HOUSE OF ASSEMBLY

Tuesday 12 October 1993

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

CAPITAL PUNISHMENT

A petition signed by 49 residents of South Australia requesting that the House urge the Government to reintroduce capital punishment for crimes of homicide was presented by Mr Becker.

Petition received.

STATE BANK

Petitions signed by 89 residents of South Australia requesting that the House urge the Government to allow the electors to pass judgment on the losses of the State Bank by calling a general election were presented by Messrs Becker and Lewis.

Petitions received.

FOCUS 2000

Petitions signed by 116 residents of South Australia requesting that the House urge the Government to retain the current ownership and funding of the *Focus 2000* newspaper for South Australian Housing Trust tenants were presented by Messrs Brindal and Oswald.

Petitions received.

TRADING HOURS

A petition signed by 45 residents of South Australia requesting that the House urge the Government not to extend permanent retail trading hours was presented by Mr Brindal.

Petition received.

PETROL TAX

A petition signed by 510 residents of South Australia requesting that the House urge the Government to call on the Federal Government to abandon the increase in tax on leaded petrol was presented by Mr Lewis.

Petition received.

QUESTIONS

The SPEAKER: I direct that written answers to the following questions on the Notice Paper, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 73 and 127.

JOINT PARLIAMENTARY SERVICE COMMITTEE

The SPEAKER laid on the table the report of the Joint Parliamentary Service Committee 1992-93.

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Environment and Natural Resources (Hon. M.K. Mayes)—

South Australian Housing Trust—Annual Report 1992-93.

By the Minister of Emergency Services (Hon. M.K. Mayes)—

Country Fire Service—Report, 1992-93.
Metropolitan Fire Service—Report, 1992-93.
State Emergency Service—Report, 1992-93.

By the Minister of Education, Employment and Training (Hon. S.M. Lenehan)—

Tertiary Education Act 1986—Report on Administration of, 1992-93.

By the Minister of Labour Relations and Occupational Health and Safety (Hon. R.J. Gregory)—

Construction Industry Long Service Leave Board—
Report, 1992-93.
Estimate of Liabilities, 1992-93.
Promotion and Grievance Appeals Tribunal—Report, 1992-93.

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

Summary Procedure Act—Regulations—Industrial Offences Exemptions.
Corporation of Enfield—By-laws—
No. 1—Traffic
No. 2—Load Limit
No. 3—Streets and Public Places
No. 4—Waste Management
No. 5—Flammable Undergrowth
No. 6—Caravans, Vehicles and Tents
No. 7—Parklands
No. 8—Animals and Birds
No. 9—Bees
No.10—Dogs
No.11—Permits and Penalties
No.12—Moveable Signs
No.13—Repeal of By-laws.

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

Motor Vehicles Act—Regulations—National Points Demerit Scheme.

By the Minister of Health, Family and Community Services (Hon. M.J. Evans)—

Dental Board of South Australia—Report, 1992-93.
Medical Board of South Australia—Report, 1992-93.

STATE BANK

The Hon. R.J. GREGORY (Minister of Labour Relations and Occupational Health and Safety): I seek leave to make a ministerial statement.

Leave granted.

The Hon. R.J. GREGORY: In this House last Thursday, I gave a ministerial statement regarding allegations of collusion made by the member for Bright over a tender awarded to State Supply to supply stationery to the State Bank. In my statement I quoted from *Hansard* the allegations made by the member for Bright and read the comment he had reportedly made to the *Advertiser*. In the article, the member for Bright was quoted as saying that he had received strong evidence to support his claims. However, in a personal explanation the member for Bright claimed—and once again I will quote from *Hansard*: 'I did not make any such statement to the *Advertiser*'.

The member for Bright was saying that the *Advertiser* reported and attributed a statement to him that he did not make. I asked one of my staff to contact the journalist who

wrote the article to confirm whether the comments made to him by the member for Bright were true. Without hesitation, the journalist confirmed that the member for Bright did say that he had received strong evidence to support his claims. I am advised that the journalist was stunned to hear that the member for Bright had denied making the claim.

Members interjecting:

The SPEAKER: Order!

The Hon. R.J. GREGORY: In the member's personal explanation, he also said he did not call on the Anti-Corruption Branch to investigate his claims—and therefore if the police investigations into the member's claims were a waste of time, effort and money, then it was my fault. I find this to be a ridiculous statement of twisted logic. During the Estimates debate, the member for Bright asked if I would undertake to investigate his claim. I told the member, and I quote:

> The allegations are that collusion, impropriety and fraud have been involved. It is a serious allegation to make about officers of State Supply and the State Bank. That can be dealt with in only one place and that is the Police Department.

The member for Bright replied:

> I thank the Minister for taking that on board and I look forward to hearing the report from the Anti-Corruption Branch as a result of the proceedings.

Clearly it was the member's intention that the allegations be investigated by the appropriate authority and for the member to suggest otherwise is outrageous. In my ministerial statement last week I also said the member for Bright has never provided any evidence to the police or to me of any substance or accuracy. However, in his personal explanation, the member claimed, and for the record I will quote him from *Hansard*:

> I have made statements to the police in the past; I have provided the police with evidence; and I have provided the police with potential witnesses.

No-one has ever denied this, but I think the member for Bright has missed my point. As I said before, the member for Bright has never provided any evidence to the police or to me of any substance or accuracy. Over the past year the member for Bright has made many allegations about drug trafficking in our prison system. These allegations have been investigated by the Anti-Corruption Branch of the police and found to be unsubstantiated. Despite this, the member for Bright tried to get the credit for the recent arrest of the prison officer who was charged with dealing in $10 000 worth of heroin. This arrest was achieved largely as a result of information provided to my office. This information was immediately relayed to the Commissioner of Police.

