the same.

New clause inserted.

Schedule 1.

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

Page 6, after line 20—After part 1 insert:

Part 1A—Amendment of Limitation of Actions Act 1936

1A—Amendment of section 36—personal injuries

Section 36—after subsection (1) insert:

(1a) However, in the case of a personal injury that remains latent for some time after its cause, the period of three years mentioned in subsection (12) begins to run when the injury first comes to the person's knowledge.

Part 1B—Amendment of Survival of Causes of Action Act 1940

1B—Amendment of section 3—Damages in actions which survive under this Act

Section 3(2), after 'and curtailment of expectation of life,' insert:

and exemplary damages,

There are two parts to the amendment. I will deal with them separately. The first amendment would insert a new subsection in section 36 of the Limitation of Actions Act. Section 36 sets a time limit for commencing proceedings of three years from when a cause of action in tort for personal injuries arose. This new subsection would qualify section 36 for latent diseases. It would allow a period of three years from when the injury first comes to the person's knowledge. It would still be possible for a plaintiff to seek an extension of time in proper cases.

The second part is consequential upon the amendment to encourage the court to award exemplary damages in some circumstances. It would allow any exemplary damages awarded in a case carried on under the Survival of Causes of Action Act to be paid to the estate of a deceased plaintiff.

Ms CHAPMAN: For the reasons previously indicated, we support part 1A. In relation to part 1B, exemplary damages, I have indicated previously our objection to that. We will consider that matter between the houses.

Amendments carried.

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

Page 6—

Section 2(3)—delete subclause (3).

The Hon. Nick Xenophon has agreed to the deletion of subclause (3) of this clause. That subclause could result in the substantive rights of the parties being changed mid trial. This would cause many practical problems. It would be likely to lead to requests by the parties for the adjournment of part-heard trials; and it is likely the court would grant adjournments in the interests of a fair trial. This would cause delay which would detract from one of the main objects of the bill. It would cause inconvenience to the court, with probable flow-on effects for other litigants. The court would have set aside time for the expected length of the trial—which would not be used. It would have to find new times that could have

been used for trying other cases. The deletion of subclause (3) requires some consequential amendments to subclause (2).

Ms CHAPMAN: Although we have had very late notice of this amendment, we accept the government's position and consent to the amendment.

Amendment carried; schedule as amended passed.

Title passed.

Bill reported with amendments.

The Hon. M.J. ATKINSON (Attorney-General): I move:

That this bill be now read a third time.

I thank the member for Bragg for her cooperation and all members for their forbearance in the committee stage of the bill.

Bill read a third time and passed.

CHILDREN'S PROTECTION (MISCELLANEOUS) AMENDMENT BILL

The Legislative Council insisted on its amendments Nos 18, 19 and 22 to which the House of Assembly had disagreed.

Consideration in committee.

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

That the disagreement to amendments Nos 18, 19 and 22 be insisted upon and that the alternative amendments made in lieu thereof be insisted on.

Motion carried.

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

That a message be sent to the Legislative Council requesting a conference be granted to this house respecting certain amendments from the Legislative Council in the bill, and that the Legislative Council be informed that, in the event of a conference being agreed to, this house will be represented at such conference by five managers (Ms Thompson, Mr Brindal, Ms Redmond, Ms Chapman and me), and that the movers be managers of the conference on the part of the House of Assembly.

Motion carried.

ROAD TRAFFIC (DRUG DRIVING) AMENDMENT BILL

Consideration in committee of the Legislative Council's message (resumed on motion).

(Continued from page 4278.)

The Hon. M.J. ATKINSON: The government rather doubts that some of these amendments made by the Liberal Party and others in another place will have the effect that is claimed. We were opposed to them but, in the interests of getting the bill into law, we have acquiesced in them. So, let not the member for Schubert and the Liberal Party complain that they have not got their wicked way. They have.

Mr VENNING: After being provoked in such a way, can I say that, after all this time (two years), it has been a victory; and, yes, I am happy that the government has agreed to these amendments.

Ms Chapman: They have rolled over.

Mr VENNING: You have rolled over. We have toughened up the government's bill, but it is not tough enough. Certainly, it is better than when it left this place. I was pretty cross that the government was not prepared to support any of our amendments in this place. What really got up my nose was the fact that, in the other house, the Democrats neither supported the bill nor any of the amendments. I am relieved that the bill is now finally through; I really am. I agree with the amendments that have been—

The Hon. M.J. Atkinson interjecting:

Mr VENNING: The Attorney-General tells me to sit down. After two years, this is coming to a finish. I am sorry. If the system does not allow me to stand in this place after two years 'b' work and say what I want to say, well, sorry. I am sorry that the minister sighs. This issue happens to mean a lot to me, minister. I agree with the amendments. As the Attorney said, I am happy to accept these amendments, because it gets this bill into law. We have got legislation. Something is going to happen. It shows that we have taken a strong stance on drugs and driving, and the tolerance will be zero; but, as I said, it should have been stronger.

