LEGISLATIVE COUNCIL

Thursday 20 October 1994

The PRESIDENT (Hon. Peter Dunn) took the Chair at 2.15 p.m. and read prayers.

MEMBERS' TRAVEL

The PRESIDENT laid on the table the statement of members' travel expenditure 1993-94, under the Members of Parliament Travel Entitlement Rules 1983.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Transport (Hon. Diana Laidlaw)—

Reports, 1993-94.
South Australian Totalizator Agency Board.
South Australia Urban Land Trust.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. CAROLINE SCHAEFER: I bring up the report of the Environment, Resources and Development Committee 1993-94.

FORESTRY

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement by the Minister for Primary Industries on the subject of the future of South Australia's forests.

Leave granted.

QUESTION TIME

UNION OFFICIALS

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Attorney-General a question about Government intimidation of union officials.

Leave granted.

The Hon. CAROLYN PICKLES: The Government has carried out a number of legislative and other measures apparently designed to intimidate and dominate South Australian trade unions. I refer to the onerous restrictions on freedom of association in the Industrial Relations Act, and also the sum of $800 000 set aside in the Attorney-General's budget to fight the move by South Australian employees to Federal awards. Now police have been instructed to interrogate certain union officials in relation to the premature release of the Government's latest WorkCover reform Bill. It has been reported to me that the car of one union official was tailed by detectives, and another union official was interrogated at his home on the Saturday morning of 24 September this year. My questions are:

1. In relation to this investigation into the premature release of the WorkCover Bill in September, which Government Minister gave instructions for the investigation by the Anti-Corruption Squad or other police units?

2. How many people have been interrogated in relation to this matter?

3. What positions are held by the people who have been interrogated?

4. Have any conversations of suspects been intercepted or taped by the Anti-Corruption Squad or other police units?

The Hon. K.T. GRIFFIN: The honourable member seeks to use some fairly colourful language when she talks about interrogation and intimidation of union officials. The fact of the matter is that under the law which Parliament has passed there is freedom of association and freedom for employers and employees and representatives of both to make some choices—choices which were not available so explicitly under the previous law.

Obviously, to reinforce the freedom of association principle enshrined in the Industrial and Employee Relations Act there are provisions for offences. In the normal course, if an offence is believed to have been committed, investigations may follow and they would normally be followed by the independent law enforcement agencies.

I do not know what the position is in relation to the matter to which the honourable member referred. She may care to let me have more specific details of the information that she has to enable the Government to investigate more fully the assertions that she is making.

In terms of who, if anybody, is being investigated, and who has authorised that investigation, I am not sure; but in the normal course any law enforcement agency which has the responsibility for investigating offences which are believed to have occurred would not seek instructions from any Government officer or Minister before embarking on their statutory responsibilities. I will refer the matter to the Minister for Industrial Affairs, who has responsibility for the WorkCover Corporation as well as for the administration of the association between his office and the department and the WorkCover Corporation, and if there is any information I will bring back a reply.

SEXUAL HARASSMENT

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, as Leader of the Government in the Council, a question about the handling of sexual harassment cases.

Leave granted.

The Hon. R.R. ROBERTS: I have been approached by a third party on behalf of a constituent from the Department of Primary Industries. In February 1993 a complaint of sexual harassment was laid against a senior officer of the Department of Primary Industries based in Naracoorte. I point out that the sexual harassment has always been strenuously denied. Following a considerable time delay, the complaint was withdrawn by the complainant. This was shortly before a decision was to be made by the Commissioner for Equal Opportunities whether the matter should be referred to the Equal Opportunities Tribunal for determination.

I understand that in these matters, often of a delicate nature, a series of steps is taken to determine whether there is substance, whether conciliation ought to take place and eventually whether it ought to go to the tribunal.

I understand that the procedures were undertaken to the point of conciliation, and a suggestion was made to my constituent that he ought to take conciliation. Again, I point out that my constituent still strenuously denied the allegation and has made a submission to the Brian Martin legislative

review of the Equal Opportunities Act 1984. I do not intend at this stage to go through his submission.

When the matter got to the conciliation stage, certain proposals were put to my constituent which he strenuously denied. In fact, he believed that he had no case to answer and intended to go to the tribunal. He clearly stated his intention not to accept the proposal for resolution of one of the complaints and, therefore, he decided not to conciliate. The commission and the Commissioner, prior to a conciliation conference on 12 November 1993, informed my constituent of certain consequences if he did not agree to conciliation, and it is worth putting them on the record.

He was advised that it would be recommended that the Commissioner provide assistance to the complainant before the tribunal—that was fine; that the commission would attempt to amend the complaint to include a section 30; an application would be made to suppress the name of the complainant—and any application to suppress the name of my constituent would be opposed; and that an allegation of frivolity and vexatiousness would be made against him in a claim for costs. He was advised that the case would be the first case of sexual harassment to be determined by the tribunal. He was also advised that the case would attract wide media publicity; that the decision of the tribunal could take more than a year to achieve, that this would preclude his return to his place of residence in Naracoorte in that period and that would obviously work against his career and, in fact, it has. He was advised that the complainant was happy to have the case referred to the tribunal; that the complainant would seek a large sum of unspecified damages; and the commissioner had nothing to gain by the case being referred to the tribunal, except that it would provide a South Australian precedent. It had a lot to lose if it was not.

Faced with that fairly intimidating position and believing that he, in fact, did have no case to answer, my constituent still insisted on his right to go to the tribunal. However, he was notified that the complaint was withdrawn on 10 February 1994. This constituent now suffers extreme bad health, has lost his career, has had to move away from his home and is obviously very bitter about the situation and demands answers to the following questions which I would ask the Minister to provide.

1. What was the cost to the Government to meet the provision of special leave on full pay to the complainant during the period between February to the end of June 1993?

2. What was the cost to the Government of providing to the complainant support services during the period February 1993 to February 1994?

3. What other sums of money were paid to the complainant for matters associated with this complaint?

4. In view of the fact that the complaint was withdrawn by the complainant prior to determination by the Equal Opportunities Commission, has the money paid to the complainant for any loss or damage, or for any other reason been recovered, or does the Government not seek to recover moneys in such circumstances?

5. What is the estimate of the legal and other costs to be borne by the Government associated with this complaint and its investigation and the advice leading to the case being subsequently withdrawn?

6. In view of the fact that my constituent is ill and has lost his job and has, effectively, been found innocent of the charge, would the Government support a claim for worker's compensation as his current state of health and non-economic losses have been attributed to the trauma that he has experienced during this situation?

The Hon. K.T. GRIFFIN: I will take the question because the Equal Opportunity Commission is under my responsibility, the Department of Primary Industries is under the responsibility of the Minister for Primary Industries, for whom I have representative responsibility here, and if it is worker's compensation it is also the Minister for Industrial Affairs. I am not familiar with the details of the matter. If the Hon. Ron Roberts will give me the details, which he could not use in the Chamber, particularly the name of his constituent, I will undertake to have the matter followed up with a view to bringing back a reply.

HEALTH PURCHASING

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about the State health system's purchasing role.

Leave granted.

The Hon. M.S. FELEPPA: The proposed State health system seems to have two kinds of purchasing roles to carry out. One role is to purchase goods under what is called material management. This role will be carried out by no more than two people, who will make up a small administrative unit. It is to be a specialised role with the two people required to look at all stages of manufacture, purchase, distribution, storage and actual usage of products. The two officers will have an enormous task to perform and will certainly be overworked. Undoubtedly they will be earning their wages as it is hoped that they will produce a net benefit for the Government of $1.5 million per annum. However, I cannot imagine that just two people will be able to carry out the range of work imposed on them. I believe the administrative costs will blow out to more than the cost that the Minister anticipates. The administrative costs might be hidden because in his response to the Estimates Committee the Minister appeared not to be clear about what he meant. He stated:

> Its costs will be recoverable outside the net benefit of $1.5 million per annum.

Therefore, it raises the question from where the administrative costs will be funded. The second purchasing role involves the purchasing of services under the concepts of agreements, contracts and contestability. The health units in place at present will have the opportunity to respond and meet the requirements of the proposed Department of Health. If they are successful, then the purchase of the service or funding, which is the same thing, contract or agreement will have to be prepared by the department and this would incur expensive expert administrative cost. Under contestability those services not being supplied by existing health units may be offered for private tender. The administrative costs involved in negotiations under the concept of contestability of necessity must be high as there will need to be expert financial, medical and legal staff to ensure that the agreements and contracts are watertight. The Government's whole economic exercise is cost cutting and money saving which, on the face of it, will be nullified in the area of health by these new and expensive administrative arrangements. My questions are as follows:

1. Will the Minister explain to the Parliament the structure of the proposed purchasing roles to be carried on by the proposed Department of Health, that is, the role for the purchasing of goods as outlined in Estimates Committee A

(*Hansard,* page 116) and the role of purchasing services, including that under the concept of contestability?

2. Have the administrative costs of the purchasing of services by agreement or contract, or under the concept of contestability been costed and does it show that there will be, in fact, no real savings in administration but simply a centralisation of power?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply.

BENLATE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about Benlate.

Leave granted.

The Hon. M.J. ELLIOTT: Following my motion to the House yesterday regarding the fungicide Benlate, I have been approached by a person who lodged a freedom of information request with the South Australia Health Commission in relation to Benlate on 25 March 1994. The request sought access to documents concerning Benlate (benomyl) and its possible links overseas to birth defects, especially the eye conditions known as anopthalmia and micropthalmia (which mean no eyes and very small eyes, respectively), of which there have been reported cases in the United Kingdom, the United States of America and New Zealand. The Health Commission failed to respond to the request.

Since speaking yesterday I have also been contacted by an Elizabeth man whose grandson was born without eyes after his mother had used a paint allegedly containing Benlate in the early stages of her pregnancy. He told me that his daughter has made contact with other people around Australia whose children have suffered from the same condition, which is thought to be due to Benlate. She has identified three cases in Melbourne, two in Tasmania, two in Sydney and two in Queensland. There may be others, but medical confidentiality makes it difficult to track down more cases. My questions are:

1. Will the Health Commission make available to me all the documentation it holds regarding Benlate (benomyl) and its health effects?

2. Was the failure to respond to the FOI request due to incompetence or a desire to cover up?

The Hon. DIANA LAIDLAW: In answer to the second question, I suspect it was neither, but I will refer the question to the Minister in another place and bring back a reply.

MOUNT BARKER COUNCIL PARKING INSPECTORS

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister representing the Minister for Housing, Urban Development and Local Government Relations a question about Mount Barker council parking practices.

Leave granted.

The Hon. A.J. REDFORD: An article has been brought to my attention which appeared in today's Mount Barker *Courier* and which relates to a practice of the Mount Barker council's parking inspectors. It is reported in the Mount Barker *Courier* that the Mount Barker council has a policy of arming its traffic inspectors with video cameras and arranging for those parking inspectors to take footage of people dropping their children off outside the Hahndorf kindergarten. The article goes on to suggest that a number of children and parents became exceedingly concerned about these men hanging around outside the Hahndorf kindergarten, believing they may have been sinister strangers. The journalist from the Mount Barker *Courier* made an inquiry of the Mount Barker council's Deputy Chief Executive Officer, Mr Keith Milich, who conceded that this practice had been adopted by the Mount Barker council and who stated that the films would be viewed only in the case of parking fine disputes. To be fair to the Mount Barker council, most of the films are disposed of and only offenders are filmed. He went on to explain that they were to be used in court proceedings to back up an inspector's word against that of the alleged offender.

I am concerned about the fears about the nature of the tactics adopted by the Mount Barker council in enforcing parking regulations. I am also concerned about the lack of privacy and the feelings of people dropping off their children at the local kindergarten. In light of that, first, will the Minister investigate the use of these cameras by the Mount Barker council; and, secondly, will the Minister consider counselling and advising the council of alternative methods of detecting and policing breaches of parking regulations in areas outside kindergartens and schools, as opposed to the invidious use of video cameras?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply.

WATER SUPPLY

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Infrastructure, a question on the subject of the current and future supply of potable water for South Australia.

Leave granted.

The Hon. T. CROTHERS: Even in a State as dry as South Australia, this has been a drier than average year. In fact, it has also been exceedingly dry in other areas of the nation, and nowhere more particularly so than the areas in the central north of our nation. In fact, so dry has it been in New South Wales, some major rivers have dried up, and the Premier of that State has indicated that water restrictions and rationing will be the order of the day for the population of that State. In light of that and the obvious increased calls that will be placed on the River Murray waters, my questions to the Minister are as follows:

1. Is our quota share of River Murray water safe?

2. What are our surface reservoirs currently holding, and what percentage capacity of their maximum holding does that represent?

3. Is South Australia in any danger of water use restrictions being imposed?

4. If restrictions appear to be necessary, will the Minister take whatever preemptive action he deems fit in order to ensure that any inconvenience brought about by water rationing is kept to the barest minimum?

The Hon. R.I. LUCAS: I will refer the honourable member's questions to the Minister and bring back a reply.

VIETNAMESE LANGUAGE STUDIES

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Employment, Training and Further Education, a question on the subject of Vietnamese language studies.

Leave granted.

The Hon. BERNICE PFITZNER: Two months ago I contacted the Minister regarding the Vietnamese language studies provided by the University of Adelaide. The response from the Minister was that the university is committed to providing funds granted for Vietnamese to that program. University funds are at present directed to paying the one and only lecturer in Vietnamese. Members will recall that the Chinese language studies has six full time staff and the Japanese language studies has 11 full time staff.

I now have fresh information that the Federal Government through DEET has promised a gradual increase in student places in Vietnamese studies. In 1995 there will be 10 student places with a funding of $64 000; in 1996, there will be 17 student places with a funding of $106 000; and in 1997 there will be 27 student places with a funding of $152 000. This extra promised funding from the Federal Government is to expand the Vietnamese language course at the University of Adelaide. I now understand that the Registrar of the University of Adelaide intends to use these funds for the salary of the one and only lecturer in Vietnamese in the University of Adelaide. My questions to the Minister are:

1. Is it acceptable for the Federal funding for the extension of the course to be diverted to fund the original lecturer?
2. If not, will the Minister get an assurance that the one and only lecturer will be funded from the university funds as previously?
3. If the Federal funding is to go to the salary of the one and only lecturer, how can the university justify not using the Federal funds for the extension of the program as intended rather than just using the funds for maintaining the program?

The Hon. R.I. LUCAS: I will refer the honourable member's questions to the Minister and bring back a reply.

The PRESIDENT: In calling the Hon. Terry Cameron, I remind members that this is the member's maiden contribution. The name Cameron is quite familiar to some of the older members in here. I hope I can keep the Christian name right.

PORT AUGUSTA BRIDGE

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport a question regarding the Port Augusta bridge.

Leave granted.

The Hon. T.G. CAMERON: The Mayor of Port Augusta, Mr Bob Robertson, has written to the Minister for Transport asking her not to permit A-trains on the Port Augusta bridge until the worries that Port Augusta people have about safety are answered. A-trains are road vehicles twice the size of semitrailers. They are one up from B-trains, a bigger version of the semitrailer.

The Mayor argues that the Port Augusta bridge was not built in contemplation of A-trains and that it might not cope with the weight of two 70-tonne road trains at once. The Mayor says that a load limit of 42 tonnes has been imposed on the bridge at Blanchetown, which is similar in age and design to the Port Augusta bridge, and is worried that A-trains might endanger pedestrians and cyclists on the bridge given the suction they create. The Mayor is also worried by old model cars and B-trains having to overtake A-trains that are observing the special 90 km/h speed limit for A-trains, especially when A-trains travel in convoys of two, as he expects they will. He writes:

> Just one issue is A-trains, which are speed limited to 90 kilometres per hour. B-trains are limited to 100 kilometres per hour. It would be hard for B-trains to overtake with safety, so convoys will build up. Normal semitrailers and buses cannot operate at a profit at limited speeds and naturally the drivers being held up will resent the delay. Impatience and natural aggression will result in poor work practices, that is, dangerous overtaking. The victims will be family cars and their occupants, not trucks. The passage of A-trains will affect all the citizens that commute on the road between Port Augusta and Lochiel.