I have had four meetings with the Commissioner this year to discuss issues relating to drugs in prison. At the last meeting with the Commissioner of Police he advised me that all matters under investigation had been finalised except one matter that was outstanding, and no evidence could be found to support the member for Bright's allegation. Subsequently, this outstanding matter was finalised by an arrest. Over the past 12 months the member for Bright has asked many questions about drugs in prison and made various statements and allegations of prison officers trafficking drugs in the prison system. I have advised this House that these allegations have not been substantiated by the Commissioner of Police or the Department of Correctional Services.

I would like to make one thing perfectly clear: the recent arrest of a Correctional Services officer was achieved totally and absolutely without the help of the member for Bright. I have advised this House before that the member for Bright's inaccurate statements were interfering with any police investigations into drug trafficking. As I said last week, this repeated misinformation not only damages the honourable member's reputation further but more importantly brings the reputation of employers and employees into disrepute. Once again, I call on the member for Bright to apologise to all those individuals and organisations slandered by his accusations and allegations.

QUESTION TIME

MABO

The Hon. DEAN BROWN (Leader of the Opposition): My question is directed to the Premier. Is the South Australian Government supporting the Prime Minister's latest proposal for dealing with the Mabo issue and, if so, why has the Government done another back-flip on the issue of whether or not the South Australian Government should pay any compensation? On 11 June this year the Premier said that South Australian taxpayers could fund compensation claims arising from the Mabo case. However, in answer to a question in this House on 9 September, the Premier indicated he believed that the Commonwealth should accept this responsibility, which was in line with Canberra's original proposal.

I have been advised that there has now been a significant shift in Mr Keating's position on this vital issue. The Prime Minister now wants the States to pay initially 25 per cent of any compensation awarded. He also proposes that after several years the State responsibility would extend to paying all the compensation costs. In addition, Mr Keating wants the States to agree to pay half the legal fees which would arise in settling any Mabo case. Such proposals have major financial repercussions for South Australia, which is more vulnerable to native title claim than any other State of Australia with the exception of Western Australia.

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: As the question by the Leader largely revolved around one of the proposals of the Prime Minister and not the others that are presently being made, I will answer with respect to that. Do we accept that proposal with respect to compensation? The answer is, 'No, I do not', and I have said that previously. As to the matter of whether or not it would be a large cost to South Australia for compensation for native title extinguished between 1975 and 1993, it has been argued, I think very cogently, that there would not in fact be much cost to such compensation in any event, but in the principle of the matter we support the position of other States.

It is our own position that compensation should not have to be paid by State Governments for native title extinguished between that period. I have said that before and I say it again. It was a position the Commonwealth agreed to before the talks fell apart in Melbourne at the Council of Australian Government. That was not its starting position: in fact, its starting position was a 50/50 split on the compensation bill. We rejected that then. At the stage prior to the talks falling apart, we had got it to accept that it should be fully liable for compensation between 1975 and 1993.

However, there is the matter of compensation for native title extinguished post-1993, and it may be that that is what the Leader was referring to in terms of the State picking up

all the costs of that. He has slightly misunderstood that situation—and that is not to be critical of him on that matter. The Commonwealth was never going to accept responsibility for compensation after 1993 because extinguishing of native title after that point would have to be at compensation cost to the beneficiary of the extinguishing of native title. It is just like a compulsory acquisition of a freehold title: if somebody compulsorily acquires a freehold title, they have to pay compensation for that. If native title is determined, by whatever means as finally agreed, after 1993 in a certain area, and if a situation then arises where, for some reason, it is in the national interest that that native title be extinguished, compensation would have to be paid. That would have to be paid by the beneficiary of the extinction of the native title. If that is a mining company, a tourism development or another major development, that body would pay the compensation.

However, the issue at stake of whether or not the Commonwealth be asked to pay all or some of the compensation for the extinguishing of native title has always revolved around those titles extinguished between 1975 and 1993. The matter of extinguishing of native title after 1993 has never been at issue. The position I have had before is the position I stand by and the position other States stand by—that we do not accept the Commonwealth's proposal that the States should bear 25 per cent of that responsibility.

GAS SUPPLIES

Mrs HUTCHISON (Stuart): Can the Minister of Mineral Resources indicate what the effect of the agreement with Queensland to secure this State's gas supplies will mean to the Spencer Gulf region? I have noted the Premier's announcement regarding long-term gas supplies for South Australia, along with the sale of ethane and the proposed pipeline to Botany Bay—and I am sure all members would be pleased with that. My question relates to the need for ethane for a petrochemical plant in the Spencer Gulf region.

Members interjecting:

The SPEAKER: Order! The Deputy Premier will wait until we have order in the House. The Deputy Premier.

The Hon. FRANK BLEVINS: I thank the member for Stuart for her question, because I know that she has an enormous interest in the well-being of all workers and all industries in this State, particularly on the Upper Spencer Gulf and areas further north. It is quite clear that what has been achieved by the Premier in negotiations with Premier Goss over the weekend has ensured that the position for the Upper Spencer Gulf is secured not just for the long-term power needs of the Upper Spencer Gulf but also for the feed stock for hydrocarbon based industries in this State.

Members interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: This Government was given some advice by the member for Kavel a few months ago. In fact, the member for Kavel said that the Government's position in reserving ethane, in fact in legislating to reserve ethane, was an untenable position, that we were pursuing a dream, as if there were something wrong in pursuing a dream. Nevertheless, what the State Government ought to do, according to the member for Kavel, is to sell the ethane to ICI, willy-nilly, with no offsets—none at all.