I am very disappointed about the Democrats. I cannot believe that a political party in this day and age still has a tolerance to and an acceptance of drugs. The Democrats voted against this bill and all the amendments at every stage. I cannot understand. That is one of the reasons why we got into this situation in the first place, particularly in relation to the legal cultivation of marijuana. After two years trying to get this bill up, as I said, something has finally been done. The Rann Labor government has finally taken a step in the right direction, and not before time.

I welcome these amendments. I wish that they had a few more teeth to them to make it tougher than Victoria's bill. I believe that we could have improved on this legislation, but I am happy that we can now road test it. I think time will prove what we need to do with it. We will try it and see.

I was concerned that we do not have confiscation of licence at first offence. If you have a reading of 0.08 in a blood alcohol test, there is automatic loss of licence, so why should that not happen in this case. We are treating it the same. I know the minister would not accept that, and that is why it is not part of the amendments: we deliberately pulled it out. It does not appear in these amendment and I was concerned about that. But it is not there, and I believe that, if it had been, the minister would not have not have agreed to it anyway and we would have needed a conference. I understand that the minister is totally opposed to that proposition so, rather than put it in the bill, we have moved on, and we will sail on without it. We may revisit it after 18 March next year.

I was also disappointed regarding my original amendment dealing with defining a second offence of either drug or alcohol abuse relating to a first offence of either of the others. Again, I put that on notice, because it was brought up with me several times, and we could revisit that also.

Finally, I am very pleased that at last this measure will be passed by the house. I thank the minister but, most of all, I thank my friends on this side of the house, because they have stuck with me through thick and thin. They have supported me, and I thank my colleagues here very much for being patient for two years and for working through it. I commend this bill to the house, and I hope that the government can bring it in quickly. I am told that it will not be brought in until mid-next year. I hope that it can be in place before Easter next year, because that will be the next time that we see a problem with drugs in South Australia. I commend the bill to the house, and this proves that, if you stick to something long enough, you can succeed.

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

That the Legislative Council's amendments be agreed to.

Motion carried.

The Hon. M.J. ATKINSON (Attorney-General): I move:

That standing orders be so far suspended as to enable the house to sit beyond midnight.

The SPEAKER: I have counted the house and, as an absolute majority of the whole number of members of the house is not present, ring the bells.

An absolute majority of the whole number of members being present:

Motion carried.

Mr BRINDAL: Mr Speaker, on a point of order, I draw your attention to page 1, turn 68 of *Hansard* this evening, and to remarks made by the member for Hammond which I find offensive. I ask you to study those remarks and ask him to withdraw them.

The SPEAKER: The chair has seen the first draft of *Hansard*, and the comment made by the member for Hammond is totally out of order. He will be asked to withdraw. I do not think he is here at the moment.

An honourable member interjecting:

The SPEAKER: The member for Hammond is asked to withdraw the remark to which the member for Unley has taken offence.

An honourable member interjecting:

The SPEAKER: I thought someone said that he was here. He has gone out. When the member for Hammond appears, he will be required to withdraw that reference, which the member for Unley regarded as offensive.

TERRORISM (POLICE POWERS) BILL

Consideration in committee of the Legislative Council's amendments.

(Continued from 29 November. Page 4204.)

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

That the Legislative Council's amendments Nos 1 to 5 be agreed to, with the exception of the following amendment to No. 5:

Page 13, line 20—

Clause 27(3)—delete '6 sitting days' and insert '14 sitting days' in lieu thereof.

Ms CHAPMAN: We appreciate the government's agreement to the amendments. These are matters that were canvassed by a number of speakers. They address a number of matters raised by speakers in the original contributions made in this house. Amendment No. 5 will now require the Attorney-General to act within 14 days or three months after receiving the report, instead of the six months which we had strongly spoken against, so we are grateful for that. Given that a number of members spoke in relation to constraints of the exercise of power of police officers when searching homes, persons, vehicles, cordoning-off areas and the like, and the physical harm, humiliation and embarrassment to people during the course of the police exercising those duties, and also damage to property, I think the amendments from members in another place adequately cover those concerns. I thank them for their consideration and deliberations and appreciate the government's acceptance of the same.

The CHAIRMAN: I will put the two questions separately. The first question is:

That amendments Nos 1 to 4 made by the Legislative Council be agreed to.

Motion carried.

The CHAIRMAN: The second question is:

That the Legislative Council's amendment No. 5 be amended so as to replace '6 sitting days' with '14 sitting days'.

Motion carried.