Will the Minister for Transport withhold A-train permits until all safety matters are resolved to the satisfaction of the Port Augusta council?

The Hon. DIANA LAIDLAW: No. This matter was investigated at my initiative earlier this year. It has been a matter of concern to the wider community than the Port Augusta community for quite some years. It was certainly a matter that I addressed to the Hon. Mr Blevins when he was Minister for Transport, and subsequently to the Hon. Ms Wiese. It is an issue that has been of concern to road transport operators for many years because increased costs are involved: they need to double up and unhook their road trains in Port Augusta when travelling from the north, south, east or west before coming to Adelaide.

I asked the Port Augusta council early this year to nominate somebody to be one of three people on a working party, together with an officer from the Department of Transport and from the South Australian Road Transport Association. The council nominated Mr Ian McSporran, its CEO. That working party took some time to prepare a report. I understand it canvassed businesses in the area at the time. A report was prepared for me, with a recommendation that there be further consultation prior to submission to the council. That was undertaken, and the council subsequently agreed that there be a 12-month trial.

The Mayor now would wish not to acknowledge that the council has, throughout this investigation, had its most senior administration officer as one of three persons on the working party; that there has been consultation with the local community; and that it has been to council and has been approved by the council for implementation on a trial basis. I fail to believe that there is one more course of action which I could have taken in this matter in terms of investigations with the local community and with the wider community than I have in fact undertaken.

The issue of safety, both in the town and on approach roads, was addressed by the working party, and it is for that reason that a trial has been suggested rather than a full decision taken that, without qualification, this initiative can proceed for all time without some study being undertaken.

I have agreed that a red light camera will be installed on traffic lights in the area and that there will be a change of sequence for the traffic lights. The local member, the member for Eyre, has suggested that there be a flashing amber light on the approach road. Some discussions have occurred in relation to the bridge, but the engineers from the Department of Transport have indicated to me that the Mayor, the council and the community at large have no reason to be concerned about this matter. I understand that the Mayor is keen to have a new bridge built in his area, and this may well be part of a campaign to realise that objective. However, the departmental

officers, who are the appropriate authority to consult in this instance, have reassured me that there is no need for concern about the status of the bridge to handle this new vehicle.

I should say also that, in terms of the A-train, I did not give approval for AAA-trains to pass through Port Augusta; AA-trains are the extent of the vehicles that have been approved at this time. I had hoped that the trial would commence on 1 November, but it has taken longer than anticipated to complete the transport depot and changing station at Lochiel, so it should be delayed for some weeks from 1 November.

Contrary to all the rather hysterical and ill-founded statements made by the Mayor, I have indicated that I am prepared to speak to him and to his council and that I will visit Port Augusta before the trial commences.

GROTE STREET PROPERTIES

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about Grote Street properties.

Leave granted.

The Hon. R.D. LAWSON: Members will be aware of two adjoining historic buildings near the south-eastern corner of Grote and Morphett Streets in Adelaide. Until a few years ago, they were occupied by the Adelaide Girls' High School. The western-most building was originally the Grote Street Model School, and its neighbour was originally the Training School for Teachers. Both have been used for educational purposes in South Australia for well over 100 years.

The Grote Street Model School was almost destroyed by fire a few years ago. In 1987 it was extensively restored by the Heritage Unit of the Department of Housing and Construction. The roof was re-slated and the final restoration was most impressive. The old Training School for Teachers includes the Price Hall and it has, until recently, been occupied by the Centre for the Performing Arts. Peter Ward, in the September edition of the *Adelaide Review*, commented that the Model School was handsomely repaired at considerable cost, but he suggested that it has now languished, and to use his words:

> It remains unused, deteriorating, cracked, vandalised, beset by weeds and swathed in cyclone and barbed wire, apparently surplus to the Education Department's needs, and it seems beyond the wit and wisdom of the Government's strategic planners.

My questions are:

1. Are either of the two buildings mentioned surplus to the Government's needs?

2. Has any decision been made concerning the fate of these buildings and, if so, what decision has been taken?

The Hon. R.I. LUCAS: I thank the honourable member for his question. I will check the detail, but my recollection is that both buildings were declared surplus to the Education Department's needs by the previous Minister and previous Government at some time in 1993. As the new Minister, I have not changed that policy position. Therefore, my view is that they are surplus to our needs. They are the property of the Department for Education and Children's Services, and have therefore been placed with the Department of Environment and Natural Resources, as the Government agency which handles disposal of surplus Government assets.

There is the question of the Centre for the Performing Arts and its future location; there has been much speculation and almost as much discussion, but not quite, as to where it might be located in the future. There has been some discussion in relation to the Helpmann Academy and a variety of other propositions. That issue hopefully will be resolved in the not too distant future. I would agree with Mr Ward—although I do not always do so—that certainly aspects of the property have languished through lack of use or through no use at all and, if freed up, they would certainly make for an exciting redevelopment opportunity because of their location in the central business district.

The Hon. Anne Levy: It is heritage listed.

The Hon. R.I. LUCAS: There are many exciting development prospects that include heritage listings. Certainly, from the viewpoint of the Department for Education and Children's Services the properties are surplus. We would hope to realise upon those assets and hopefully, as part of that, there might come out of it some exciting use of those premises.

WORKING WOMEN'S CENTRE

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the Working Women's Centre.

Leave granted.

The Hon. SANDRA KANCK: I realise that this question also could be directed to the Industrial Affairs Minister, but I felt that the Minister for the Status of Women would be very concerned about this issue, particularly as it revolves around the prevention of exploitation of women in the work force. I assume that the Minister might have read the last publication of the *City Messenger* containing the article about the Working Women's Centre which makes mention of a report that has been received by the Department for Industrial Affairs detailing the findings of a review into the Working Women's Centre.

The Working Women's Centre provides information and support services to women who are employed in low paid occupations and who, most likely, are not members of unions and do not know about their rights as employees. The report makes a number of recommendations for the future of the centre, including one which would see the State Government take control of the centre by absorbing it into the Department for Industrial Affairs. The article in the *City Messenger* states that, according to the United Trades and Labor Council Assistant Secretary, Jude Elton:

> While the review recognised the centre's valuable history and service to South Australia's working women, its main recommendation would silence centre staff, erode their independence and bind the centre in red tape.

My questions are:

1. Does the Minister agree with the recommendation in the report that the Working Women's Centre should become part of the industrial affairs bureaucracy?

2. At a time when the Government is undertaking systematic privatisation of Government agencies, what possible justification could the Government have for making public a non-Government organisation?

3. Can the Minister advise the Council of the plans of the Minister for Industrial Affairs for the future of the Working Women's Centre?

The Hon. DIANA LAIDLAW: I thank the honourable member for her question. She may recall that earlier this year the responsibility for funding the programs of the Working Women's Centre was transferred under the women's adviser's program in the Premier's Department to the responsibility of the Minister for Industrial Affairs. A

working agreement was reached at that time between the Working Women's Centre and the Minister's office. I can provide the honourable member with more detail, but the Working Women's Centre at the time was funded for specific programs which the department identified were reported to be researched and undertaken.

Subsequent to that funding arrangement and administrative transfer, the department commissioned Ms Judith Worrell, the Public Trustee, to undertake a review of this centre to guide the Government in identifying the best arrangements for the centre, the services it offers and the most appropriate accountability relationship. That review has been completed, as the honourable member has noted, and there has been some comment on the report by Ms Worrell and by Ms Jude Elton, a former Director of the Working Women's Centre. Those comments are in the *Messenger* this week. A copy of the report is being circulated for comment. I am not sure whether the honourable member has a copy. The review has been completed and it has been released to interested and affected parties.

Members interjecting:

The Hon. DIANA LAIDLAW: It is obvious from what the honourable member has said that she has not got a copy. I will make inquiries about that, because I suspect that a number of people will be keen to comment. The responses to the reports released to date are being received, and they will be coordinated and assessed at the end of the consultation period. Clearly a period of consultation is envisaged and, in my view, that is generally the best in these circumstances.

Members interjecting:

The Hon. DIANA LAIDLAW: That is what I say. I will make inquiries. The Government would then be in a position to consider the recommendations of the report and take into account all the comments received. The Minister has confirmed to me that the community can be confident that any new arrangements which may be implemented will ensure, first, that the services provided to working women will be relevant and efficient; secondly, that there will be no duplication of services, as this leads to confusion for clients as well as being a waste of expenditure; and, thirdly, that there will be effective ways for the problems experienced by women workers to be fed into Government policy making.

The Hon. SANDRA KANCK: As a supplementary question: does the Minister consider that women, particularly migrant women, would not have faith in an organisation that is part of the Department for Industrial Affairs as they might consider that anything they say could be taken back to an employer, given that it is the Department for Industrial Affairs?

The Hon. DIANA LAIDLAW: That matter is being considered in terms of the assessment of this report.

RURAL WOMEN'S NETWORK

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the Rural Women's Network.

Leave granted.

The Hon. ANNE LEVY: A very active group, known as Women in Horticulture and based in the Riverland, received a grant from the Federal Government under the rural access program to conduct a study on the desirability of a Rural Women's Network throughout South Australia. This group consulted very widely. Of the key people involved, three came from the Riverland, two from the Murray Mallee, the Women's Agricultural Bureau on both Yorke Peninsula and Eyre Peninsula, the Country Women's Association from the Mid North, the Lower North and the Upper North, and there was representation from Switchboard, from the Far North, from people with disabilities, from Meadows, from the South-East and so on. They have consulted very widely and carried out a thorough study. There is a group of six recommendations, one of which is that a South Australian Rural Women's Network be established and maintained—

The Hon. Diana Laidlaw: When did you receive the report?

The Hon. ANNE LEVY: This morning. When did you get yours?

The Hon. Diana Laidlaw: Well, I have not seen all the mail this morning.

The Hon. ANNE LEVY: The first recommendation is that a Rural Women's Network be established and maintained, as applies in a number of other States; that the network be based around a central facility or hub; that the day-to-day operations be undertaken by a network coordinator based in the hub; that the direction of the network be undertaken by a representative steering committee; that it use a newsletter; and that it receive ongoing funding from the State Government in line with its election policy statement of December 1993, with the option to get other funds for specific events from Commonwealth or private sector services.

It is noteworthy that the Rural Women's Information Network has been closed—it used to be housed in the Department of Primary Industries—and Government support through the information network has ceased. However, the Government, prior to the election, made commitments that it would support organisations such as the proposed Rural Women's Network.

Will the Government fulfil its election policy statement of December last year and fund a Rural Women's Network, as is recommended by this very comprehensive study, or will this be another broken promise?

The Hon. DIANA LAIDLAW: I am amused in terms of comprehensive studies. I have just received from the Hon. Julian Stefani a copy of a preliminary study which he received this morning, and I suspect that is the study to which the Hon. Anne Levy is referring. It is a preliminary study.

The Hon. Anne Levy: Recommendations are not preliminary.

The Hon. DIANA LAIDLAW: The Rural Women's Network of South Australia has entitled it 'A Preliminary Study.' I had not seen a copy until two minutes ago. I have indicated that in terms of policy development the Liberal Party will support the establishment of a Rural Women's Network. I am very interested to see this preliminary study and I will take the recommendations in the study into account in the final decision that the Government will make in this regard. I understand that the proposal will require substantial funding from the Federal and State Governments.

I also understand that a number of rural women in South Australia are keen to see the establishment of a rural communications or information network, and some discussions have been undertaken with that group. We will look at all these options to improve communication and services for women in rural South Australia. I am aware of the networks that have been established in Victoria and New South Wales. I have been very impressed by the initiatives that they have taken to inform, assist and empower women in country areas,

and I have been particularly impressed by the quality of their publications and feedback.

So, it was on the basis of my awareness of the networks in New South Wales and Victoria that I prepared the women's paper and put to shadow Cabinet in the Party room at the time recommendations in terms of the Rural Women's Network. So, against my understanding of the networks of New South Wales and Victoria, further briefings that I will receive from my colleague the Hon. Mrs Schaefer, who is doing a lot of work in this area, and on the basis of this preliminary study (and I suspect further studies if this is a preliminary study), a decision will be made.

PROSECUTION FUNDING

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Attorney-General a question about the Director of Public Prosecutions funding.

Leave granted.

The Hon. BARBARA WIESE: The Office of the Director of Public Prosecutions has sustained a budget cut of over $100 000. Given the ever increasing workload of the DPP, this cut is significant. Budget restraints have led the Director of Public Prosecutions to fund important new initiatives from within his existing budget. In yesterday's *Advertiser* the Director of Public Prosecutions, Mr Rofe, was quoted as saying:

> Unless these above initiatives are funded separately, I am seriously concerned that the day-to-day operation of reviewing, preparing and prosecuting matters committed for trial or sentence will be significantly impaired.

Yet the 1994-95 State budget allocated $800 000 within the Attorney-General's budget to fight union moves to transfer workers to Federal awards from State awards. My question relates to whether the Government places a higher priority on fighting unions or fighting crime. What action will the Attorney-General take to ensure that there will be no significant impairment of the function of the DPP, and how can the Attorney justify budget cuts to the DPP when $800 000 is being used instead to fight the unions?

The Hon. K.T. GRIFFIN: There are no budget cuts in the office of the DPP. What happened was that the budget for the DPP is exactly the same as that of the previous year, while every other agency, and most of the divisions within the Attorney-General's Department, have had to sustain significant cuts in their administrative budgets. The DPP, from within his own resources and with the assistance of the Police Department, the Court Services Department and the Health Commission, has been able to find sufficient resources to be able to expand the committal unit, which started as a pilot project in January of this year in the Adelaide Magistrates Court, to Elizabeth and Holden Hill. That occurred earlier this month.

Those initiatives in relation to the committal unit, at least interstate, have demonstrated significant savings, both in the Office of the DPP, but more particularly in the area of courts and police, because they do address potential charges being laid against offenders at a much earlier stage and eliminate a lot of the unnecessary work which presently occurs when matters go to trial, but may be either aborted at the trial or on the doorstep of the court. So, there are likely to be savings there for a number of agencies within Government based on interstate experience.

What we have done in relation to the DPP is to facilitate the establishment of small committal units in Adelaide, Elizabeth and Holden Hill, with the prospect in the future of further extensions to Noarlunga and Christies Beach in particular. And so, it really is quite false to represent the budgetary situation as budget cuts in respect to the DPP—

The Hon. Barbara Wiese: That is not what Mr Rofe says.

The Hon. K.T. GRIFFIN: It is correct that the DPP has said that there may well be some pressures on his office in respect to serious fraud and other matters. Everyone in Government at the present time, as a result of the debacle that the previous Government left us with, has had to make cuts.

The Hon. Carolyn Pickles: How long are you going to sing this song?

The Hon. K.T. GRIFFIN: We are going to sing this song for quite a long time—$3 000 million, and you don't pick that up in one year.

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: We will keep reminding you. You know it hurts and you know that the Government had to make cuts. In fact, you were in the process of starting to face up to reality at the time of the last election. The fact is that right across Government tough decisions have to be taken, but I can assure members that in respect to the DPP, the DPP is given support—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: —to fulfil essential positions. It is quite clear that the DPP, although under pressure in terms of resources, has been able, with the assistance of the Attorney-General's Department, to make accommodation for sufficient to meet the immediate needs. That is a matter that we will keep very much under review. In respect to the DPP, it is irrelevant what amounts of money have been made available for special projects within a government, whether it be in relation to—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: —fiscal relations, whether it be in relation to the State Bank corporatisation or the State Bank civil litigation. The fact is that those areas are designed to save the Government money as much as expend it.