This Government's position was spelt out very clearly—that no ethane would leave this State until such time as the other States (and we did not mind which) had agreed with the concept that we have been following for 20 years, and that is freeing up the Australian trade in gas. The Queenslanders told us quite clearly that no way would they allow more than the very small contracted amount to come from the Queensland fields into South Australia. We said, 'That is fine; we understand your position. You want it all for your own industry. We understand that. We are not quarrelling about that, but that is why we are keeping our ethane.' After some very intense negotiations, the Queenslanders—

Members interjecting:

The Hon. FRANK BLEVINS: Well, I will tell you in a moment. The Queenslanders have come to the party. After saying categorically that they would not supply their gas to South Australia, now they have agreed to do so. This is the biggest breakthrough in the interstate trade of gas in 20 years, as I think every commentator has agreed. As I stated immediately the member for Kavel raised this matter, to have sold our ethane, without a compensating flow of gas from Queensland would have been economic treason, and that is what the member for Kavel was advocating. Forget the upper Spencer Gulf; give it away! In all fairness to the member for Kavel, because I want to be fair—

The SPEAKER: Order! I ask the Minister to bring his response to a close.

The Hon. FRANK BLEVINS: Yes, Sir. He was not alone in that position, because the Federal Government had the same position. It said, 'Forget about the upper Spencer Gulf; just send your ethane to New South Wales.' We told the Federal Government exactly what we told the Queensland Government and every other Government represented at the meeting of Mines and Energy Ministers: under no circumstances would any ethane leave here until Queensland or some other State Government had given the assurance that we had gas supplies for around 20 years. We have achieved that 20 years supply, and I am absolutely delighted—

Members interjecting:

The Hon. FRANK BLEVINS:—that we have been able to secure the ethane supplies for the upper Spencer Gulf and at the same time negotiate with Queensland for a 20-year supply of gas for South Australia. I think it is a triumph. Members should compare that with what the member for Kavel was advocating, which was tantamount to economic treason.

MABO

Mr INGERSON (Bragg): Has the Premier had any discussions over the past week with the Prime Minister about the Mabo case and, if not, why is he the only mainland Premier not to have been consulted by Mr Keating? Over the past week, Mr Keating has had discussions with Premiers Goss, Fahey, Kennett and Court over the Federal Government's latest proposals for dealing with the Mabo case. However, there has been no public indication of any consultation with the South Australian Premier, even though South Australia has much more to lose than other States.

The Hon. LYNN ARNOLD: Even the honourable member's own Leader disagrees with him on that last point, although the honourable member at least got one fact right when he acknowledged that Western Australia is the State most affected by this matter. I have had discussions over recent weeks not only with the Prime Minister but also with Premiers of other States, and that situation will continue. There have been extensive officer discussions between my Government, the Commonwealth and other State Governments as well, and that situation will continue. There had

been the anticipation that legislation would be introduced in the Commonwealth Parliament on 18 October; I now understand that has been put back to 28 October because of the various discussions taking place between Premiers and the Prime Minister, and between officers, and those discussions will continue until we can reach a satisfactory position.

MULTIFUNCTION POLIS

Mr De LAINE (Price): Does the Premier believe that the future of the multifunction polis would be in doubt if the Gillman site was no longer a major part of the project? The Leader of the Opposition stated recently that the Liberal Party does not support the Gillman site as part of the multifunction polis and that if it were to win Government it would dump Gillman.

The Hon. LYNN ARNOLD: I was certainly interested to hear the Leader's comments on this matter, and I thought that perhaps we were coming close to a policy again. From time to time we seem to come ever so close to a policy on this matter, and I thought, regardless of the fact that he was being foolhardy in what he was saying and missing so many points, not just the point, that at last we had a policy, and that was something going for him and his Party. However, he then chose to dispel that on radio yesterday morning when he was interviewed about this matter. I know the media are eager for policies at least to start coming from the Opposition. The interviewer said, 'Aha, so this is a policy', and the response was, 'No, it is not a policy; it is just a statement.' Again, the Leader shies away from a real policy; again he shies away from taking a substantive position on anything.

To the extent that we can take these reported comments as meaning anything, and given his own track record that is highly doubtful, but to the extent that it might mean anything at all, a number of comments deserve to be made. First, you would wonder where the Leader was; I know he was not in Parliament, because he lost his seat in 1985 and he was not back in this place until after Adelaide won the MFP site, but he would have been in the community of South Australia. Unless he was living as a hermit or a recluse, at least the Leader would have been reading the daily newspapers and, if he had been doing so, he would have discovered that Adelaide won the MFP selection on the basis that Gillman was part of the proposal and part of the whole concept of the MFP that was being put and was selected by the Federal Government with the concurrence of the Japanese as being the best option for the development of the principles of the multifunction polis in this country.

It was not the only part of it—as I have said time and again—because a number of elements of the MFP are all important. But Gillman is one of them, and it is an important one of them. To suddenly say, 'If we win Government, we're just going to take Gillman out of the MFP', is to deny the very concept approved by the Federal Government in the first place. I would be intrigued in that context to see how the Leader got on with the Federal Government if he were to be elected Premier. The Federal Government in response to his calls would simply say, 'What on earth are you talking about? All you've done is introduce something that's different from what was originally agreed to between the State and the Commonwealth.'

Even if the MFP had never been heard of and the concept had never been floated, what ought to happen to the Gillman site? Apparently, the Leader is trying to suggest to South Australians that nothing should happen to the Gillman site: that it should be left as it is. The Leader must be one of that group of people who regard Gillman as a pristine site. I have heard of some people who oppose Gillman because they claim development will cause environmental damage; they get all upset about it, as if we will do environmental carnage by doing something at the site. Obviously, the Leader is one of this group, but I suggest that he actually go and look at the site; if he does he will discover that, whatever it may be, pristine it is not. Even if the MFP had never been coined as a concept, there will be a need for Governments of the future to do something about environmental rehabilitation in this area. That simply has to happen, and about that there is no choice. It is for one of those reasons that we were so keen to see it taken up into the MFP concept—to help give us the resources and the opportunity to see rehabilitation take place in that area.