LOCAL GOVERNMENT (LOCHIEL PARK LANDS) AMENDMENT BILL

Consideration in committee of the Legislative Council's amendments.

(Continued from 29 November. Page 4204.)

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

That the Legislative Council's amendments be agreed to.

Ms CHAPMAN: The opposition accepts this was apparently an oversight at the time of the drafting of the previous bill, so it accepts the amendments.

Motion carried.

GUARDIANSHIP AND ADMINISTRATION (MISCELLANEOUS) AMENDMENT BILL

Consideration in committee of the Legislative Council's amendment.

(Continued from 29 November. Page 4204.)

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

That the Legislative Council's amendment be agreed to.

The member for Heysen may recall that she saw a dark conspiracy in this bill and she kept deliberation on it going for hours. I want to point out that there was no dark conspiracy, it was all very plain and every stakeholder wanted the bill and the changes.

Ms CHAPMAN: It seems that the Attorney-General has had a lapse of memory in relation to the debate on this matter. He might recall more clearly that it was actually the member for Hammond who made a contribution in this debate, identifying his concern about the haste with which the government introduced this bill, breaking all the rules about having it dealt with more quickly, when we now find that it had run out of business so it had to rush in something in a hurry to fill up the space, to avoid the embarrassment of not having anything to deal with. The member for Hammond made quite clear his concern as to the motives of the government on that occasion.

The member for Heysen, very clearly and I think appropriately, asked a number of questions in the committee stage. The Attorney-General should withdraw any reflection he has made on the member of Heysen in relation to that because it was a valuable contribution on that bill. Otherwise, I indicate that the opposition accepts this amendment.

The Hon. M.J. ATKINSON: We are waiting for a message to return from another place so, in parliamentary parlance, we have some free time. The member for Heysen's contribution, when this bill was last debated in this place, was prolix and vexatious and attributed to me an improper motive which has not been borne out by the passage of time.

The stakeholders in guardianship want this amendment. It is not a time-wasting or time-filling bill. It is a bill needed to restore the in loco parentis rule in our aged care homes and nursing homes as the whole industry thought it was until recently, when they were shocked by legal advice. At their request I moved this bill. Nothing—

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: On the contrary, we needed to get that bill through in double quick time. Ask the Public

Advocate: ask the President of the Guardianship Board. They would be merely puzzled by the opposition's contribution on the bill. Here it is back from the Legislative Council: no conspiracy, no time wasting, nothing; just a good, sensible law.

Motion carried.

LOCHIEL PARK

Mr SCALZI (Hartley): I seek leave to make a personal explanation.

Leave granted.

Mr SCALZI: When the consideration of the amendments of the Legislative Council in the Local Government (Lochiel Park Lands) Amendment Bill was brought forward, there was a bit of confusion as to which bill we had to—

The Hon. J.W. Weatherill interjecting:

Mr SCALZI: At this late hour the minister is really—

The SPEAKER: Order! The member for Hartley needs to make a personal explanation that should relate to how he has been aggrieved.

Mr SCALZI: As the member for Bragg said, the opposition agrees to the amendments of the Legislative Council. I support that.

Members interjecting:

The SPEAKER: Order!

Mr SCALZI: I supported this bill and made it quite clear on many occasions.

The SPEAKER: Order! It is a not a personal explanation, more a statement.

SITTINGS AND BUSINESS

Mr MEIER: On a point of order, there was an arrangement between the Whips that we would go beyond midnight to allow a conference—

The Hon. J.W. Weatherill: Hold on: you have Mr Smart Alec over here saying he wants to call it on.

Mr MEIER: Shut up.

The SPEAKER: Order!

Mr MEIER: —to allow a conference of managers to be set up so that it could sit tomorrow morning. That was agreed to, and the government also indicated that it wished to deal with three other items, namely the Terrorism (Police Powers) Bill, the Local Government (Lochiel Park Lands) Bill, and the Guardianship and Administration (Miscellaneous) Amendment Bill—

The SPEAKER: Order, member for Goyder! That is not a point of order. The house has given authority to sit beyond midnight. The bill can be called on.

Mr MEIER: I draw attention to the state of the house.

Members interjecting:

Mr MEIER: You asked for it.

The SPEAKER: Order! The house will come to order and anyone speaking over the chair will be named. I believe the member for Goyder called a quorum. It is impossible for the chair to hear. A quorum is present, and it is out of order to call for a quorum when a member can reasonably count.

The Hon. M.J. ATKINSON: In federal parliament, sir, one would be automatically suspended; but not here. I move:

That the house resume its deliberation on the Statutes Amendment (Relationships No. 2) Bill.

The SPEAKER: Is that seconded?

Members interjecting:

The Hon. K.O. FOLEY: The deal sticks, John. The deal sticks.

The Hon. M.J. ATKINSON: We are not going to do it?