STATE DISASTER (MAJOR EMERGENCIES AND RECOVERY) AMENDMENT BILL

Second reading.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The likelihood of major disasters (as defined in the State Disaster Act) occurring frequently in South Australia is low and only one such disaster has occurred in the last 20 years, namely the 1983 Ash Wednesday Bushfire disaster which caused the loss of 28 lives and some $250 Million in damage. Despite this low probability it is accepted by the community that planning for a major disaster is a necessity, particularly for the possibility of an earthquake in Adelaide and for the annual State-wide threat from dangerous bush fires.

Flooding of the River Murray, severe storms, flash floods, hazardous chemical incidents, oil spillages and outbreaks of foreign animal disease are also potential hazards to the South Australian community.

Under the Australian Constitution it is a State responsibility to ensure adequate arrangements are made to protect its community from the effects of disasters. In that context, "disasters" are considered to be catastrophic events requiring extraordinary measures to protect life and property.

In South Australia, the legislative framework to facilitate this responsibility is embodied in the State Disaster Act enacted in 1980; it provides statutory authority for a State Disaster Committee to prepare a State Disaster Plan and to establish a State Disaster Organisation. The Act also authorises the Commissioner of Police to implement the State Disaster Plan in his capacity as the State Coordinator.

The State Disaster Act was last reviewed and amended in 1985 following the 1983 Ash Wednesday disaster. That review had the main effect of introducing measures relating to post-disaster or recovery operations.

In 1992, the State Disaster Committee commenced a review of the Act to ensure it remained appropriate to the community's needs. The review took into account experiences from recent disasters in other states , e.g. the Newcastle earthquake, the floods in New South Wales and Queensland and the Sydney bushfires. It also considered developments in disaster management arrangements in other states, e.g. Victoria.

This Amendment Bill, proposes to do three main things—

- Firstly, to allow the State Disaster Plan to be implemented for major emergency incidents which do not reach the level of disaster as defined in the Act.
- Secondly, to improve measures for the recovery from disasters by individuals, families and communities; to include the formation of Sub Committee of the State Disaster Committee to prepare and maintain recovery plans.
- Thirdly, to make administrative changes related to the membership of the State Disaster Committee and the provisions for workers' compensation.

In addition, the Bill will provide, as a contingency measure only, the option of using the State Disaster Plan and Organisation for civil defence measures should they ever be necessary.

Major Emergency Incidents

Although no disasters have occurred in South Australia since 1983 e.g. from bush fires or earthquakes, there have been a number of major emergency incidents which have identified the need for the State Disaster Act to provide for the State Disaster Plan in certain situations to be implemented for major emergencies.

The State Disaster Committee believes there is a requirement for a middle tier response capability, i.e. to fill the gap between day to day emergencies which are dealt with by the emergency services and full-scale disasters which are managed by the State Disaster Organisation. The need for this broader level coordination of an emergency incident is supported by recent incidents such as the 1986 Mt Remarkable bushfire, the 1992 flash floods in the Adelaide Hills, the 1992 Spencer Gulf oil spillage and the 1992 Gawler River floods.

These incidents showed that the coordination procedures provided by disaster plans are effective for managing the overall response to such incidents.

That State Disaster Plan is implemented by the Commissioner of Police in his role of State Coordinator. It has procedures to deal with complex situations and using it to coordinate the response to major emergencies may prevent an emergency situation escalating to a full-scale disaster. Similarly, in country regions, disaster plans can be implemented by prescribed Divisional Police Commanders acting in their role as Divisional Coordinators. It should be noted that in most States and Territories, disaster plans can be implemented for emergency incidents of the nature mentioned previously.

The South Australia Police has the role in coordinating the response by the various agencies that comprise the State Disaster Organisation. It is also standard operational practice during major emergency incidents for the Police to coordinate support to the 'lead' emergency service or other agency which has the responsibility to deal with the incident. Thus application of the State Disaster Plan in those situations is consistent with existing protocols for coordination between the emergency services.

Implementing the State Disaster Plan for major emergency incidents which fall short of 'disasters' would also mean the State Disaster Organisation and the State Emergency Operations Centre would function more often under real conditions and would therefore be better prepared to operate during disaster situations.

The Bill defines a major emergency and honourable members will note that it will allow the State Coordinator to implement the State Disaster Plan if it is reported to him by a combating authority such as the Fire Services, that a coordination problem exists which should be dealt with under the procedures contained in the State Disaster Plan.

The State Disaster Plan will of course need to be revised to reflect these new procedures and this will be arranged by the Chairman of the State Disaster Committee.

Recovery from disaster by individuals, families and communities

Honourable members would be aware that the most significant component of disaster operations is that of the post-disaster or recovery phase. This Bill aims to improve upon the arrangements and procedures put into effect after the Ash Wednesday Bushfire disaster, particularly in the planning process and the involvement of local government authorities in that process.

Importantly, this Bill defines 'recovery' in terms of what might need to be done to restore the lives of victims to as close as possible to their condition prior to the disaster. The legislation will define the range of tasks which Government and administrators may have to address in both the short and longer term.

To facilitate a more effective approach to planning for the after-effects of disasters, the Bill also provides for a permanent Recovery Committee to be appointed by the State Disaster Committee. The Recovery Committee will be responsible to maintain recovery plans and arrangements across the state and to oversee the implementation of Government approved recovery strategies and programs which will of course, involve relevant local government authorities.

The Bill also proposes to improve the administrative procedures for making declarations under the Act. Honourable members would be aware that currently, after a declaration of a "state of disaster" has occurred, a second declaration of a "post-disaster period" must be made by the Governor before the Government can authorise expenditure on recovery measures.

It is an accepted principle that the recovery process commences at the initial response to a disaster and to streamline the administrative process involved the Bill will do away with the second declaration and authorise Executive Council to consider expenditure for recovery measures following from an initial "state of disaster" declaration.

Membership of the State Disaster Committee

The membership of the State Disaster Committee is established under the Act and includes the Commissioner of Police but functioning in his capacity as the State Coordinator. Currently therefore, the SA Police Department is not directly represented on the Committee, at least not as far as its operational responsibilities are concerned.

Because the Police have the important function of overall coordination in the State Disaster Plan it is clearly necessary that the Police Department should be represented on the Committee and the Bill will allow for that.

Provisions for Workers' Compensation

The Bill also changes the provision for workers' compensation. Currently, Section 19 of the State Disaster Act provides that people who take part in disaster operations and who would not normally be covered for compensation, will be eligible for benefits provided by the Workers Compensation and Rehabilitation Act.

However, this is not consistent with the provision of cover for people in similar circumstances, e.g. for volunteers of the Country Fire Service who are covered by regulations under Section 103A of the Workers Compensation and Rehabilitation Act. A consistent approach is desirable and it would be more appropriate for such people to be covered under Section 103A of the Workers Compensation and Rehabilitation Act.

Application of the State Disaster Act to Civil Defence Measures

The Bill proposes to amend the definition of disaster so that the meaning of "any occurrence" will include "hostilities directed by an enemy against Australia".

In 1991, the Australian Government ratified the 'Protocols Additional to the Geneva Conventions, 1949' thus committing Australia to the protection of the civilian community through civil defence 'humanitarian' measures, when such measures are required due to the outbreak of "hostilities". In this context "hostilities" means action by an enemy against Australia but does not include acts of terrorism. Civil defence measures are non-military and constitutionally, are the responsibility of the States and Territories. It is accepted nationally that they would be provided by an organisation

similar to and based on existing counter disaster organisations. The Protocols became law on 21 December 1991 under the provisions of the Commonwealth's Geneva Convention Act 1957.

It is proposed that any need for a civil defence organisation arising in South Australia (particularly for low-level military threats which could develop at short notice) be based on the State Disaster Organisation as it is defined in the State Disaster Plan. To facilitate this proposal will require that the definition of "disaster" in the Act be amended for "any occurrence" to include "hostilities directed by an enemy against Australia". Most other States already have the requirements for civil defence included in their disaster legislation.

Other than this proposed precautionary legislative measure, there is currently no intention to undertake any action to establish a civil defence organisation in South Australia.

Regulations under the Act

Presently, the appointment and responsibilities of Divisional Coordinators and the Functional Service State Controllers in the State Disaster Organisation are detailed in regulations under the Act. These regulations are administrative in nature and are unnecessary. They will be replaced by an Administrative Handbook, prepared and issued by the State Disaster Committee which has the necessary powers to do so under Section 8 of the Act. However, to accord with existing management practice in the Police Department, the Act will authorise the State Coordinator to appoint Divisional Coordinators.

Consultation

Besides the involvement of members of the State Disaster Committee , which of course includes the Chief Executive Officers of all of the emergency services and senior officials from recovery agencies such as health and welfare, the State Disaster Committee also consulted widely with local government authorities across the State and the Local Government Association. All of these agencies are in support of the proposals contained in the Bill, however, as mentioned previously the procedures leading to a decision to implement the State Disaster Plan for a major emergency incident will need to be carefully dealt with in the Plan.

Conclusion

I submit to honourable members that the provisions proposed in this Bill will substantially improve our ability to cope with major emergencies and disasters and particularly with respect to the well-being of affected communities and individuals.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Long title

The long title is amended to include reference to protection of life and property in the event of a major emergency and to recovery following a disaster or major emergency. These are two new areas addressed in the Bill.

Clause 4: Amendment of s. 4—Interpretation

A new definition of a major emergency is inserted. A major emergency is an event that is not a disaster but should, in the opinion of the State Co-ordinator, be dealt with under the *State Disaster Act* because of the diverse resources required to be used in response to the emergency, the likelihood of the emergency escalating into a disaster or for any other reason.

The definition of counter-disaster operations is removed. Such operations are to be known as response operations.

The definition of post-disaster operations is removed. These are limited operations for clean up and safety purposes carried out during a specified short period following a disaster.

A new definition of recovery operations is inserted. Recovery is widely defined to encompass all matters involved in individuals and their community returning to a normal pattern of life.

The definition of post-disaster period is removed and the definition of disaster area is amended to remove a reference to a post-disaster period. Under the Bill, recovery operations may take place after a disaster or major emergency without reference to a particular period.

The definition of disaster is amended to ensure that a disaster arising by reason of hostilities directed by an enemy against Australia comes within the definition.

The definition of the State Disaster Plan is substituted to include reference to both response and recovery operations and to major emergencies as well as disasters. It is also made clear that provisions for monitoring circumstances that may give rise to a disaster or major emergency are appropriate in the Plan. The definition also contemplates Divisional Disaster Plans.

Clause 5: Amendment of s. 5—Application of Act

Section 5 states that the Act does not authorise measures to bring an industrial or civil dispute occurring during a disaster to an end. Section 5 is amended to include a reference to a major emergency.

Clause 6: Amendment of s. 6—State Disaster Committee

The membership of the Committee is increased to allow for a member appointed to represent the Police (the Commissioner of Police is a member but only by reason of being the State Co-ordinator).

Clause 7: Substitution of s. 7—Proceedings of Committee

Section 7 allows the Committee to conducts its business in such manner as it thinks fit. The new section requires that 6 members constitute a quorum and provides that the presiding member has a casting vote. These matters are currently set out in regulations.

Clause 8: Amendment of s. 8—Functions of Committee

The following additional functions are given to the Committee:

- to advise the Minister on methods of combating major emergencies (equivalent to the existing function in relation to disasters) and of recovery following disasters and major emergencies;
- to maintain contact with organisations that might usefully participate in recovery operations and to keep them informed of what would be expected of them in the event of a disaster or major emergency;
- to keep organisations that might usefully participate in response operations informed of what would be expected of them in the event of a major emergency (equivalent to the existing function in relation to a disaster);
- to monitor the standard operating procedures of any body or organisation that performs any function under the State Disaster Plan or that might participate in response operations involved in a major emergency (equivalent to the existing function in relation to a disaster) or recovery operations involved in a disaster or major emergency;
- to monitor and evaluate the implementation of the State Disaster Plan and the response and recovery operations taken during and following any state of disaster or major emergency.

Under section 8(2) the Committee is currently given the power to create such offices as it thinks fit for the purposes of implementing the State Disaster Plan. The amendment extends this to the purpose of preparing the State Disaster Plan and adds a power to assign additional functions to the State Co-ordinator and, with the approval of the State Co-ordinator, to Divisional Co-ordinators. Divisional Co-ordinators are appointed by the State Co-ordinator under new section 9A to have functions and powers under the Act in relation to a specified part of the State.

Clause 9: Insertion of s. 8A and 8B—Recovery Committee and functions

A Recovery Committee is established. The committee is to be appointed by the State Disaster Committee and is to consist of 3 persons. One must be appointed to represent local government. The members may or may not be members of the State Disaster Committee. The Recovery Committee is subject to control and direction by the State Disaster Committee.

The functions of the Recovery Committee are—

- to prepare for consideration by the State Disaster Committee that part of the State Disaster Plan that relates to recovery in the event of a disaster or major emergency;
- to keep that part of the State Disaster Plan under review and recommend to the State Disaster Committee such amendments to it as from time to time appear necessary or expedient;
- to advise the State Disaster Committee on matters relating to recovery in the event of a disaster or major emergency;
- to oversee and evaluate recovery operations during and following a state of disaster or major emergency;
- to carry out such other functions as are assigned to it by the State Disaster Committee.

Clause 10: Insertion of s. 9A—Divisional Co-ordinators

A new section is inserted setting out matters that are currently covered by regulations. The State Co-ordinator is given power to appoint Divisional Co-ordinators to exercise functions and powers under this Act in relation to specified parts of the State.

Clause 11: Amendment of s. 10—Delegation

The section is amended to make it clear that the State Co-ordinator may delegate functions or powers to a Divisional Co-ordinator or to any other person.

Clause 12: Substitution of s. 11—Authorised officers

Section 11 currently provides that the State Co-ordinator may appoint authorised officers and that persons holding offices prescribed by regulation are automatically authorised officers. The new

section continues the power of the State Co-ordinator to appoint authorised officers but allows the appointment to be by class (eg all persons holding a particular rank in the police force). The need for regulations is eliminated. The new section also provides for identity cards for authorised officers who are not police officers and for the return of identity cards and other official items when a person ceases to be an authorised officer.

Clause 13: Substitution of heading to Part 4

Part 4 is amended to deal with recovery operations as well as response operations (currently counter-disaster operations) and the heading is amended accordingly.

Clause 14: Insertion of s. 13A—Declaration of major emergency by State Co-ordinator

The new section enables the State Co-ordinator to declare that a major emergency exists in a specified part of the State. The declaration remains in force initially for 48 hours but may be renewed or extended with the approval of the Governor.

Clause 15: Amendment of s. 14—Powers of Minister on declaration of state of disaster or emergency

The powers of the Minister to authorise expenditure (as approved by the Governor) to relieve distress and assist in response operations in disasters is extended to response operations in the case of major emergencies and to recovery operations in disasters and major emergencies.

Clause 16: Amendment of s. 15—Powers of State Co-ordinator and authorised officers during state of disaster or emergency

The powers given to authorised officers for response operations during a state of disaster are extended to major emergencies and to recovery. A provision enabling an authorised officer to require a suspected offender to identify himself or herself is added to the section. This is currently included in the regulations.

Clause 17: Insertion of s. 15A—Recovery operations following state of disaster or emergency

The State Co-ordinator is given power to carry out recovery operations for the purpose of carrying the State Disaster Plan into effect. Like the current post-disaster operations, a recovery operation may not be carried out on private land without the consent of the owner of that land.

Clause 18: Amendment of s. 16—Offences

The offence of refusing to comply with the directions of the State Co-ordinator or an authorised officer during a disaster is extended to major emergencies. The limitation that the direction be given within a disaster area is removed.

The offence of obstructing a response operation is extended to recovery operations and operates in both a disaster and a major emergency.

Offences of impersonating an authorised officer and of using official items improperly are added. These are currently included in the regulations.