Secondly, I refer to residential development that will be possible in that area. Adelaide will grow: its population will grow and, whatever we may say about migration and birth rates and the like, Adelaide's population will be larger in years to come than it is now. People have to live somewhere, and houses have to be built somewhere. Either the Leader wants to take advantage of good locations of land (and the Gillman site does have good location in terms of major Adelaide facilities: it offers the opportunity for keeping residential development within a much tighter urban concentration in this city) or he rejects that option and then has to find somewhere else. What does the Leader want to do? Does he want to go into the Barossa Valley and start hewing down the vines to make space for extra housing? Does he want to go into the Southern Vales hewing down the vines? Or does he suddenly want to put people in high rise tenements in certain parts of the city? How does he propose that land will be made available for extra residential development? What are the Leader's options now that he appears to have wiped out Gillman as a development option?

That environment rehabilitation issue and the residential issue are independent of whether there is an MFP at all, but for base political motives, simply for the most cynical of motives, the Leader chooses just to say that that is not going to be his option.

Mr OLSEN (Kavel): Is the Premier aware that only last week an officer of the Environmental Division of the MFP contacted a Liberal member of Parliament and asked the member for ideas and suggestions on developing environmental technologies for the MFP? Is he concerned that such an approach is a further demonstration of the lack of leadership and clear direction within the MFP, as confirmed in a recent extended television—

The SPEAKER: Order! Will the member for Kavel hold on until we get some order. The member for Kavel.

Mr OLSEN: —interview with the Chief Executive Officer of the MFP, Mr Kennan, and he was unable to articulate any vision for the project. In fact, he said he did not have a vision for the project. A major justification given by the Government—and the Premier's response to the previous question—for the MFP and the selection of the Gillman site has been that it will encourage development of new technologies to deal with environmental management issues, but the approach by the MFP staff and the CEO shows that the MFP is still working very much in the dark without any strategic direction after the spending of more than $17 million thus far on the project.

The Hon. LYNN ARNOLD: Apparently, an officer of the MFP contacted the Opposition to talk about environment-

al technologies. I am asked whether I am aware of that: the answer is 'No, I am not.' I am asked whether I am concerned about that: no, I am not particularly concerned, because one of my key points since being Premier is that some of these major projects should be community projects that everyone in the community wants to be involved with.

I made the point, for example, when the Economic Development Board was established that I encourage the fact that there should be communication with Her Majesty's not so loyal Opposition; that it was important there be a bipartisan stance on as many issues as we can possibly get, because that benefits South Australia. I am not abashed about that: I do not have a problem about saying to the Economic Development Board and the MFP that members of the Opposition should have the opportunity to put their views and opinions on occasion. I am quite happy for that to happen.

Whilst I criticise the bankruptcy of ideas and policies on that side on many occasions, I am aware that from time to time members opposite might actually come up with an idea or two; that they are not totally bereft of ideas and policies; and that occasionally amidst the dross it might be possible to come up with a little gem. It will be a little gem, but a gem nevertheless. It would be a great pity for the welfare and economic opportunities of South Australia if we ignored that little gem amidst the dross. So, I do not find what the member for Kavel has talked about particularly concerning.

What I do find concerning is that last week, when we released the proposals of the Economic Development Board about the economic future of South Australia, I was asked 'Would you like the Opposition to have a copy of that before the public release?' and my answer was 'Of course I would like that to happen, because that is the proper way this should happen,' because we do want a bipartisan approach. And then what happened on the day of its release? We had the wreckers of the Opposition come in and immediately do everything they could to destroy any spirit of bipartisanship: going in for simple attack and criticism for criticism's sake.

That was the return we had from a genuine effort on our part to ensure that the Opposition did have a chance to be fully briefed on the major announcement that was to be made last Friday.

The Hon. M.D. Rann interjecting:

The Hon. LYNN ARNOLD: I agree with the Minister of Business and Regional Development. I noted that members opposite did not ask whether I was aware that we had made that paper available to the Opposition. That is the calibre of this Government: we want to see this State built by South Australians. We want to see a bipartisan approach to these things. The wreckers opposite clearly do not.

BANKING HOURS

Mr FERGUSON (Henley Beach): Will the Minister of Labour Relations and Occupational Health and Safety advise the House whether he will be introducing an amendment to the Holidays Act that will allow banks to trade on a Saturday?

The Hon. R.J. GREGORY: It is my intention that, when the amendment to the Holidays Act that is currently on file comes before the House, I will be moving further amendments that will allow banks to operate on Saturday if they so wish. The Government has decided to do this for a number of reasons. One is that the banking unions have reached and are reaching arrangements with their employers so that there can be Saturday work. Indeed, we have noted from the *Advertiser* this morning a news release attributed to officials of the Financial Services Union and the Australia and New Zealand Bank in which they discuss the possibility of their agreement being ratified in the Industrial Relations Commission and, when it is, limited trading on a Saturday.

Further, the Cooperative Building Society will now become a bank (on 1 January next year). Its members have had a habit of using its facilities on a Saturday, and it is the view of the Government that they should continue to do so. This amendment will allow them to do it within the Act of Parliament, unlike what is happening in the Eastern States, where many of these building societies that have become banks are operating on Saturdays under what I think are very dubious circumstances. This is a fairly significant microeconomic reform that our Government will be introducing.

NATIVE TITLE

Mr D.S. BAKER (Victoria): My question is directed to the Premier. Has the South Australian Government told the Prime Minister that it will agree to proposals under which native title claims can be made over mining and pastoral leases when those claims expire and, if not, what is the South Australian position?

The Hon. LYNN ARNOLD: Our advice is that native title has already been extinguished on pastoral leases and it is not likely that new pastoral leases will be created. I cannot imagine such a situation. So, you cannot revive that which has been extinguished. The question comes down to what happens on mining leases if an area of land is deemed to be or could have been native title. Did native title become extinguished fully by the creation of a mining lease?

Inasmuch as freehold title is not extinguished by the creation of a mining lease over freehold title and there is a life to the mining lease after which it must be renegotiated, the same would apply to mining leases on native title situations; there would not be any variation on that. In fact, we have already discussed that situation with the mining industry and that principle has been accepted. I cannot say exactly what has been discussed with individual officers about this matter because discussions have taken place as recently as this last weekend and I have not had a full briefing on this matter. But there should be no difference in what happens with respect to a mining lease on any other form of title from what happens under native title.