The Hon. K.O. FOLEY: No, the deal sticks.

The Hon. M.J. ATKINSON: I withdraw that, sir.

Members interjecting:

The SPEAKER: Order! Members will take their seats. I understand that it is not going to be called on and we are waiting for messages from the Legislative Council.

Mr BRINDAL: On a point of order, I would like to know by what right anyone made a deal in this house about a matter that I might choose to vote on. I did not authorise anyone—

Ms Rankine: Ask your Whip.

Mr BRINDAL: I inform this house that I believe the house—

The SPEAKER: Order! The member for Unley will resume his seat. It is not a point of order. The member for Unley will sit down or he will be named.

STATUTES AMENDMENT (CRIMINAL PROCEDURE) BILL

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

No. 1—Clause 4 (New section 285BA), page 3, lines 14 to 17—
Delete subsection (3) and insert:

(3) The notice must contain a warning, in the prescribed form, to the effect that, if the defendant is convicted, the court is required to take an unreasonable failure to make an admission in response to the notice into account in fixing sentence.

No. 2—Clause 4 (New section 285BB), page 4, line 3—
After 'may' insert:

, on application by the prosecutor,

No. 3—Clause 4 (New section 285BB), page 4, lines 19 to 28—
Delete subsection (2) and substitute:

(2) Before making an order under this section, the court must satisfy itself that—

(a) the prosecution has provided the defence with an outline of the prosecution case, so far as it has been developed on the basis of material currently available to the prosecution; and

(b) the prosecution has no existing, but unfulfilled, obligations of disclosure to the defence.

No. 4—Clause 4 (New section 285BC), page 5, lines 5 to 12—
Delete subsection (1) and substitute:

(1) If a defendant is to be tried or sentenced for an indictable offence, and expert evidence is to be introduced for the defence, written notice of intention to introduce the evidence must be given to the Director of Public Prosecutions—

(a) in the case of trial, on or before the date of the first directions hearing, and, in the case of sentence, at least 28 days before the date appointed for submissions on sentence; or

(b) if the evidence does not become available to the defence until later—as soon as practicable after it becomes available to the defence.

No. 5—Clause 4 (New section 285BC), page 5, lines 33 to 38 and page 6, lines 1 to 7—
Delete subsections (6) and (7) and substitute:

(6) If the Director of Public Prosecutions receives notice under this section of an intention to introduce expert evidence less than 28 days before the day appointed for the commencement of the trial or submissions on sentence, the court may, on application by the prosecutor, adjourn the case to allow the prosecution a reasonable opportunity to obtain expert advice on the proposed evidence and, if a jury has been empanelled and the adjournment would, in the court's opinion, adversely affect the course of the trial, the court may discharge the jury and order that the trial be re-commenced.

(7) The court should grant an application for an adjournment under subsection (6) unless there are good reasons to the contrary.

(8) If it appears to the judge, from evidence or submissions before the court, that a legal practitioner has advised the defendant not to comply, or has expressly agreed to the defendant's non-compliance, with a requirement of this section, the judge may report the matter to the appropriate professional disciplinary authority.

(9) Before the judge makes a report under subsection (8), the judge will invite the legal practitioner to make submissions to the court showing why the matter should not be reported.

No. 6—Clause 5, page 6, line 18—

After 'jury,' insert:

the invitation to exercise a right under this section must be made in the absence of the jury and

No. 7—Clause 11 (New section 10A), page 8, after line 30—

Insert:

(6a) A police officer must not, without good and sufficient cause, fail to carry out a duty under this section promptly and diligently.

(6b) The police officer in charge of the investigation of an indictable offence will, for the purposes of this section, be the police officer appointed by the Commissioner for that purpose.

No. 8—Clause 13, page 9, lines 23 to 39—

Delete subclause (2)

No. 9—Clause 14, page 10, lines 14 to 18—

Delete subparagraphs (i) and (ii) and substitute:

(i) setting out the more important statutory obligations of the defendant to be fulfilled in anticipation of trial; and

(ii) explaining that non-compliance with those obligations may have serious consequences; and

CHILDREN'S PROTECTION (MISCELLANEOUS) AMENDMENT BILL

The Legislative Council agreed to grant a conference as requested by the House of Assembly. The Legislative Council named the hour of 11.15 a.m. on Thursday 1 December 2005 to receive the managers on behalf of the House of Assembly at the Plaza Room on the first floor of the Legislative Council.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I move:

That a message be sent to the Legislative Council agreeing to the time and place appointed by the Legislative Council.

Motion carried.

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

That the sitting of the house be continued during the conference with the Legislative Council on the bill.

Motion carried.

ADJOURNMENT

At 12.50 a.m. the house adjourned until Thursday 1 December at 10.30 a.m.