The penalties are converted to the nearest divisional penalty.

Clause 19: Repeal of Part 4A

This Part currently deals with post-disaster operations.

Clause 20: Amendment of s. 18—Protection of employment rights

The protection given to employees who are involved in response operations in the event of a disaster is extended to employees involved in response or recovery operations in the event of a disaster or major emergency.

Clause 21: Repeal of s. 19—Workers compensation

This section is repealed with a view to workcover arrangements being directly handled under the Workers Rehabilitation and Compensation Act.

Clause 22: Amendment of s. 20—Evidentiary provision

This is a consequential amendment to the inclusion of major emergencies and recovery operations.

Clause 23: Amendment of s. 22A—State Disaster Relief Fund

The Fund is currently used for the relief of persons who suffer injury, loss or damage as a result of a disaster. This is extended to major emergencies.

Clause 24 : Amendment of s. 24—Regulations

The regulation making power enabling specific regulations to be made in response to conditions caused by a disaster is extended to major emergencies. The penalty that may be imposed by regulations is increased from $500 to a Division 6 fine—$4 000.

Schedule 1: Further Amendments to Principal Act

This is a statute law revision schedule.

Schedule 2: Consequential Amendments

References to a state of disaster or to counter-disaster or post-disaster operations in the *Local Government Act*, the State Emergency Services Act and the Summary Offences Act are updated.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

SMALL BUSINESS CORPORATION OF SOUTH AUSTRALIA ACT REPEAL BILL

Second reading.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill seeks to enhance the range of advice and assistance services provided to small business in South Australia and to increase the voice that small business has in the development of government policy. These objectives will be achieved through expanding the role of the Business Centre by increasing the number of information centres providing advice to small business and by providing small business with an effective forum in which to provide input to government policy making.

To put these initiatives into place it will be necessary to repeal the *Small Business Corporation of South Australia Act 1984*, to transfer all property, rights and liabilities of the Corporation to the Minister and to transfer employees of the Corporation to the Economic Development Authority.

The repeal of the *Small Business Corporation of South Australia Act 1984* is consistent with the government's commitment to strengthen South Australia's business climate, to give the highest priority to job creation through the private sector, to review all statutes and regulations affecting small business and to rationalise the agencies within the Industry, Manufacturing, Small Business and Regional Development portfolio.

As part of this rationalisation Industrial Supplies and Innovation Management have been transferred to the SA Centre for Manufacturing (SACFM) and government funding for the Textiles, Clothing and Footwear Centre has been consolidated through the SACFM.

The shares of the SACFM have been transferred to the Minister and the staff of the SACFM have been transferred into the Economic Development Authority (EDA).

The outstanding element in relation to this restructuring is the incorporation of the Business Centre into the EDA and the repeal of the *Small Business Corporation of South Australia Act 1984*. The Act and the Board exist principally to manage the Business Centre.

Small business has been concerned that it has not had adequate access to the government or to the EDA and coincident with the repeal of the Act, the government proposes to establish a Small Business Advisory Council to provide a widely representative small business forum.

The Council will be the peak representative group for small business and will provide wide representation and an effective voice into government.

Membership will be carefully selected to strike a balance between the need for as wide a representation as possible, and the need for a workable Council size. From within existing resources the EDA will establish a small secretariat to provide support to the Council.

In conjunction with the newly formed Council the government will initiate a review of the small business policy to ensure that the policy settings provide the best climate for small business growth. The Council will also act as a sounding board for government proposals to obtain the views of small business.

These initiatives and others will strengthen the role of the Business Centre, and will increase the participation of the private sector in the provision of business assistance advice through adopting the Federal Government's AusIndustry model for industry assistance.

Future roles for the Business Centre are:

- The Hub for AusIndustry or the "expert information centre" which sets the standards, manages the databases and coordinates the network of AusIndustry Agencies.
- Assistance to Business Starters through the provision of information and workshops, self help facilities and referrals.
- Assistance to existing small businesses needing help through interviews, workshops, mentoring and consultancy services.

- Assistance and advice to existing small businesses with potential and commitment to export or undertake import substitution, or to value-add to rural produce, or small businesses who are first line suppliers to exporters.

Under the AusIndustry model it is intended that the Business Centre will provide a range of client management functions including the delivery of best practice improvement programs, provide comprehensive advice on a range of enterprise improvement programs and assist in tailoring programs to specific needs. It is also proposed that the Centre will have a significant role in supporting the proposed AusIndustry Information Centres.

The Government intends that the Business Centre's support role will include training and accreditation of AusIndustry Information Centres, dissemination and regular updating of the Bizhelp database (a database on business assistance programs) and other information packages, expert advice and ongoing support to AusIndustry Information Centres and assistance in establishing mentoring programs.

In effect, the government will reorientate its emphasis to provide support for small business through the proposed AusIndustry Information Centre network and directly through an enhanced Business Centre. This initiative will result in a considerably expanded range of centres which can be accessed more easily by small business and an expanded role for the Business Centre in the provision of business assistance programs.

All these proposals are aimed at providing small business with greater input to government policy development, and enhanced services and assistance. As well, the proposal will provide a clearer separation of the government's role in providing and being accountable for service delivery and the Small Business Advisory Council's role in providing a conduit for small business to express their views to government. Adoption of these initiatives will be a key factor in the growth and development of small business in South Australia.

I commend this Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Interpretation

This clause sets out the definitions required for the purposes of the measure.

Clause 4: Repeal

This clause repeals the *Small Business Corporation of South Australia Act 1984*.

Clause 5: Transitional provision

This clause sets out the transitional provisions that are required as a result of the repeal of the *Small Business Corporation of South Australia Act 1984*. It provides—

1. that all property and rights and liabilities of the Corporation are vested in the Minister;
2. that a reference to the Corporation in any instrument or in any judgment, order or process of a court will be taken to be a reference to the Minister;
3. that any legal proceedings commenced by or against the Corporation may be continued by or against the Minister; and
4. that all employees of the Corporation are incorporated into the Authority for the purposes of the *Government Management and Employment Act 1985*.

It also provides that where a person becomes incorporated into the Authority for the purposes of the *Government Management and Employment Act 1985* and was a member of the Corporation's superannuation scheme managed by the State Government Insurance Commission immediately before the commencement of this measure, the employee will be entitled to continue as a member of that superannuation scheme and employer contributions that would have been payable by the Corporation under the scheme in relation to the employee will be payable out of the funds of the Authority.

Employer contributions cease to be payable in relation to the employee if the employee joins a superannuation scheme established under an Act for employees in the Public Service of the State.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

CORRECTIONAL SERVICES (PRIVATE MANAGEMENT AGREEMENTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 October. Page 459.)

The Hon. SANDRA KANCK: The Australian Democrats oppose this Bill because we believe it is morally wrong to make a profit out of incarcerating people. The Minister claims that the Bill honours an election promise, but such a claim stretches the truth to its fullest extent, and I would say almost beyond its elastic limit. The Liberal Party's correctional services policy as it read at the last State election made a single reference to privatisation—just one reference—tucked away under the heading 'Prison expansion'. Even there the Liberals were not willing to be really up front about what they were proposing.

The Hon. M.J. Elliott interjecting:

The Hon. SANDRA KANCK: Yes, the Minister said in Mount Gambier before the election that what the unions were saying was a lie. He was saying that he definitely was not going to privatise. The Liberal election policy under 'Prison expansion' states:

> Should—

I stress the word 'should'—

> it be necessary to build a new prison we will give consideration to its management by the private sector.

There is a lot of difference between 'should it be necessary' and 'we will give consideration' to introducing a Bill to allow the Government to privatise all of its prisons if it so desires. In the media we have heard comments from the Minister that he will privatise prisons with or without the support of Parliament. It seems that we now have an elected dictatorship. If the Minister does travel down this lonely path, he is going to have to exercise great responsibility. He was quoted in the media as saying that the Democrats would have to bear the blame for any increased costs that would result from him having to do it without legislation. I would say to the Minister that any stuff ups he makes will be entirely his own responsibility.

When the Minister first introduced the Bill in the House of Assembly his first target for privatisation was to be the Mount Gambier Prison, but in the *Advertiser* of 12 October the page 1 report of the Minister's announcement indicated that it would instead be the Adelaide Remand Centre. That has not let the Mount Gambier Prison off the hook, though. Mount Gambier prison officers still have to remain concerned, as they were before, because they can still expect to have their prison privatised, according to that same newspaper article. The most amazing statement in the article is this quote from the Minister:

> I do not want to have privately managed prisons if we can possibly avoid it.

Later in my speech I will discuss one proven method the Government can use to achieve this. The Democrats are extremely uncomfortable with the idea of delegating legal authority to a private organisation when there is a potential conflict between the financial interests of that contractor and the public interest. This Bill has included no minimum standards for the safety of correctional officers or for the education and rehabilitation of prisoners, nor does it guarantee the same level of transparency in information reporting.

Indeed, experience interstate has shown that private prisons are less accountable to the public. At the Arthur Gorrie Correctional Centre in Queensland there have been five suicides, one unexplained death and four serious disturbances since the centre opened just two years ago. Private companies have claimed that a high level of accounta-

bility would jeopardise commercial confidentiality. However, a lower standard of reporting is clearly not in the public interest. But far more than simple moral concerns, all of the Government's stated aims for correctional services in South Australia can be achieved without private prisons. The Government has said it wants a private prison for four reasons.

First, it claims that having a privately run prison will save money. The Correctional Services Minister originally said he intended to use the Bill to privatise the new Mount Gambier Prison and then benchmark the Government run prisons against it to create efficiencies and generate savings. Interestingly, a tender document put together by Mount Gambier prison officers, which was leaked to the media, announced their tender for management of the new prison at below $30 000 per prisoner per annum. This is significantly less than the amount one leading private prison management company has quoted publicly for the new prison.

So, the prison that the Minister originally said he intended to privatise with this Bill can be run more cheaply by his own department, but it should be borne in mind that the Mount Gambier Prison is a new facility and houses low to medium security prisoners. That makes Mount Gambier Prison intrinsically cheaper to run than older high security prisons, regardless of who runs them. It would be simply unrealistic to expect older high security prisons to match Mount Gambier on running costs, yet this was going to be the prison that the Minister was going to use to benchmark against all the other prisons.

As I mentioned earlier, the Minister has now said that the first target for privatisation will be the Adelaide Remand Centre. I know from speaking with prison officers at the centre that the vast majority of them are willing to negotiate over work practices and rosters to achieve savings for taxpayers. Indeed, when I visited the centre earlier this week, they told me that they would be willing to consider 12 hour shifts. Over recent months at the centre the amount of overtime worked by officers has increased dramatically, mostly because the Minister has refused to allow 16 vacant staff positions to be filled by the centre's management. Those 16 staff positions went under the targeted separation packages. One prison officer told me that in the first 3½ months of this financial year he has worked more overtime than he did for the previous 12 months.

What is the agenda? Will there be an overtime blow out that the Minister will then be able to use as part of his justification to privatise the centre? In more general terms I cannot see the logic in the Government's cost argument when private companies are remunerated on a per prisoner per annum basis. Under such a system it would be in the interests of a private operator to have more prisoners in gaol for longer, and therefore private prisons would be likely to cost South Australia more in the long run. The Minister's second reading explanation contains the astounding statement that:

> The prison population is likely to increase by approximately 40 per cent by the year 2000.

If we are to see that sort of increase, the question of the Government's intentions or else its incompetence must be raised. A responsible Government would be telling us that the numbers would be coming down and how this was to be achieved. Indeed, I am not convinced that the simultaneous occurrence of the introduction of private prisons and the massive increase in incarceration rates in the United States, which have cost and continue to cost American taxpayers dearly, were entirely mutually exclusive.

The second reason the Government wants privatisation is that it believes the antagonistic culture among prisons, prisoners and prison staff in a number of South Australian prisons can be changed to a more cooperative one with private prisons through benchmarking process. There is nothing stopping the Government using the cooperative approach now, using Mount Gambier Prison as a benchmark. The question of who owns the prison is irrelevant; it is about management practice, not ownership. The third reason that the Government has given to introduce privatisation is that a private prison will break the union monopoly on Correctional Services employees. That is an argument that the Democrats are not keen to get involved in, and we do not intend to be used as a pawn in an ideological war about unions. Good management and commonsense on the part of the Government will overcome any standoff with the unions. Indeed, commonsense has proven to have worked for the Western Australian Liberal Government, which I will talk about later in my speech.

Fourthly, the Government has said that private prisons offer better rehabilitation and training services, but privatisation will not necessarily guarantee the quality of rehabilitation services. The Liberal Party's election policy on correctional services shows where it is coming from. The only reference to rehabilitation is under the heading 'Post-sentence rehabilitation' (and the operative word is 'post'). It clearly sees no role for rehabilitation within the prison system while the prisoners are there; rehabilitation has to be the single most important aspect of reducing the prison inmate population, but it appears to be the last thing on the Government's priority list. Members will have to pardon my cynicism, but maybe there is a hidden agenda. One of the ways to reach a target of a 40 per cent increase in prison numbers is to make sure that counselling and rehabilitation are not available for prisoners. That will almost certainly ensure that, once out of prison, an offender will reoffend, thus helping to keep up the prisoner numbers.

As I mentioned earlier, private owners would have an incentive to accumulate money they would otherwise spend on reforming offenders if they do not have to rehabilitate. Indeed, experience interstate and overseas has shown that privately run institutions are notoriously slow at filling job vacancies, and many of these vacancies are for staff who deliver rehabilitation services to prisoners. Compromising the delivery of rehabilitation services to prisoners is definitely not in the public interest; it costs society more in the long run. Given that almost none occurs at the present time, rehabilitation is one area of prison reform where the Democrats would be prepared to look at further private sector involvement. This would depend on a demonstrable commitment by the Government to rehabilitation and of course on the quality and cost of private sector social work, counselling and education services.

I alluded earlier to the prison reforms of the Court Liberal Government of Western Australia. I believe the final word on this Bill should go to a Liberal prisons reformer committed to reducing the cost to the community of prisons. Western Australia's Attorney-General, Cheryl Edwardes, recently announced a new prison reform agenda in that State and an enterprise agreement agreed to by prison staff and the Western Australian Government. She told the Western Australian Parliament:

> . . . some States have already introduced private prisons to achieve savings. However, these savings have not flowed on to State run prisons at the level hoped and are unlikely to be achieved without protracted industrial disputes. By reaching this agreement in Western Australia we have. . . effectively jumped 10 years ahead of those States who are likely to be grappling with industrial issues and management problems for the next decade as they bring State prisons into line with those in the private sector.

This Government has set up the structures to allow enterprise bargaining, so it should start bargaining—it should start negotiating with its employees. It is just possible that the Minister might be surprised at the results. I oppose the second reading.

The Hon. BERNICE PFITZNER secured the adjournment of the debate.

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE BILL

In Committee.

Clause 4—'Interpretation.'

The Hon. DIANA LAIDLAW: Last night when progress was reported we were debating the definition of 'medical treatment' and concern was expressed by some members about the application of the proposed amendment to other sections of the Bill. I initially indicated support for the amendment, then indicated that that was conditional upon an amendment that I proposed to move to clause 7(6)(b)(iii). About an hour and a half later I then indicated that, given the range of concerns expressed by members, it was my belief that this time it would be best if I voted against the amendment, that we then assessed the fate of the amendments to clause 7 and that, subject to the fate of those amendments, we would resubmit the definition of 'medical treatment'. I have had an opportunity to confer overnight with the Minister for Health, and he supports that position. He too would be more comfortable knowing the outcome of amendments to subclause (6) rather than asking me to support this amendment at this time.

The Hon. K.T. GRIFFIN: I do not agree with the proposition that we ought to defeat my amendment on the definition of 'medical treatment'. I think we can quite comfortably proceed with that. Apart from the later issues upon which some members have expressed some doubt, most have acknowledged that my proposed definition of 'medical treatment' is appropriate. There will be other occasions where there will be matters which may have some impact on a later provision of the Bill and on which we will have to make some decisions.