There should not be a positive discrimination element that it would exist for a native title where a mining lease existed compared to a freehold title. There should be equity between both. What applies when a mining lease exists should be no different from what applies when a mining lease is on native title. Neither should have fairer treatment over the other: they should both have fair and equal treatment. That is a principle I should have thought that all members of this place would want to espouse.

STALKERS

The Hon. J.P. TRAINER (Walsh): I direct my question to the Minister of Emergency Services.

Members interjecting:

The SPEAKER: Order! The member for Walsh.

The Hon. J.P. TRAINER: Sorry, Mr Speaker, I was concentrating on presenting my true self to the Chamber, despite the reference opposite to my receding hairline. Over the other side some are Tories and some are Whigs.

I address my question to the Minister of Emergency Services. In view of the stress endured by the unfortunate women who find themselves pursued by stalkers and in view of other concerns about the flouting of restraining orders by some individuals of a potentially violent nature, would the Minister (in conjunction with the Attorney-General) research the application in a reverse form of the same technology that is used for home detention monitoring?

The thought occurred to me that the same electronic methods used to ensure that a person on home detention does not leave a nominated place could also be used to prevent a person under a restraining order from approaching the vicinity of a nominated location. For example, a convicted stalker could be immediately detected by this method if he or she were to approach within a few hundred metres of the home or work place of his or her victim. In the case of other types of offences it might also be possible thus to ban more effectively notorious convicted criminals from visiting a location where they have previously offended, if a court has ordered that they are not to frequent that particular place.

The Hon. M.K. MAYES: I thank the member for Walsh for his question because it is a very important issue and, certainly from the point of view of the events that have taken place not only here but interstate in the past 12 months, stalking has become a matter of grave concern to the community. I have had, as the member would know, discussions with the Attorney-General about amending legislation. That was raised in this House a month ago in relation to the Government's position on that and we have recommended that there be amendment to the criminal code to provide the police with power to apprehend and prevent stalking.

I think what the honourable member has suggested as an additional measure is certainly worth investigating. The technology that is now available is quite extraordinary, and it is changing virtually daily. Our Police Force is investigating most of this technology in terms of pinpointing and location not only of particular vehicles but also of individuals. I will refer the matter to the Commissioner for his investigation. I know that some work has already been undertaken in a similar area and I will report back to the House and to the member the progress of those investigations and, hopefully, we can in fact see perhaps amending legislation and a reinforcement with the technology that will add further security and safety to our community.

PUBLIC SECTOR REMUNERATION

Mr S.J. BAKER (Deputy Leader of the Opposition): My question is directed to the Treasurer. Will the State Government be liable to pay increased salaries to, or fringe benefit tax for, public sector executives currently receiving flexible salary packages when significant changes in fringe benefits tax apply from 1 April next year? If not, what contractual arrangements exist between the Government and those executives affected to change their packages and effectively force them to take a pay cut?

The Economic and Finance Committee has identified 160 executives in statutory authorities who receive annual remuneration of more than $100 000. Most of them have flexible arrangements to minimise taxation and some have their FBT obligation built into their packages. The committee, in this regard, gave an example of how an executive taking only half of a $100 000 salary package in cash can benefit by almost $8 000 through minimising PAYE tax. From 1 April next year significant changes to fringe benefits tax will equate it much more closely to the tax treatment of base salaries. This will result in many executives facing significant reductions in their total remuneration benefits unless the contracts they have with the Government make allowance for this and require the Government to maintain the present take-home value of their packages.

The Hon. FRANK BLEVINS: The Treasurer does not have responsibility for salaries in the public sector proper, nor in most statutory authorities. I think there are only two statutory authorities for which I have responsibility—and SAFA as well, so probably three—so the question is actually misdirected. Nevertheless, whilst I am on my feet I will only be too pleased to say a few words about it. The fringe benefits tax legislation does change from 1 April next year. That is why the present problems that have been quite properly identified by the Economic and Finance Committee will be self-corrected. There will be no benefit for people to change their salary packages in creative ways. There will not be any significant advantage to them whatsoever. So the issue overwhelmingly will be over. I will just point out that members opposite of course do not support that; they do not support the fringe benefits tax. As a political party they have vigorously opposed the introduction of fringe benefit taxes. They have said they are anti-incentive, anti-business and are against the high flyers, the people who, allegedly, are those who will make this country great. I think there is a fair bit of hypocrisy there when members opposite talk about fringe benefits tax, because it is something that they strongly oppose.

I cannot see why the Opposition would quibble with what has happened under the previous rules. They are right in line with the Liberal Party policy of an employer and employee bargaining quite freely and arriving at a package. Again, this is what the Opposition members claim this country needs to make this country great and that people who are the high achievers ought to be able to negotiate with their employer any package they like: standard Liberal Party propaganda—with which, of course, we disagree. I read the same article that the Deputy Leader has read, that in the public sector proper, as opposed to the financial enterprises of the Government, there could be a problem in this area. It may well be that, because we pay the fringe benefits tax now—that was how it was originally there—we can only go by the legislation that is on the table at any given time.

It may well be that negotiations will have to be held with these few people within the public sector proper who have a flexible package. I would state that these flexible packages in the public sector usually only consist of a motor vehicle and superannuation. I will not personally be involved in any of those negotiations. That is something for the Minister of Labour to pursue, and I am sure that the Minister of Labour will do so. But I want to again reinforce the fact that the debate has hit with a broad brush right across the public sector and I think we ought to stress that, in the public sector proper, the 100 000 people that we employ directly under the GME Act, Education Act and Health Commission Act, etc., are not in the same position as were the people in the financial trading enterprises such as the State Bank, the SGIC and the Grand Prix Board.

MEDICARE

Mrs HUTCHISON (Stuart): Will the Minister of Health, Family and Community Services explain the effect of Commonwealth Government initiatives imposed on all States

during negotiations leading up to the finalisation of the Medicare agreement—and I would ask particularly as it relates to public and private occupied bed days in country hospitals?

The Hon. M.J. EVANS: In fact, with regard to this issue of public/private activity in the public hospitals, as the honourable member, and indeed the House would be aware, this was part of the overall negotiations with the Commonwealth Government on the Medicare agreement. The Commonwealth was concerned at the time about the actions of some of the eastern States and the way in which the public/private ratio there was being manipulated in respect of double dipping under the Medicare agreement by those States. Therefore, in order to prevent that, the Commonwealth Government requested, and indeed imposed under that agreement, that the public/private ratio should be the same in this financial year as it was in 1991: that was 52.96 per cent public. The fact that this ratio is not varying between 1991 and the present does indicate that there will not be wild swings in this, and we must keep in mind that these ratios are to be observed by the State as a whole and not by the individual hospitals. However, at the end of the day it is South Australia that is responsible for maintaining that ratio and therefore the Health Commission has had to impose targets on individual hospitals right throughout the State, including the country.

In respect of those country hospitals, in the majority of cases, one needs to keep in mind that there has been a 4 per cent decline in private occupied bed days in those hospitals, as country people have recognised the advantages of being under Medicare in country hospitals. Given that there has been that slight decline in private occupied bed days, the vast majority of country hospitals will, with very small managerial arrangements, have no trouble in meeting those targets. However, I know that there are some individual hospitals about which there are concerns, and indeed the member for Stuart has drawn Port Augusta Hospital to my attention, and I know that she is concerned about the outcome there.

So the Health Commission will have to monitor not only the State as a whole but also the targets in individual hospitals to ensure that this State target is met and that, indeed, individual hospitals where there are extraordinary circumstances will have the opportunity of discussing that with the commission to ensure that their needs are taken into account. At my direction the Health Commission is investigating the possibility of ensuring that this part of the agreement is changed with the Commonwealth. I think a more logical basis on which to do this would be separations. I think the Commonwealth acknowledges that and I have lobbied successive Commonwealth Ministers in that regard.

I am fairly confident that by the end of this financial year we will have negotiated new arrangements for the following financial year. The honourable member can be assured that in the interim, while we cannot give a blank cheque in these matters because there is a State obligation to take into account, I will certainly examine the individual situation in hospitals where an exceptional case can be made.

Dr ARMITAGE (Adelaide): My question relates to the answer that the Minister of Health has just given. What is the extent of the financial penalty faced by each public hospital in South Australia as a result of the Medicare agreement signed by the Minister, and what will he do to overcome the inevitable cuts in health services which these penalties will cause? As the Minister indicated, the Medicare agreement imposes a penalty of $405 per bed day if the ratio of private to public patients is exceeded. On last year's financial figures, South Australia has 28 million excess hospital bed days.

Far from minor administrative changes being able to fix the situation, on year to date figures obtained from country hospitals it is indicated that some of the penalties country hospitals face include: $1 million at the South Coast District Hospital, Victor Harbor; $750 000 at the Port Augusta Hospital; and $400 000 at the Barmera Hospital—and on and on. At a meeting at one of these hospitals on 28 September, a Health Commission officer advised that 'the private bed day quota was not negotiable', despite what the Minister just told the House, and that 'penalties would be imposed if it was exceeded'. The Minister would also realise that any attempt to cut back on the number of private patients admitted will have a dramatic effect on the revenue targets for the hospitals and any increase in public patients will have a dramatic effect on the fee for service components of the hospital budgets.

The SPEAKER: Order! I would point out to the member for Adelaide that, if he had spoken for another 30 seconds, it would have been a grievance debate contribution. The questions today have been very long, as have the answers. It is up to members as to the number of questions asked, but I suggest that the questions and the answers be shortened. The honourable Minister.

The Hon. M.J. EVANS: Thank you, Mr Speaker. In deference to your request, I will endeavour to be brief in this matter since many of the issues which the honourable member has raised have already been canvassed in response to the previous question. However, the honourable member and the Opposition in general—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. EVANS: —cannot have it both ways.

Members interjecting:

The SPEAKER: Order! The Minister will resume his seat. I have not had to raise my voice at all today. There has been a fair bit of interruption but I have let it go. We have 19 minutes to go before the end of Question Time. There will be no more interruptions or I will start to apply penalties.

The Hon. M.J. EVANS: The Opposition cannot have it both ways. Either private insurance in this State under Medicare and indeed under the Commonwealth in general is under threat or it is not. The Opposition is telling us that the Medicare arrangements attack private insurance; that private insurance is on the decline; and that people are being forced out of private insurance. Yet at the same time it claims that there is this massive increase in the number of private occupied bed days, which must obviously be insured—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. M.J. EVANS: That suggests quite a separate trend from what the honourable member has previously argued in this place. Obviously, private insurance is not under the kind of threat he has previously maintained. The reality is—

Dr Armitage interjecting:

The SPEAKER: I caution the member for Adelaide.

The Hon. M.J. EVANS: The reality is, as I said before, that these targets must be met by the State as a whole. The Commonwealth has not imposed targets on individual hospitals: it has imposed them on the State. I accept that this arrangement is far from perfect. I have taken that up with individual Commonwealth Ministers and I will continue to do so, but the Health Commission and I, as Minister of

Health, are responsible for ensuring that that target is met across the State. We will do that and individual hospitals will have to meet their targets or discuss with and explain to the Health Commission why that cannot be so. If it fits within the total State budget, we will make appropriate allocations where the reasons are good enough. We will not give them a blank cheque. That is not good management and I will not allow that to occur, but clearly we have a State total to manage and we will manage that State total.