Everyone has acknowledged that we may ultimately have to bring back the Bill into Committee once we have been through it once to ensure that it is internally consistent. Quite obviously, if some members have difficulties with certain aspects of some of these amendments now, they can revisit it then, but I would suggest we ought to proceed with the change in definition of 'medical treatment' and address the issue of clause 7(6), in particular, when we get to it.

I have taken some advice in relation to clause 7(6). I have already circulated an amendment which was the result of some discussions we had in the Committee last night and which have resulted from some consultation I have undertaken this morning. There is still some question about whether it is in an appropriate final form. I have been provided with yet another modification of that, but they are issues that we can debate when we get to clause 7.

In the first amendment which I have now circulated to members so that they can get a feel for what I will be moving when we get to clause 7, I have sought to provide that the medical power of attorney does not authorise the agent to refuse the provision or administration of nutrition or hydration unless the grantor is in the terminal phase of a terminal illness and has expressly authorised the agent to refuse the provision or administration of artificial nutrition or hydration in those circumstances.

That allows my amendment to the definition of 'medical treatment' to proceed because it has relevance in other parts of the Bill, and eliminates the potential for debate about whether nasogastric feeding, for example, is or is not medical treatment. So, it avoids one area of potential dispute, and quite clearly identifies what the Hon. Mr Elliott was saying in his contribution on this provision, when he was concerned that he ought to be able to authorise his agent to make a decision not to allow a drip or some other process by which nutrition or hydration was provided, if he was in the terminal phase of a terminal illness.

We have to remember that clause 7 of the Bill is much broader than just relating to the terminal phase of a terminal illness. It is different from clause 6, which is an anticipatory grant or refusal of consent to medical treatment in the extreme circumstances. Clause 7 is not; it is much broader. If you get to the point of allowing the removal of sustenance in those circumstances where the disability might be temporary, but the application of which would be quite proper and sufficient to restore or contribute to the restoration of health, then one is moving very much down the track of voluntary euthanasia.

The other alternative which has been provided to me by Parliamentary Counsel and on which I have not had an opportunity to confer relating to clause 7 actually divides up the provision of nutrition into two paragraphs. Medical power of attorney does not authorise the agent to refuse the provision of food or water to be taken by the grantor with or without assistance by mouth, and does not authorise the agent to refuse the artificial administration of nutrition or hydration unless the grantor is in the terminal phase of a terminal illness and has expressly authorised the agent to refuse artificial nutrition or hydration in those circumstances, and does not authorise the agent to refuse the administration of drugs to relieve pain or distress or medical treatment that is part of the conventional treatment of an illness and is not significantly intrusive or burdensome.

That is a potential option, but it is not something upon which I would suggest we have to make a decision now. I can indicate that one or other of those amendments will be the amendment which I will finally move. So, it eliminates that difficulty to which some members have referred.

When we get to clause 7, there are a number of substantive issues. One is whether the medical power of attorney and the medical practitioner should be acting in the best interests of the patient. The other is whether it is appropriate, even in the circumstances of the terminal phase of a terminal illness, to allow the agent to refuse artificial administration of nutrition or hydration which we all generally agree would be appropriate, but then also to be able to refuse the provision of food or water to be taken by the grantor with or without assistance by mouth.

So, you have the natural administration which the medical power of attorney cannot refuse, and you have the artificial administration which, in the terminal phase of a terminal illness, can be refused. They are the options. I would suggest

we still proceed to deal with the amendment and support the definition of 'medical treatment', and address the other substantive issues in clause 7.

The Hon. BERNICE PFITZNER: I support the suggestion made by the Minister for Transport because I still have grave concerns regarding the Attorney-General's definition of 'medical treatment'. If we look closely at what happens if this new definition is inserted, we see that clause 7(6)(b) would read that the medical power of attorney does not authorise the agent to refuse: first, the natural provision of food and water; secondly, the administration of drugs; and, thirdly (with part of the new definition of medical treatment referring to 'artificial'), the artificial administration of food and water.

That seems to me to be rather repetitive as subparagraph (i) refers to natural provision and subparagraph (iii) to artificial provision. Perhaps the Hon. Ms Levy might like to contemplate this new definition, because if it is inserted and if a patient is, for example, in a coma, a vegetative state, the medical power of attorney under this provision does not authorise an agent to refuse not only the natural provision of food and water but also the artificial provision of food and water.

I would have thought that this was the basis of our putting this Bill through. This provision includes the terminal phase of a terminal illness as well as other conditions. If this definition remains and if we have no guarantee that the other amendments will be passed, it will impinge on the condition that the agent is not able to refuse not only the natural administration of food and water but also artificial food and water.

The Hon. SANDRA KANCK: The new amendment circulated by the Attorney-General does not assist me because it still takes away the power from an agent as it does under clause 7(6)(b)(iii), because most people if they sign their own directive will not appoint an agent. If an agent is acting for a patient, it is likely that that agent will not have those express authorisations. Therefore, this amendment would take away that power from an agent.

I wish to make an observation about whether it is necessary in the definition of 'medical treatment' to include 'the artificial administration of nutrition or hydration'. I wonder why it even needs to be there, because many things, such as surgery, are not included in this definition. That does not mean that surgery cannot be performed. So, I still oppose this amendment because I cannot be certain of the outcome of the Transport Minister's proposed deletion of clause 7(6)(b)(iii).

The Hon. ANNE LEVY: I share the apprehension expressed by the Hon. Sandra Kanck. The new amendment that has just been circulated by the Attorney-General, in either the form in which it has been circulated or the one which he read out, does not cover a situation which one could envisage of someone who is brain dead but who is not in the terminal phase of a terminal illness and might live for years. I cite the example of Jon Blake, who has been in a vegetative state for the past eight years and is obviously being kept alive by the provision of nutrition and hydration. He is in a moribund, vegetative state from which he will never recover, according to all—

The Hon. R.I. Lucas: The terminal phase of a terminal illness.

The Hon. ANNE LEVY: No, it is not the terminal phase—

The Hon. R.I. Lucas: Look at the definition.

The Hon. ANNE LEVY: I am looking at the definition. It is not the terminal phase of a terminal illness. He has existed in that way for eight years and he could well live for a further 30 years, so it cannot be regarded as the terminal phase of a terminal illness. Obviously, I cannot speak for Jon Blake or his relatives, but if I were in that situation I would not want to be kept alive by nutrition and/or hydration, be it artificial or natural. I would certainly wish to be allowed to die, and I imagine that many in the community would feel the same way.

If I appointed a medical agent to act on my behalf in such a situation, I would appoint someone with the same views as I hold. I would certainly not want my medical agent to be prevented from undertaking a refusal which, were I *compos mentis*, I would make or which I would wish someone to make on my behalf. It seems to me that this amendment does not cover the situation at all and, in effect, prevents a person, such as Jon Blake, from having their wishes carried out, which may be well expressed and known by a medical agent.

The Hon. J.C. IRWIN: I understand that Jon Blake can drink, eat and mumble, but he is certainly very heavily brain damaged, and there seems to be no doubt about that. He is not in any pain that I know of, so there is no need for drugs. I can only think that it would be either his or his agent's wish that he be killed, and this could apply to thousands of other people like him in hospitals and institutions.

The Hon. Anne Levy: Indeed. If I were Jon Blake I would want that to happen to me.

The Hon. J.C. IRWIN: That is clear. I would not, but that is the difference. I respect that the honourable member would want to be killed or, as an agent, be responsible for killing someone else. I just do not go down that path. I support the Hon. Mr Griffin's amendment, and I use the example of my own son, which I spoke about before. My colleagues can put me right if I am wrong about this.

The Hon. Anne Levy: It wasn't permanent.

The Hon. J.C. IRWIN: That is the point. In the fourth week of my son's being unconscious, I asked the doctors about his condition and they said that his prospects of being vegetative were very high.

The Hon. Anne Levy: With Jon Blake they say it is 100 per cent forever.

The Hon. J.C. IRWIN: Yes, but this is the fourth week. He was lucky, but he was unconscious for that time. He was being fed and given fluids through the nose. He was on an artificial breathing apparatus. Everything was artificial. Later, a tracheostomy was performed, and that would be very intrusive because a cut is made and a tube is inserted rather than just a tube inserted through the nose or mouth. Nose and mouth tubes, I understand, are very uncomfortable after some weeks and the next stage of permanency is introduced, which I would call intrusive. I certainly would not call nasal or mouth feeding intrusive in this sense. What I tried to say before was that, as parents—although there was no agent—we were in the position of having to decide what to do. If the person is diagnosed as vegetative, why not turn everything off?

The Hon. Anne Levy: You find out first whether it's permanent.

The Hon. J.C. IRWIN: In any event, we did not have to face it and he was back at university within 18 months.

The Hon. Anne Levy: In other words, it wasn't permanent.

The Hon. J.C. IRWIN: I am saying that it is very dangerous for anyone to go along the path of killing someone

by administering an overdose of pain-killer or withdrawing almost natural feeding through a tube. That is why I do not support this Bill at all. I do not want to say much about this part of it, except that we are debating an issue about which I have had experience. We have to be very clear and careful about how this Parliament decides to go and, in this instance, I am using my example to support what I think is a good amendment by the Attorney-General.

The Hon. CAROLINE SCHAEFER: I want to try to get this debate back onto what I see as the Bill before us. The select committee never asked for a euthanasia Bill. It has constantly been repeated by everyone who has read this Bill that it is not a euthanasia Bill.

The Hon. Anne Levy is strongly in favour of euthanasia, but there is no point debating that here, because it is not encompassed within the Bill. We have to start debating the Bill on two levels—legally and ethically. As parliamentarians and as legislators, we will be increasingly asked to look at the ethical side of these sorts of Bills as technology and medical expertise increases. It seems to me that there is a huge difference between allowing someone to die in relative comfort and putting them out of their misery: one is an act of murder and the other is an act of commonsense. We need to get the Bill and the debate back on to that level. I support the amendment.

The Hon. R.I. LUCAS: I want to disagree with the Hon. Anne Levy's interpretation of what the definition of 'terminal phase of a terminal illness' covers. We had this debate when we were last in Committee on this Bill. If one goes back over the debate one sees that a good number of members—perhaps a majority, I am not sure—provided examples where people were in a coma for a long period and were artificially fed through nasogastric feeding (or whatever the correct terminology might be). The definition of 'terminal phase of a terminal illness' is an issue I now raise—and did so last time—in relation to clause 9(2). I refer to when the Guardianship Board, or whatever the agency will be, can review a decision, and that is not to be in the terminal phase of a terminal illness.

Some members have argued the commonsense interpretation of 'terminal phase of a terminal illness' is almost the last period before you finally die. On my reading and the discussions that I have had, the definition of 'terminal phase of a terminal illness' is:

> The phase of an illness reached when there is no real prospect of recovery or remission of symptoms on either a permanent or temporary basis.

There are examples—and the Hon. Jamie Irwin gave one—where people have been in a coma for quite a time and then, for whatever reason, however it happens, they come out of it and lead either a full and productive life or a life with some ongoing disability.

There is certainly no doubt that the medical advice to those families, during that period when their family member is in a coma for that long period, is that there is no real prospect of recovery of any sort. People have been given advice that either feeding should be stopped or any other form of life support should be removed. Yet, all over the world there have been examples—and admittedly they are rare—of people coming out of that situation and, as I said, leading either a full and productive life or a productive life with some ongoing disability. That is why this definition of 'terminal phase of a terminal illness' and the understanding of members is important for both this discussion and other discussions later. I intend to oppose clause 9(2), or at least look for some alternative provision.

I am inclined to support the amendment. I want to place on the record—and I am interested in the ongoing debate—that I am not sure whether the first go (and that is perhaps why there has been a second go) at the Hon. Mr Griffin's amendment resolves it. Today's first draft in respect of clause 7(6)(b) provides that the agent cannot refuse nasogastric feeding, for example, if the patient is in the terminal phase of a terminal illness.

Yet, in relation to paragraph (c), if this amendment is successful the definition of medical treatment will still include artificial administration of nutrition or hydration and, as I indicated last night, my understanding of that section of the honourable member's amendment would mean that the agent could refuse nasogastric feeding, for example, if it was deemed to be significantly intrusive or burdensome, but could not refuse it if it was not significantly intrusive or burdensome. I highlighted yesterday the contribution of the Hon. Bernice Pfitzner in the last debate, when she sought on the basis of her medical background to indicate the differences—from her viewpoint anyway—in relation to whether or not nasogastric feeding could be significantly intrusive or burdensome.

So I am inclined to support the amendment, because I want to place some restriction—contrary to the views of the Hon. Sandra Kanck—on the powers of agents in relation to nasogastric feeding in situations such as the example that I have given, that is, for those people who are in comas and who have survived because of artificial feeding and nutrition, and then all of a sudden have come out of it and lead full and productive lives. If we are saying to an agent that they can refuse that artificial feeding, we are preventing the possibility of someone coming out of a coma and living a full and productive life later on.

In the commonsense perception of what 'terminal phase of terminal illness' means, that is not what is intended by most people when they discuss this particular issue. I am sure that members of the community would not be supporting the prospect that, in relation to a person who potentially could come out of a coma—as has been the experience of the Hon. Mr Irwin—and who could attend university and live a full and productive life, an agent should be able to refuse treatment in that sort of circumstance and prevent the likelihood of someone returning to a full and productive life. That is, in fact, what is being contemplated by members and, although it is complicated, that is what potentially may come as a result of not placing some restriction on nasogastric feeding or artificial feeding and hydration in this package of amendments, which contains the amendment being moved by the Hon. Mr Griffin.

I would urge members to contemplate that circumstance. I accept we all have different views, but if their view is the same as mine—that we are not about, in this Bill, preventing the circumstance of someone being able to come out of a coma like that, having been maintained artificially or with natural food or water for a while—they should be very cautious in relation to this particular amendment and the provisions in clause 7.

The Hon. M.J. ELLIOTT: Somewhere along the line we are losing sight of the fact that the view that really counts is the view of the person who appoints the agent or the view of the person who makes a directive. I want to be able to appoint an agent and give that agent specific directions.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: That is what I want to do; I want to be able to appoint an agent and make directions. In fact, you have a choice of appointing an agent with few directions under schedule 1; you can appoint an agent with quite detailed directions; or, without an agent, under schedule 2 you can simply leave directions. What I find offensive is that some people now are worried about what my agent might do, but by what they are trying to do with the legislation they are tampering with my directions, and that has to be thought about too. Some people in this Chamber have some objections to the whole legislation and they are tampering with the legislation because they object to the notion that somebody might like to make a direction, to which they, themselves, object. That is what some people in this place want to do, and let us be frank about this: the important point is whether I am able to make a direction as to how I am going to be treated if I am in a terminal phase of a terminal illness.

Will I be allowed to do that? Am I allowed to appoint somebody to act as my agent or am I not? It is not unreasonable to make sure that a person is not acting in a vindictive fashion, and there are protections in here for that. But I do not see that that is what this amendment achieves. This amendment is actually limiting my capacity to leave a direction. It is limiting the capacity of other people in this community to leave a direction as to how they are being treated. That is what it is doing and we must be very clear about that. If you want to put in genuine protections about the way the agent behaves, let us direct it very carefully at that. But that is not what this amendment is doing. It is not aimed at the behaviour of the agent: this amendment is limiting the capacity of a person to make a direction, and I object to that very strongly.

The Hon. R.D. LAWSON: It seems to me that the debate has run not one or two stages ahead of where it ought to be but about seven or eight. What we are dealing with here is simply the definition of 'medical treatment'.

The Hon. Sandra Kanck: As it relates to the rest of the Bill.

The Hon. R.D. LAWSON: Indeed, and we will deal with the Bill clause by clause. The Hon. Trevor Griffin moves the amendment in the interest, he says, of clarifying the meaning of 'medical treatment'. It seems to me that the amendment proposed by him does not clarify 'medical treatment'. He seeks to clarify, but he also very much narrows the concept of 'medical treatment' and, by that means, limits the capacity of anyone to appoint a medical power of attorney, because you can give the medical power of attorney only in relation to medical treatment. You cannot do it in relation to looking after your goldfish or fixing up the dog. It is only in relation to medical treatment.

The Hon. K.T. Griffin: That is why you need to have 'artificial administration of nutrition or hydration' in there, to ensure that people can give an advance direction on that topic; otherwise it is arguable that you can't.

The Hon. R.D. LAWSON: I think that the amendment achieves a slightly different consequence there. The amendment of 'medical treatment' does not seek to define 'medical treatment'. It seeks to give a description of it and then includes 'the prescription or supply of drugs or the artificial administration of nutrition or hydration.' It says nothing of the natural administration of the nutrition or hydration.

The Hon. K.T. Griffin: Natural administration is hardly a medical treatment.

The Hon. R.D. LAWSON: It can be in certain circumstances. If it is prescribed by the doctor, if it is done under the direction of a medical practitioner as part of the treatment of a patient, it seems to me there would be no argument that it is encompassed within the existing definition, which is 'procedures administered or carried out by a medical practitioner in the course of medical or surgical practice'. I will be opposing this amendment simply because I do not believe that the current definition of 'medical treatment' has any infirmities.

The Hon. K.T. GRIFFIN: I just do not agree with that. The whole object of seeking to move this is not in respect of what is coming later but to ensure that there is no debate about what is in fact medical treatment in so far as it relates to the artificial administration of nutrition or hydration. There is a number of cases where this issue has been debated, and I have referred to Bland's case in particular. There are American cases where there has been a debate about what is medical treatment and whether it includes the artificial administration of nutrition or hydration. That is the issue. If you do not have it in there, you will end up with a debate, presumably before the Supreme Court, as to whether or not in a particular circumstance the artificial administration of nutrition or hydration is something about which a person can give a direction. That is the issue.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: Well, there are other provisions which relate to how the medical profession or the medical power of attorney should act. That is a big issue later in relation to whether any action might be taken in the best interests of the patient. That is another debate on a substantive issue. Unless my amendment is carried, it seems to me that we raise issues for the future which can easily be resolved now. It is no skin off my nose whether the Committee agrees or rejects it; the fact is that the amendment was put forward in good faith in an attempt to clarify what was meant by it.

The Hon. Mr Lawson suggests that in some circumstances, if a medical practitioner says one has to be provided with food and water by natural means, that will be medical treatment. I suggest that it is difficult to reach that conclusion because, if it is natural administration, it is being taken through the mouth. Whilst it may be medicine, a particular sort of food, other nutrition or water, it is naturally taken and it cannot be medical treatment in those circumstances.

I might have confused the issue by seeking to be open and indicating that, in consequence of the issues that were raised last night, the use of the definition might create concern in clause 7. It does not cause concern in other parts of the Bill—only in relation to clause 7. Therefore, I have put an amendment on file which I hope will overcome that concern. I ask members to support the amendment because it is reasonably straightforward and assists in the interpretation of the legislation.

The Hon. A.J. REDFORD: I disagree with the Hon. Mr Lawson's interpretation and agree with the Attorney-General's interpretation, and I will explain why later. I suspect that at the end of the day, when we reach the heart of the Bill, the Hon. Mr Elliott, the Hon. Ms Levy and I will be sitting in the same corner. I see the Attorney-General's amendment defining with some precision what is meant by the term 'medical treatment'. In my direction I want to be able to say that, given certain circumstances, I wish the artificial administration of nutrition or hydration to be taken from me. In my respectful—I was going to say in my respectful submission, but I am not in court. However, it is likely that, if we leave it as it is, we will be saying 'In my

respectful submission,' because I envisage a situation where, under the present definition of 'medical treatment', some interested party would go to the Supreme Court and say, 'Mr Redford might well have said in his direction that he wants the artificial administration of nutrition or hydration withdrawn from him, but that is not medical treatment under this Act.' It is not clear, and it can be the subject of some argument, whether the artificial administration of nutrition or hydration is encompassed within the existing meaning of 'medical treatment'.

I want the definition of 'medical treatment' to be as broad as possible to give me or my agent the option to give directions in the event that I am in the terminal phase of a terminal illness. If we narrow the definition, effectively we will narrow the scope of the direction that one can make or we narrow the range of options that an appointed medical agent can take. At the very least, it is arguable that one can go to the Supreme Court and say, 'Mr Redford wanted his artificial administration of nutrition and hydration stopped,' and the lawyers, of whom we are all so afraid, who may be acting in the interests of someone who perhaps is against my interests in the direction, will say, 'That is not medical treatment, and in that respect that direction, or the agent's direction, is outside the scope of this legislation.'

We must have a broad scope in this legislation, and we should deal with some of the issues that have been quite properly raised by the Hon. Mr Elliott and the Hon. Anne Levy later when dealing with the other sections within the Act.

The Hon. M.J. ELLIOTT: I hear what the Hon. Angus Redford is saying, but surely if we look at clause 7(6), which is clearly where the impact of this amendment will strike—

Members interjecting:

The Hon. M.J. ELLIOTT: It does. In the discussion we had last night it was clearly acknowledged that the most important effect of the amendment was to be in clause 7(6)(b). Clause 7(6)(a) authorises the agent, subject to any conditions and directions contained in the power of attorney, to make decisions about the medical treatment of a person who granted the power if that person is incapable of making decisions. That is the first thing: the agent is authorised. Clause 7(6)(b) tells you what the agent cannot do. One of the things an agent cannot do is refuse natural provision of food and water, because otherwise provision of food and water would be a medical treatment. The whole question of feeding is covered because the very fact that clause 7(6)(b)(i) talks about natural provision means that any other provision of food or water immediately becomes a medical treatment in any case.

Members interjecting:

The Hon. M.J. ELLIOTT: Clause 7(6)(b)(i) would be redundant and have no purpose, except for that. It was put there deliberately when the debate occurred last time; and the Attorney-General was aware of the debate we had last time, which included much discussion on natural provision. He is also proposing to tackle it with another set of amendments he has on file.

The question of food and water has been tackled in clause 7(6)(b)(i) and it is quite plain that the natural provision of food and water is not a medical treatment. In any other cases, quite clearly by implication, it is. The concern I have in the way the Attorney-General has then set about in his amendment talking about the artificial administration of nutrition or hydration is that there is an invitation there, if the matter ends up before a court or guardianship board, to look at this and to see that an agent cannot refuse medical treatment and artificial administration of nutrition and hydration. We will be left with the question of trying to determine whether or not artificial administration (and there are many different ways that it can be done) is obtrusive or burdensome.

I would have thought that, when one is making an instruction, one should be able to say, 'I consider this to be intrusive and burdensome to me; I want my agent to be able to deny this treatment.' I do not want a court or some other body to make a decision about whether it is intrusive or burdensome: I want to be able to make that decision, or I want a person whom I trust (I do not have to appoint anybody) and knows how I feel about things to make that decision.

The Hon. BERNICE PFITZNER: I cannot emphasise enough that this amendment will change the very basis of what we argued some time ago. If we look back at the definition of 'medical treatment', it says that it means treatment involving drugs, things you inject, procedures, and so on, which in medical jargon means intravenous therapy or gastro-intestinal intervention. That has the widest range possible.

So, with this amendment it really targets clause 7(6)(b), which has a very narrow focus. Clause 7(6)(b) provides what you cannot do. It states that you cannot refuse natural food and water; you cannot refuse drugs for pain and treatment. Then, you cannot refuse this general medical treatment; and then the amendment also seeks to put in that you cannot refuse artificial nutrition or hydration. If this was left out, it means you either can or you cannot, it is general. But we identified in yesterday's sitting what we could not refuse as a basic baseline level and that was natural provisions and administration of drugs for pain and distress. Now we have added this extra amendment, which is 'artificial food'. Why do we not also add that we cannot operate on the gall bladder or we cannot do other surgical procedures?

This clause is a very narrow baseline indicating to us what we cannot do. The things that we leave out are things we either cannot or can do. It is up to the agent to decide and the agent, as we know, has signed a form of acceptance of power of attorney, which says, 'I generally believe it to be in my principal's best interest.' So whatever the agent does, it is for the best interests of the grantor, and this narrow interpretation is only what the agent cannot do, which is only two or three things. Therefore, although we are talking about medical treatment, which interpretation is in its widest sense at present, it does target clause 7(6)(b)(ii) and, therefore, I will be voting against it.

The Committee divided on the amendment:

AYES (10)

Cameron, T.G.	Davis, L.H.
Feleppa, M.S.	Griffin, K.T. (teller)
Irwin, J.C.	Lucas, R.I.
Redford, A.J.	Roberts, R.R.
Schaefer, C.V.	Stefani, J.F.

NOES (10)

Crothers, T.	Elliott, M.J.
Kanck, S.M.	Laidlaw, D.V. (teller)
Lawson, R.D.	Levy, J.A.W.
Pfitzner, B.S.L.	Pickles, C.A.
Weatherill, G.	Wiese, B.J.

The CHAIRMAN: There being 10 Ayes and 10 Noes, I cast my vote for the 'Noes'. The amendment is lost.

Amendment thus negatived.

The Hon. K.T. GRIFFIN: I move:

Page 2, after line 31—Insert definition as follows:
'representative' means a person who is empowered by medical power of attorney or some other lawful authority to make decisions about the medical treatment of another when the other is not competent to make decisions for her/himself.

This is a drafting amendment. Clauses 14, 15 and 16(1) refer to a person empowered to consent to medical treatment on the patient's behalf, while clause 16(2) refers to a patient's representative. Clause 16(5) provides that a patient's representative is a reference to a medical agent of the patient, or, if the patient has no medical agent or the medical agent is not reasonably available to make a decision in relation to the patient's medical treatment, a guardian of the patient, or, if the patient is a child, a parent of the patient. The same people should be the ones to make decisions under the different clauses and this amendment, together with amendments to the clauses will make it clear that this is the case. It will eliminate arguments that there is some difference between the people who can make decisions on behalf of the patient under the different provisions.

The Hon. DIANA LAIDLAW: I support the amendment.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 3, lines 1 and 2—Leave out subclause (2) and insert:
(2) A medical agent or other person will not be regarded as available to make a decision about the medical treatment of another unless—
(a) the medical agent is entitled to act under the medical power of attorney[2]; and
(b) the medical agent is her/himself competent to make the decision.
[2]See section 7 which disqualifies certain medical agents from acting.

This relates to an amendment that I will be moving to clause 7(4), which provides:

A person is not eligible to be appointed as a medical agent if he or she is involved in a professional or administrative capacity in the medical treatment or care of the person by whom the medical power of attorney is to be given.

If a person who is validly appointed becomes so responsible or involved, the medical power of attorney lapses. It may be that that person is only one of two or more persons appointed as medical agents by a person. If this is the case, the other person should be able to act as the medical attorney. This amendment, together with the amendment to clause 4(2)(a), will allow this to happen.

The Hon. DIANA LAIDLAW: I support the amendment.

Amendment carried.

The Hon. R.I. LUCAS: I want to flag that, subject to decisions taken by this Committee on other parts of the Bill, the definition of 'terminal phase' of a terminal illness is something I am still considering and, subject to other areas, it might be an area to which I might seek to provide a different definition in the recommittal. The Hon. Caroline Schaefer sought to define it differently in the last debate and there were some problems with that.

Some members opposed that. The Hon. Mr Elliott agreed that the current definition of 'terminal phase' was not satisfactory and argued that he was not supportive of the Hon. Caroline Schaefer's position but felt that there might a position somewhere in between.

The Hon. M.J. Elliott: That is not what I said.

The Hon. R.I. LUCAS: That's exactly what you said. A number of other members indicated that there might be a position with a new definition, and I was certainly one of those. It is a matter which I am still contemplating and on recommittal may have a look at it.

The Hon. M.J. ELLIOTT: The Attorney-General has removed 'mentally' in relation to competence and that seems significant. When we debated this matter previously I had a concern. One could appoint someone, and this could happen with an older couple, and the person appointed could suffer from Alzheimer's disease, or whatever, and no longer be competent to make a decision. The Attorney has removed 'mentally' and we could have a dispute about whether a person is competent to make a decision whether certain treatment can be removed. Perhaps this has gone a bit further. Did the Attorney deliberately remove 'mentally'? If not, why was it removed?

The Hon. K.T. GRIFFIN: Some later amendments relate to the question of being incapable of doing something, and I want to move towards being competent to do something. I removed 'mentally' deliberately because in law one is either competent or not competent to make decisions. Whilst it is within a mental context it seemed to me that, to avoid confusion, we ought to be focusing on what is a generally recognised concept in the law, and that is one of competence.

Let me give an example. If one is making a will and there is some doubt about whether a person understands the nature of the decisions that have to be made with respect to the will and the claims upon his or her bounty, then the issue of competence arises. You may describe it as the legal capacity to make a decision. It is the ability of a person to understand and appreciate the significance of what he or she is doing and to be able to make that decision. It may be intellectual as much as mental, but the question of competence is central to the law relating to wills.

It is also central to the law relating to making powers of attorney—not these (although I hope it will be)—but you cannot make a general or an enduring power of attorney if you do not understand intellectually or mentally—however you like to describe it—the nature and consequences of the act which you are being asked to perform. I would hope that my colleagues the Hon. Mr Lawson and the Hon. Mr Redford might support me on this: it focuses upon a concept which is well understood in the law. If you start to talk about 'mentally capable' you open up the opportunity for other debates. There is nothing sinister in the fact that I have removed the word 'mental', although some may be suspicious. It is designed to clarify rather than to confuse.

The Hon. M.J. ELLIOTT: That has not helped at all. I do not expect the agent I appoint to be a competent medico; I simply expect them to be mentally—

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: Wait a second; let me finish. I expect the person I appoint to be mentally competent so that a medico can explain the position to them, they understand my wishes and, in response to what they have been told, they can say, 'This is what I believe Mike wanted.' In fact, I would leave clear instructions, anyway, but as long as the person I have appointed as my agent is mentally competent I trust them to make the decision. I want to be able to do it. By removing the word 'mentally' you are opening up the possibility that they could be challenged on the grounds that they had made a wrong medical decision.

The Hon. K.T. Griffin: That's not the issue.

The Hon. M.J. ELLIOTT: You say that their medical knowledge is not competent. It does not matter whether you say it; the fact is that in the absence of the word 'mentally' it is a question of what 'competence' means. The word 'mentally' clearly qualifies it and says that the person's competence can be challenged only in relation to their mental

capacity to make a decision. Removing that word means that their competence can be challenged in other ways as well.

The Hon. R.D. LAWSON: I cannot agree with the legal interpretation offered by the Attorney, because it seems to me that the notion of competence is not one that has a fixed meaning. One can have legal competence; for example, being an enemy alien or being under-age might disqualify one from competence, and other forms of disqualification might well apply. There is legal competence and mental competence, so I am not sure that the removal of 'mental' clarifies what is meant by competence.

Secondly, I have to disagree on the point of a fixed meaning of mental competence in relation to testamentary dispositions. The usual expression used in relation to will-making power is 'capacity'. Whether one has the necessary mental capacity and necessary understanding of one's affairs and those who have a claim upon one's bounty determines whether one has testamentary capacity. On the other hand, the competence to make a will has nothing to do with one's mental state of mind; it has to do with one's legal status. For example, an infant is not competent to make a will, notwithstanding that he or she may have the mental capacity to do so. We have passed this point in the Committee, although it may arise later in the recommittal stage, and that is why I mention it.