SHACK SITES

Mr ATKINSON (Spence): Can the Minister of Environment and Natural Resources advise the House of the environmental consequences of freeholding all shack sites on Crown leases? The Leader of the Opposition issued a press release the week before last entitled 'Liberals to grant shack owners freehold title.' He then announced that the Liberal Party would freehold all shack sites currently under miscellaneous Crown leases.

The Hon. M.K. MAYES: I thank the member for Spence for his question, because it is really interesting to examine what the Leader actually announced—the Clayton's policy on shacks. It has been described by my predecessor as a recycled shack policy. I regarded it, when I was first asked, as a recycled con trick of environmental vandalism. It is quite clear that this policy, when closely examined, is actually a sham. If one carefully examines what the Leader said over the days following this mighty announcement, one sees that in fact he qualified it, and qualified it and qualified it. Let me quote from the news service on Channel 10 last Thursday:

> Mr Brown counters by declaring that if particular shacks do present environmental problems they will not be switched to freehold title.

I quote from the Channel 2 news:

> A special committee will determine those shacks which must go for environmental reasons.

When he made the announcement, the Leader said, 'This is a freeholding.' We had this image of every shack along the rivers and the coastal areas being freeholded. Apparently the Leader has forgotten the history of the shack policy because, of course, it was under Dr Tonkin's Government that members opposite actually committed a review: they committed a review by PPK costing $2 million. It was commenced in 1979 and established a policy which included life tenure for non-acceptable sites and freeholding for acceptable sites. So they had already put that in place, which is exactly what this Government has done in relation to those acceptable and unacceptable sites.

The Opposition spent $2 million in 1980 to achieve this policy. We came into government and we have put in place what I regard is an environmentally sound policy as a consequence of the work done by my colleague the Minister of Education and her predecessor, Dr Hopgood, in his time as Minister of Environment and Planning. It is very important that we look at this, because what the Leader has done is to establish that those shacks that are located in environmentally unacceptable areas will not be freeholded. Interestingly, a person called me to say he had phoned the Liberal Party to ask what the policy was and what would happen with his shack in the Coorong. That person was told the Liberal Party did not know. That was the answer: it did not know.

Clearly, the only policy that I know of that has been announced in the environmental area has become a non-policy, because no-one can understand what it means and apparently every time the Leader is interviewed the policy changes.

Members interjecting:

The SPEAKER: Order!

The Hon. M.K. MAYES: It is watered down every time. I ask the Leader: can he please inform South Australians what their real shack policy is?

Members interjecting:

The SPEAKER: When the House comes to order we will continue with Question Time, and that includes back benchers.

EDUCATION REVIEW UNIT

Mr BRINDAL (Hayward): My question is—

Members interjecting:

The SPEAKER: Order! It is very difficult to protect the honourable member from his own members.

Members interjecting:

The SPEAKER: Order!

Mr BRINDAL: My question—

Dr Armitage interjecting:

The SPEAKER: The member for Adelaide has been chastised and would be cautioned to be very careful about his actions.

Mr BRINDAL: My question is directed to the Minister of Education, Employment and Training. How are the records of the Education Review Unit filed? Who has access to them and what assurances can the Minister give that the basic principles of natural justice and privacy are not being violated in the process? As part of the review process in schools, management personnel and principals in particular are often confronted by accusations which cast serious aspersions against their integrity, professional capacity or honesty. The person confronted is specifically denied the right to know the context of the accusations or the identity of the person who made them.

I have been given anecdotal evidence that suggests that sometimes these accusations, which can include child abuse or sexual harassment, are a misrepresentation of the truth and can be mischievously made without the opportunity given to disclaim or to prove them wrong. My informants have expressed deep concern that, should records of such accusations be filed and assessed at some future time, the accused could be seriously injured by flawed information.

The Hon. S.M. LENEHAN: With respect to the first part of the question which was about specific practices of the Education Review Unit, I will be very happy to obtain a detailed answer, because it does refer to specific procedural matters. However, in the honourable member's explanation, he canvassed the much broader issue of the keeping of information and the making available of that information where it is appropriate. It is important that we as a Parliament examine the underpinning of that question.

On the one hand, the Education Department, through its personnel, has a responsibility to the community to ensure that children, particularly young children, who are quite powerless have access to educational services in a safe, caring and supportive environment. That means an environment that is free of any form of either physical, sexual, emotional or psychological harassment—in other words, that the developmental and learning phases of a child's life take place in a manner and an environment which protects the child. That is the legal responsibility of the department. It is a responsibility

given to those teachers and to the department by this very Parliament.

On the other side of the equation, we have a situation where adults and teachers believe that they must have the right to natural justice and to be treated fairly and equitably when complaints and allegations are made. It is a very fine line to tread, and I am sure that my colleague the Minister of Health, Family and Community Services will support me when I say that it is not easy, on the one hand, to balance and protect the rights of the child and, on the other hand, to ensure that adults in a democratic and free society have their rights protected under the law in terms of practices that take place within departments.

I will certainly look into the allegations made by the honourable member, but I ask him to consider that the community by and large demand in their educational service that protection for children, and we have to be very careful that, in rushing to, if you like, jump to conclusions about a small number of allegations made concerning teachers, we do not throw out those rights and put at risk the future safety and well-being of children in this State.

ABORIGINAL SPORTS PLAN

The Hon. T.H. HEMMINGS (Napier): Will the Minister of Recreation and Sport advise the House of details of the recently announced Aboriginal sports plan? I have been informed by Aborigines in my electorate that the plan involves genuine measures to address social justice issues in this area of Aboriginal sport. I have been asked by them to pass on their support to the Minister for this initiative in this the International Year of Indigenous People.

The Hon. G.J. CRAFTER: I thank the honourable member for his question. I am aware that a large percentage of the population of his electorate are Aboriginal people. Many of those people participate in sporting activities and value very much their opportunities to participate in sporting activities as part of the life of that local community. I was pleased recently to launch the Aboriginal sports plan in the company of the member for Hanson, and that plan sets out to encourage Aboriginal people to be involved in all levels of recreation and sport. Indeed, South Australia is the only State to have established such a plan and has made a substantial commitment to its fulfilment.