The Hon. K.T. GRIFFIN: I do not want to get involved in a debate between lawyers, but unfortunately this Bill is one of those where we will invariably do so. It is correct that one can use the description 'capacity', such as testamentary capacity and capacity to enter into contracts, but also the concept is one of competence. One is competent or not competent to make a decision in the legal context, and has the capacity to understand and make that decision. It does not mean that you have to be a medical practitioner or that you have to be qualified in the understanding of medical terminology or medical procedures. It relates to the sorts of connotations to which I have referred.

Clause as amended passed.

Clause 5 passed.

New clause 5A—'Legal competence to consent to medical treatment.'

The Hon. DIANA LAIDLAW: I move:

Page 4, after line 3—Insert new clause as follows:
5A. A person over 16 years of age may make decisions about his or her own medical treatment as validly and effectively as an adult.

Essentially this is consequential on the debate we had last night about the legal age at which a person can consent to medical treatment. That passed handsomely last night and I trust this will today.

The Hon. BERNICE PFITZNER: My amendment, which is identical to the Minister's, is consistent with the consent to Medical and Dental Procedures Act 1985, which is also at the age of 16 years.

The Hon. ANNE LEVY: At the risk of starting a three hour debate, I wonder if the three lawyers present might be able to tell us what is the difference between the phrase used in the amendment from the Minister for Transport and the Hon. Bernice Pfitzner, and the phraseology used by the Hon. Robert Lawson. It may be that the one proposed by the Minister is identical with what is in the existing legislation, whereas the Hon. Robert Lawson is saying the same thing in a different way. I would like to know if there is a difference in practice.

The Hon. R.D. LAWSON: I think I have adopted the language of the existing legislation, which provides that a person over the age of 16 'may consent' to medical treatment. The language used in the other two amendments, that by the Minister and the Hon. Bernice Pfitzner, is 'may make decisions' rather than 'may consent'. I have adopted the language of the previous Act. Perhaps you would have to ask them why they have adopted a different language.

The Hon. DIANA LAIDLAW: The amendments which I have moved and which the Hon. Dr Pfitzner has on file adopt the words used by the select committee when this matter was debated in the Council earlier.

The Hon. K.T. GRIFFIN: My only concern is that the Bill relates largely to the issue of consent. However, under clause 6, for example, it involves not a question of consent but of giving a direction. That seems to me to be more likely to be consistent with the Hon. Diana Laidlaw's amendment than with that of the Hon. Robert Lawson. So to some extent it depends on the decisions we take regarding clauses 6 and 7. Some members will support reducing the age at which—

The Hon. Carolyn Pickles: As long as we can go back to it.

The Hon. K.T. GRIFFIN: Yes, but let me explain. Some members hold the view that when a person turns 16 they ought to be able to appoint a power of attorney or give an anticipatory direction. Other members would take a contrary point of view and believe that in respect of those issues, which I suggest are different from the question of consenting to medical treatment under the other provisions, if one goes for the broader interpretation and suggests that the age ought to be reduced to 16 in clause 6, the amendment that has already been moved is more appropriate. If, on the other hand, the age remains at 18 in clause 6, it suggests to me that the issue of consent referred to in proposed clause 5A is more appropriate, because under clause 6 we are talking not about a question of consent but about a decision about his or her own medical treatment, and that seems to me to be the distinction. That may be something which, as the Hon. Ms Pickles interjected, we have to revisit, but to ensure consistency of approach, if the Hon. Robert Lawson moves his amendment, as I indicated when I spoke last night, that would be my preference.

The Hon. BERNICE PFITZNER: I was guided by Parliamentary Counsel, who pointed out to me that under clause 6 a person of sound mind may give a direction and under clause 7 they may appoint an agent to make decisions. I thought that, for the sake of consistency, that was the way to go.

The Hon. R.D. LAWSON: I may have misled the Council earlier when I said I had adopted the nomenclature of the previous Act. Although I did adopt the previous legislation, by using 'consent' rather than 'decisions', I adopted the language of the original 1992 Bill, which was prepared by Parliamentary Counsel on the instructions of the select committee, and the 1993 Bills also use the same wording as I use in my proposed amendment.

The Hon. DIANA LAIDLAW: I was advised that this clause reflected the Bill that came from the House of Assembly. I sincerely apologise to the Committee, because the advice I gave was incorrect. I am not pleased, but that is the case. The term 'to make decisions' about his or her medical treatment, as the Attorney explained, is not only about giving power to the medical agent but also giving directives and making decisions generally about what they wish to do with their life and what they want to do in terms of medical treatment. So, there could be a variety of decisions to be made in relation to what they want for their future

health and well-being. That is the reason why, upon consideration, the amendment was changed to this more inclusive expression. I again apologise for the misinformation I gave to the Committee.

New clause inserted.

The Hon. DIANA LAIDLAW: I thank the Hon. Mr Lawson for correcting the record earlier in terms of the words 'consent' and 'to make decisions' so that a false impression was not left on the record.

New heading.

The Hon. DIANA LAIDLAW: I move:

Page 4, before line 4—Insert new heading as follows:

DIVISION 1A—ANTICIPATORY GRANT OR REFUSAL OF CONSENT

This amendment provides a new heading to read 'Anticipatory Grant or Refusal of Consent' in place of the heading 'Consent Generally'. It is believed that this new heading more accurately reflects the content of the division.

The Hon. K.T. GRIFFIN: I agree.

New heading inserted.

Clause 6—'Anticipatory grant or refusal of consent to medical treatment.'

The Hon. DIANA LAIDLAW: I move:

Page 4, line 5—Leave out '18' and insert '16'.

This amendment seeks to reinstate 16 as the age at which a person can make advanced directives in relation to medical treatment. If it is passed, the amendment will make the Bill consistent with the thrust of earlier amendments which were designed to reinstate 16 as the age of consent for medical treatment. It is a logical extension that, if a person can consent to treatment at 16 years of age, so also should he or she be able to make an advance directive at that age.

The Hon. K.T. GRIFFIN: I oppose the amendment. It is not a question of consistency. When we were debating the amendment to the definition of 'child' I indicated that, whilst I was prepared to support that for the purposes of consent to medical treatment to maintain the consistency with the current law in respect of medical treatment, I was not prepared to accept a reduction in the age from 18 to 16 in relation to an advance directive. Frequently there are more difficult decisions to be taken with respect to advance directives than in relation to medical treatment which is required to be undertaken now rather than at some time in the future.

I know the Hon. Sandra Kanck has made some observations about children at five or six being mature, although I must say that I have not seen much evidence of true maturity of judgment in young people at that age. However, it is fair to a say that many young people in their teens have wide experience of the world and are able to make some judgments about the future, including theirs, but that does not necessarily apply across the board. I have grave concerns about reducing the age from 18 to 16 years because important decisions have to be made about what a young person may or may not want if at some time in the future that person is in the terminal phase of a terminal illness or in a vegetative state that is likely to be permanent. For that reason I oppose the amendment.

The Hon. BERNICE PFITZNER: I support the amendment, which is to reduce the age at which someone can make an advance directive from 18 to 16 years. With regard to child development, a 16 year old who can consent to medical treatment must surely be able to handle the responsibility of an advance directive of a very close relation or friend. The only concern I have is in respect of schedule 2, which provides that an advance directive can be simple or complicated and involve much medical jargon. In that vein, I will move an amendment to schedule 2. Above and beyond that, a 16 year old can very well handle the responsibility of an advance directive for medical treatment.

The Hon. CAROLYN PICKLES: I support the amendment to reduce the age for participatory grant or refusal to 16 years of age. I consider that, if a person can make a decision about whether they should have medical treatment, they certainly should be able to make a decision about what should occur to them in the terminal phase of a terminal illness. I know of young people with a terminal illness who have had a very harrowing time, and usually it makes sure that they take a mature attitude towards their fate. I consider that it is consistent with the previous amendment that we have all supported in this place, and I support it most strongly.

The Hon. CAROLINE SCHAEFER: I oppose this amendment. I was not opposed to the definition of a 'child' or any of the previous amendments. However, I think the irony should not be lost on us that, in the House of Assembly last night, a vote was taken which prescribed the fact that one is too immature until the age of 18 to buy a scratchie ticket, yet at the same time, in the same State Parliament, we are debating the fact that someone is quite mature enough at 16 to make an advance directive, which will affect their actual life and death. People are not considered mature enough to make a will until they reach the age of 18, and this matter is very consistent with the making of a will. Therefore, I oppose this amendment because I think that it is consistent that 18 be the age to make such a life and death decision, particularly in view of the decision taken last night.

The Hon. M.J. ELLIOTT: As we have agreed already to the fact that a 16 year old can, generally speaking, consent to medical treatment, why cannot a 16 year old make an advance directive in relation to medical treatment? It would be logically inconsistent to allow one and not the other. I can understand that people who have opposed one would oppose the other, but it would be ridiculous inconsistency in the legislation to say, 'You can make a decision now about what you want to happen now, but you cannot make a decision now about what is going to happen next week.'

So, there is a very clear and logical inconsistency to start off with there. I will not get too hung up about the scratch tickets—although I interjected that perhaps 65 years of age would be a good age; old enough to play bingo, old enough to get scratch tickets, I reckon.

Members interjecting:

The Hon. M.J. ELLIOTT: Yes, in this case. The reason people are concerned about scratch tickets is that, in fact, it involves a significant addictive behaviour. Making health decisions is not trying to avoid an addictive behaviour. Basically a person is being asked to make a life and death decision.

Members interjecting:

The Hon. M.J. ELLIOTT: No; but the decision that a person is being asked to make here involves life and death and involves health. I do not believe that decision is going to be made any more frivolously because you are making an advance directive than it would be if you are making it because of treatment you are needing right now.

The Hon. SANDRA KANCK: At the moment, a young woman of 16 years of age is considered old enough to consent to sexual relations; the law allows her to marry; and

she can bear and raise a child; yet we are saying that she does not actually have the maturity to be able to sign a bit of paper to say how she wants to be treated when she has a terminal illness. From 13 years of age onwards, for reasonably long periods of time when my mother was away, I looked after five or six children who were younger than I, and I was absolutely and perfectly capable of making budgetary, domestic and education decisions about those children. I would have been perfectly capable at 16 years of age to sign a bit of paper like this. I think it is really outrageous and incredibly insulting to so many young people, to be giving such a patronising view to them. I will definitely be supporting this amendment.

The Hon. ANNE LEVY: I support the amendment also. I agree with the comments of the Hon. Sandra Kanck. There are many 16 year olds who are extremely mature people and, faced with the situation of a terminal illness, any 16 or 17 year old is going to have to consider their situation seriously indeed.

I am sure that any oncologist will tell you that 16 and 17 year olds in that situation behave with great maturity and much thought, and face a very tragic situation usually with enormous maturity and dignity. If they are capable of deciding that they do or do not want a particular form of treatment, it seems to me ridiculous to say that they are not capable of saying what they want to happen next week or in three weeks' or three months' time. If they should change their mind, the order can always be changed. There is nothing immutable about these advance directives; they can be changed instantly. Should they change their mind it can, of course, be taken account of.

But it seems to me ridiculous to say that they cannot make such a decision when faced with the tragic situation of being in the terminal phase of a terminal illness. They should be able to say what they want to happen the same as anyone else. To leave that decision to someone else seems to me a reflection on the great sense of young people.

The Hon. R.I. LUCAS: I cannot speak for the past as the last two members have spoken, but let me speak for the present. My personal experience of children at the age of 16 is much different from the experience of the Hon. Anne Levy and the Hon. Sandra Kanck.

Members interjecting:

The Hon. R.I. LUCAS: We are not talking about that. We are not talking here about someone in the terminal phase. We are talking about someone at the age of 16 in effect writing out an anticipatory grant or advance directive for how they might be in the future. You are not talking about someone at the age of 16 who is in a terminal phase, who is already there, but someone at the age of 16 who is having to write something down. My oldest is almost 15, and many of his friends are 16. I think that my oldest is a sensible, average school child but the prospect that in 12 months he could be making a decision like this fills me, as a parent, with horror. I accept that you have different views.

The Hon. M.J. Elliott: Growing up horrifies parents generally.

The Hon. R.I. LUCAS: I do not share the reactionary view held by the Hon. Mr Elliott. I think growing up is filled with challenges for young people, but I just make a judgment. We all make different judgments, but I can only speak for the present. The prospect that our child in just over 12 months could be making this sort of decision fills me, as a parent, with horror. I accept there may well be some young people at the age of 16 who are able to make those sorts of considered judgments, life and death decisions for the future. But in my current experience, both from personal friends and the young people I see on a daily basis in schools as I visit schools, my judgment is that the vast majority are not those sorts of people, are not in that sort of position, to make those sorts of judgments.

Also, much work is being done by professionals such as Graham Martin around Australia, but particularly in South Australia, in relation to the horrific tendency for young males, in particular, through their mid-teen years, in relation to teenage suicide. I would advise members who have an interest in this area to look very seriously at the important work that he is doing in relation to the attitude of young men, in particular.

Some figures show that young male suicide is the biggest killer in some age groups as opposed to road deaths. I cannot swear to this, but I understand it is higher. It is a significant issue. A lot of research is being carried out in this area by Graham Martin and other world experts. For a whole variety of reasons, young children or young adults, as they go through this period from 14 to 18 and 19 years, have some funny views about life and death. Many rock groups and contemporary music groups make a living from moving in and out of this grey area. There is a lot of debate in other countries about banning certain types of music and things like that. Of course, I am not advocating that: I am just saying that it is a serious area.

The research by the professionals—the psychologists and psychiatrists—indicates the tremendous mood swings, changes in attitude and differing opinions that these youngsters have as they move through varying moods about life and death situations. This is not just about anticipatory grants but also about questions as to whether or not they want to end their life. Whilst the figures on those who succeed are horrifying enough, the numbers who actually attempt it in one way or another are even more horrifying. Many times those who are successful, whether seriously or half seriously—and there is some argument about that—try in some form to damage themselves or to commit suicide. This is an important area, and in my judgment the majority of 16 and 17 year olds are not sufficiently mature to be making such judgments.

In effect, we are developing a new piece of legislation out of two old Acts. One was the Consent to Medical and Dental Treatment Act, which gave 16 as the age of consent. Whilst over the years I have had some concerns, I have indicated that I am prepared to support that provision, which is the *status quo*. The other piece of legislation which funnels into this Bill is the Natural Death Act, which had 18 as the age to make these decisions. Coming into this Bill we have two differing pieces of legislation, one with 16 and the other with 18 years. As I indicated last time, I am comfortable about continuing those separate ages of 16 and 18, but also for the other reasons that I have given today.

The Hon. M.J. ELLIOTT: I do not know what the suicide rate is for 18 year olds, but presumably the Hon. Mr Lucas would not agree to 18 year olds being able to consent either, because the suicide rate is high for them. That is a digression. This clause is not about suicide. If you want to kill yourself, you do not go to the doctor and fill in an advance directive: you jump in a car and drive too fast or you do something else. This clause is about making advance directives. Except for those kids who are contemplating suicide—and there are better ways of doing it than filling in these forms—death is something that they do not think about. There will not be a queue of 16 year olds waiting to pick up

these forms so that they can fill them in and get bumped off pretty soon.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: Who are the 16 year olds who are likely to want to fill in these forms? They will be the 16 year olds who are already suffering some illness. They may be in the very early stages, but they will know that they are suffering from a terminal illness and they will have thought about it, and they will be the only ones who will be filling in these forms. In these circumstances, they will be making a decision not about scratchies but about death. They will obviously sit down with their family. They are hardly going to rebel and go off and fill in their own form. That is a nonsense. They will clearly sit down with the family and say that they want to give a directive as to what will happen.

In these situations they will not be immature, any more than a 20 or 30 year old will be. We have to be realistic. They are the people who will fill in these forms and not kids who want to bump themselves off. They will be kids who are confronted with something that is life threatening, otherwise they would not pick up the forms. That is reality. Let us be realistic about what will happen.

The Hon. T. CROTHERS: I have not spoken in this debate until now. Mike Elliott stole the thunder of what I was going to say in my contribution. As I understand it, any 16 year old who wished, of their own volition (if the clause is carried bestowing the right on them), would have the right to give a directive as to their own future. If they do not sign any documentation, this Act remains mute. The situation is then that the parent, according to the natural law of the land and of many other lands, is the guardian of that person, in the case of Australia until they reach the age of 18 years. To suggest that maturity cannot change with situations and time is to suggest that the people were right 80 years ago not to give women the vote or that people were wrong to change the age of reaching adulthood from 21 to 18 years.

Today we have an avalanche of new types of communication, some of which are already in existence—the information highway. All of these events mould and change the face of our society and the constituent parts of that society, namely, the people who make it up. I have just had an out-of-order debate with my colleague alongside of me, where I put the same viewpoint so well put by Mike Elliott. Today the only people who will sign such a document are those who have thought it through. It is not the ordinary run of the mill 16 year old who will commit himself or herself to such an act.

The Hon. Mr Lucas said in his contribution that it was a very difficult balancing act to determine whether someone is mature enough of purpose to be given free rein to perform certain actions that would have a bearing on their future. He is right, because some people at 35 years I would not consider to be mature enough to do many things the law currently allows them to do. There are people under 18 years who are mature enough to make such a decision. The Hon. Mr Lucas is correct: it is a finite line we draw. If you support what the Hon. Mike Elliott and I are supporting, you are not imposing it on anyone. People will be absolutely free to make the choice of their conviction. I suggest that the Hon. Mr Elliott is right: it will be those people who have a depth of maturity at 16 or 17 years who will exercise that prerogative if this part of the Bill is carried.

We have heard all sorts of draconian pronouncements about the malevolence of some of the things society has done or changed in the past 40 or 50 years—the recognition that people are adults at 18 years changed from what it was, the right for people to vote changed from what it was, and the right to vote for people who were not enfranchised property holders changed.

All of the draconian, futuristic forecasts made by the opponents of such a step forward in our societal values have been proven to be wrong. The Hon. Mr Lucas has hit the button with this, that there are changes around in our society, that maturity can come early to people. We are not imposing anything on anyone who is under the age of 18, but over the age of 16. We are giving them the option to exercise a right, whose time, I believe, has come; that is, maturity is coming much more quickly today to some people than has been historically the case. There are a number of reasons for that. I am no sociologist and I will not even endeavour to give members an explanation as to why that is. I know that it is so. I have a grand-daughter who was 12 years old just the other day—a most mature person. I have a grandson who is 11 years old and he is an absolute scallywag.

The Hon. R.R. Roberts: He takes after his grandfather!

The Hon. T. CROTHERS: He is an Australian as well and that does not help. He is certainly not as mature as his cousin. But the Hon. Mr Lucas is right. I ask you to support the Bill, because enshrined in the particular aspect of the Bill that we are supporting is the fact that we are not extending the option. People do not have to exercise the option, but if they are mature enough to exercise the option, then they will. If they are not, then I would think that the laws of nature would dictate that they will not be the people to exercise such an option. We have debated the matter. We should put it to the test and I ask members to support the proposition embraced by both the Hon. Mr Elliott and myself.

The Hon. A.J. REDFORD: I oppose this. I accept the fact that we have to pick an arbitrary age and that children mature at different rates. I must say I am disappointed with the Hon. Mr Elliott's understanding of what the Hon. Robert Lucas was saying about suicide. Perhaps if I can explain it in a slightly different way so that he may come to grips with the argument that the Hon. Mr Lucas was putting in relation to suicide. We have an outrageously high suicide rate in this country. I am sure that, if we could bring back to life the large numbers of young men and young women who kill themselves in a state of despair and depression and run them through a proper counselling process—counsel them properly, advise them properly—perhaps they might make the decision not to commit suicide.

The very high suicide rate indicates to me that a number of young people, in fact, are not mature enough to make decisions which impact upon their lives or which may impact upon their lives irretrievably, and in some cases a long way into the future. I would throw in another reason, too, that may be of some relevance. We have seen recently the growth in obscure and strange religious groups. We have seen some massacres in the United States. We have seen Australians involved in those. There seems to me to be an increasing trend towards brainwashing of people, whether they be children or adults. I for one would like to see—

The Hon. R.R. Roberts: Not brainwashing; peer pressure.

The Hon. A.J. REDFORD: Peer pressure, yes, there is another one. We will come to peer pressure in a minute. I agree with the Hon. Ron Roberts, there is also the question of peer pressure. You have people who commit mass suicide, and if they are over 18 years of age in our society I suppose that, whilst that is regrettable, there is nothing we can do to stop it. The other thing that concerns me—

The CHAIRMAN: There is a conversation going on in front of me. I am finding it difficult to hear. Would members mind going elsewhere.

The Hon. A.J. REDFORD: The other thing that concerns me is that, in relation to a child aged between 16 and 18 who is in a life threatening situation, where perhaps they are in the terminal phase of a terminal illness, according to the definition the parents are completely and utterly excluded from the whole process. You have a piece of paper from a 16-year-old saying 'This is how I want to be treated.' I remind members that clause 6 is reasonably broad as it stands and it provides:

> . . . that may give a direction under this section about the medical treatment that the person wants or does not want.

It is not a limited direction but a very broad right that we give these people in relation to the nature of the medical treatment that they can either accept or refuse. The very right of a 16 or 17-year-old to write something down excludes utterly, completely and totally what a parent can and cannot do. The Hon. Mr Elliott pointed out that he believes that obviously these children will sit down with their family when they write out these directions. I beg to differ: there is no evidence to suggest that, other than some wish on his part. The very fact that we have such a high suicide rate would indicate to me that they do not sit down with their parents or parents do not sit down with them. It is all well and good to say that some do and some do not, but we are giving this right irrespective of their capacity or maturity to give a direction about their future that goes on *ad infinitum*.

The other thing that the Hon. Ron Roberts pointed out quite rightly when he interjected is the enormous pressure that can be brought to bear by peer groups. I can imagine certain occasions where one person says—perhaps a leader within a group—'I want to go down this particular path and take this direction,' and all their friends, their mates or girlfriends, say, 'Gee, that's a good idea, I'll sign the same thing,' without any degree of thought. There is nothing in this legislation that requires them to undergo any counselling course; there is nothing in this legislation that requires them to seek any advice from anyone. They can simply grab a piece of paper and sign it and there it is: it is binding and firm and excludes the rights of parents. I think that that is unfair.

Finally, if we could have a simple maturity test, then perhaps we could in some cases make the age 16 years. But we have to pick a date. If a person can be precluded from making a will or buying a scratch ticket, or entering a sexual relationship with a schoolteacher, and a number of other things at the ages of 17 and 18 years, then I think that we are entitled to say that they cannot write down a future direction. At the end of the day they do have certain rights under proposed clause 5A and, of course, their parents have a very important role to play. I think it is time that we stopped eroding the rights of parents; that we give parents the opportunity and the chance to raise their children as they see fit and to be involved in the lives and future of their children. A direction under this clause would simply take that right away for a two-year period in respect of a very important issue.

The Hon. R.D. LAWSON: Although I have an amendment standing in my name to reduce the age from 18 to 16 years, I do not propose moving that and I support the retention of 18 years as the age from which a person can appoint an agent for the purpose of medical treatment. The reason is simple: under our present system of law, a person under the age of 18 years is not entitled to give a general power of attorney in relation to his or her ordinary affairs, is not entitled to make a will or to vote and suffers all sorts of other constraints. Until we have a general review of the age of majority it seems to me inappropriate to reduce the age, by stealth, as it were. I have no doubt at all that many, indeed most, 16-year-olds, may have the maturity and mental capacity to appoint an agent.

In the circumstances they are disqualified from other forms of will and attorney making, and I believe that we ought not to grant them that power here. I want to dissociate myself from those who call in aid suicide as one of the reasons why we should not reduce the age. I am not overly impressed by that. The highest rate of suicide of young males occurs between the ages of 18 and 24. There is no suggestion that those under the age of 18 are more prone to suicide or are less mature in that respect. I do not adopt the comments made by some members in relation to that. In my view, there ought to be consistency in this business of making powers of attorney.

The Hon. R.R. ROBERTS: I will not be supporting this amendment. As I stated earlier, it is my view that in many instances the rights of parents have been reduced to unacceptable levels. I am encouraged by the remarks of the Hon. Angus Redford and the Hon. Robert Lawson, who have in some ways touched on the areas on which I thought I was about to embark. The lobby system that occurs in this Parliament actually pays some dividends from time to time. I was concerned at one stage to see that the Hon. Robert Lawson had an amendment in similar vein to this. I remember engaging in a conversation where some of the issues that the Hon. Robert Lawson canvassed were canvassed between him, myself and, I believe, the Hon. Angus Redford.

I have not met too many parents who would not act in the best interests of their child. An honourable member commented that a lot of 16-year-olds are mature enough to sit down and write out a will. I suggest to those proponents that those same people would be mature enough to sit down with their parents and convey their wishes to their parents in the certain assurance that those parents, when making a decision in regard to the well-being of their child in the circumstances as outlined, would take that into full consideration. Members have talked about the ones who succeed in committing suicide, but the ones who attempt suicide are the ones who in some cases will be left in a vegetative or moribund state or in need of intrusive or burdensome medical care. Given that they have taken the decision to try to commit suicide, I do not think members could argue that they are in a fit and mature state of mind to make decisions about their well-being.

On the matter of peer pressure, it is a fact that people who have looked at the incidence of youth suicide more often than not find that there is a spate of it in the same area. I am not a clinical psychologist in any way but there is peer pressure. It goes from all sorts of things through that age. I have reared three children and one of them is still under the age of 18 years. A 16-year-old who wants to buy a motorbike cannot make a contract, so he goes to his father but his father refuses the contract. The lad has a blue with his mates and a discussion arises about anticipatory grounds for refusal of consent or the appointment of agents, and the discussion gets to the stage where he makes that decision to give someone else power of attorney over his health. Then the father, as normally happens in these situations, relents; the child gets the motorbike and wraps it around a post and is lying in the hospital, and some person with dreadlocks and a couple of

earrings arrives and says, 'Parents, you are no longer in this exercise; I am taking over because in this event someone has given me the opportunity.'

The Hon. M.J. Elliott interjecting:

The Hon. R.R. ROBERTS: The anticipatory grant of consent also comes into it because—

Members interjecting:

The Hon. R.R. ROBERTS: He can do it in both instances. Both take a part in the decision making that takes place. The parents of these people are responsible for them in every other aspect, except buying lottery tickets and a couple of other minor areas, and they will make the decision in the best interests of the child. There is a clear anticipation in the mind of everyone in South Australia that at 18 years of age the parental concern will not stop. The legal responsibility is relinquished at that stage and that should apply in the Bill. As I said in my earlier remarks, where third parties are involved in decision making on life and death matters, the age should be 18. That is sensible and responsible, and what people do after that is up to them. There is a clear distinction in the law now and we ought to stick with families. It is about time Parliament gave a clear indication to parents that there is support for the rights of parents as well as those genuine rights of young people and children. I will not be supporting the amendment but I will be supporting consistently where third party involvement takes place that the age ought to be 18.

The Hon. M.S. FELEPPA: I will not repeat the nonsense debated so far. Everyone has a personal view on this. None of the arguments put so far have convinced me that a person aged less than 18 confronted with such an extraordinary and emotional issue will be capable of instructing other people about ending his or her life. If we took a survey of young people walking past the Chamber and said, 'We are legislating in the Chamber and we have talked for about two hours and cannot reach a decision, can you assist us as to which way we should vote?' I am sure the response would be that it is a difficult and emotional situation and young people would say, 'I can't give you the answer. It's your problem.' As much as we think the education revolution involving our younger generation has advanced the situation, this situation remains sensitive and emotional, and for that reason I will not put that burden on my own children who are two very smart children.

The Hon. M.J. ELLIOTT: With respect to the Hon. Mr Feleppa, I do not believe that when people are confronted with a life and death situation education is terribly important. When people are told that they are suffering from something and they are going to die, whether they have a degree or have been to kindergarten will not make much difference at that time. People will be confronting basic realities.

The Hon. Ron Roberts talked about a father and son having an argument, with the son in a fit of pique filling in an advance directive. That is not the real world. The real world is that almost all the people who will be filling in these advance directives under the age of 18—and I suspect under the age of 30, and increasingly so as you go down in age—will be those already confronted with a reality. That is—

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: They will not be having a blue with their Dad and going off to fill in a form to teach them a lesson, I can tell you that much. We have too little faith in teenagers.

Members interjecting:

The Hon. M.J. ELLIOTT: I was not going to say that; I was going to say that as a former teacher I have worked with thousands of people around this age and know when they are likely to be ratty and when they are not. Certainly, there are some situations in life which are an invitation to a teenager to be ratty, but I can assure you that when a teenager is faced with their own mortality is not the time—

The Hon. R.R. Roberts: They have no idea.

The Hon. M.J. ELLIOTT: It would be fair to say that; they have very little idea until they are confronted with it. That is probably true of a lot of people; the concept of your own mortality is not really challenged until somebody close to you suffers it or you yourself are directly confronted. At that stage I do not believe education will make any difference and I really believe that a 16 year old in that situation will be making sensible decisions.

Getting into arguments about at what age you can do other things is not really relevant, because the question is whether at the age of 16 in this situation the person is capable of acting responsibly and whether in this situation we should be giving them the power—not in relation to making wills, riding motor bikes and the like.

The Hon. BERNICE PFITZNER: I have listened to the contributions, and we are all talking about our own experience with our own children, who are close to us. I have sympathy with what the Hon. Mr Lucas says because, when I was running a family planning clinic and saw 14 and 15 year old children in their school uniforms coming in asking for pills and condoms, I used to think, 'Well, my daughter had trouble even talking to a boy at 14 or 15.' So, Mr Chairman, you can understand that, when I am handing out these pills and condoms to these boys and girls who are only 14, 15 or 16, I can see that they know exactly what they want and they have tried out all these things. So, do you say, 'You are not old or mature enough; you cannot have these oral contraceptives'?

So, too, in medical treatment, especially when you are in the terminal phase of a terminal illness. We all know that a 16 year old is invincible; he or she is Superman or Batman and they never die. But, when the 15 or 16 year old who wants to fill in an advance directive and who for some reason or other has some experience of somebody being in a terminal phase of a terminal illness or in a vegetative state that is likely to be permanent comes to you and wants to fill in a form, it is quite different from what the Hon. Mr Feleppa has said, just going out onto the streets and asking any 16 year old, 'How about filling in this form?' Of course he or she will not want a bar of that.

I would contend that those who want to fill it out and who are quite sure that they want to give an advance directive know exactly what they want because they have experienced it. So, although we have arbitrary ages, whether it be 16 or 18, to that 16 year old who comes to you and asks whether they can fill in an advance directive, do we say, 'Wait until you are 18'? I think not.

The Hon. DIANA LAIDLAW: I move:

That progress be reported.

The Committee divided on the motion:

AYES (14)

Davis, L. H.	Elliott, M. J.
Griffin, K .T.	Kanck, S. M.
Laidlaw, D. V. (teller)	Lawson, R. D.
Levy, J.A.W.	Lucas, R. I.
Pfitzner, B. S. L.	Pickles, C.A.

AYES (cont.)

Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	Weatherill, G.

NOES (5)

Cameron, T. G.	Crothers, T.
Feleppa, M. S.	Irwin, J.C.
Roberts, R. R. (teller)	

Majority of 9 for the Ayes.

Motion thus carried.

Progress reported; Committee to sit again.

STATE LOTTERIES (SCRATCH TICKETS) AMENDMENT BILL

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

ADJOURNMENT

At 5.56 p.m. the Council adjourned until Tuesday 25 October at 2.15 p.m.