Planning starts with Aboriginal sports camps, for students from years 6, 7 and 8, and continues onto coaching, umpiring and sports administration courses to offer sporting careers for Aboriginal people. Studies show that the Aboriginal community does lack true access to mainstream sport and that social and health related problems are a consequence of this non-participation. During this year, $170 000 has been allocated in the budget to increase the participation of Aboriginal people in recreation and sport and, with Commonwealth support, $1.7 million will be provided over the next five years for this program.

The initiative includes: Aboriginal Aussie Sport field officers will work with mainstream field officers in the development of that range of sporting activities; three regional training centres with improved sports facilities are being developed; there will be improved access to sporting equipment, which is a key component to participation in sport—obviously something which is often denied to young Aboriginal members of our community; coaching programs, umpires and sports administration courses will be established; a community sport and recreation officer will be appointed; and, finally, there will be an apprenticeship training scheme for Aboriginal people involved in this aspect of the life of our community.

With the Sydney 2 000 Olympic Games now in Australia's hands, the strategic plan could be the launching pad to include more Aboriginal athletes at the elite level in sporting events, including the Olympic Games. Already two Aboriginal athletes are setting their sights on Olympic gold-sprinter Cathy Freeman and hurdler Kyle Vander-Kuyp. We have just seen that the winner of this year's Brownlow medal is a South Australian, young Aboriginal Gavin Wanganeen, and the best player in the AFL grand final was another Aboriginal person, Michael Long.

This plan, I can assure members, will encourage many young people to aim to reach similar heights and emulate the performance of so many Aboriginal sporting stars in this country's sporting history. The Aboriginal sports plan clearly aims to increase the ability of the Aboriginal community to access training and facilities and to address a genuine need in the community by ensuring that Aboriginal children with sporting talents are given every opportunity to develop their skills and participate fully in the life of this country.

ELECTIONS

Mr BECKER (Hanson): Does the Premier agree with the State Secretary of the Labor Party, Mr Cameron, that there appears to be a ground swell of opinion that a State election should be held this year? Will he guarantee to respect public opinion in deciding the election date?

The Hon. LYNN ARNOLD: Well, I have to say I have certainly not picked up a ground swell of opinion on that matter. What I have picked up are a series of people who have said they believe that the election should be held early next year. I have heard Trevor Griffin make some speculation about June next year and I have had other people say it should be held this year. The Party Secretary has now made known publicly his own opinion on that matter, and I can say that that reflects the view he has expressed for some time. I have a number of people expressing support for dates next year as express support for dates this year.

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: There are a number of issues that have to be dealt with first. There are some points that have to be got through this Parliament. We have the budget that is now being debated in another place. There are some other details that need to be attended to. We put down a program that the Governor announced before this Parliament, and I suggest that people look at that program to see the sorts of things that still need to be attended to. So, regardless of the individual opinions of anybody—I will certainly listen to their views and take them into account—they are opinions and, at the end of the day, I will determine on the basis of the program we have announced to the people of South Australia as to what the best date should be for an election.

I do find it a bit amusing, however, to note that the Leader is a member of a Party which in 1982, when its full term of three years (as it was then) was up, chose to hold a by-election at the time rather than go to the polls. It did not want to do that. It actually put the taxpayers of the State to the expense of a by-election, which saw the member for Florey elected to this place, rather than go to a general election at that time. In fact, they then waited another two months

beyond that period before going to a general election. The four year mark is in late November, and one thing I can assure people is that no by-election will be held at that time; the taxpayers of South Australia will not be put to that expense, which is exactly what the Leader of the Opposition, who was a senior member of Government, chose to do with full cynicism, knowing that a few months afterwards a general election would be held. We now hear the Leader making references to what will happen if the election is held early next year, in terms of Ministers' pay, and so on.

He is not talking about a saving to the taxpayer at all: he is simply saying that he hopes he wins Government so that his own shadow Ministers can be the beneficiaries of that. That is what he is saying; he is not really offering anything to the taxpayers. Yet, when he had that chance—when he was a senior Government member—he chose not to give a saving to taxpayers but to inflict a cost by holding what was a needless by-election at the time, because the election of the member for Florey could have been attended to only a short period afterwards at a general election. I think the cynicism of members opposite is quite transparent.

STROKE VICTIMS

Mr HAMILTON (Albert Park): Can the Minister of Health, Family and Community Services advise what facilities are available for the rehabilitation of stroke victims in the western suburbs? This morning I received a letter in my electorate office which states in part:

> My mother has recently had a stroke and not until something like that happens does one realise how bad the funding situation is at QEH. While the doctors and nurses are wonderful, given the stressful situations they have to work under, it is extremely hard to get answers. My mother has now been moved to a rehabilitation hospital out at Malvern because the rehabilitation unit for stroke victims, ward 1C at QEH, was closed down, which is not very convenient, considering most of the family lives in the western suburbs.

She goes on to state:

> I do not wish what we have been through on anyone, but if a politician was to go through the same situation I am sure they would then realise that funding cuts cannot continue and the current public health situation is not 'okay'.

The reason I raise this matter is that I feel for this woman and her mother.

The Hon. M.J. EVANS: I am pleased to be able to advise that, while the Queen Elizabeth Hospital has been providing general rehabilitation in its wards, we now have a situation where the St Margaret's Hospital has been able to open a specialist 10 bed and in-patient rehabilitation unit, with the first patients being admitted in late September. The Health Commission and the Government have made available some $300 000 for operating costs and $288 000 for capital works to enable the establishment of the service this year. Staff, including one physiotherapist and an occupational therapist, have already been appointed specifically for the unit, and the appropriate equipment has been purchased. The capital works plans have been developed and are simply awaiting final approval by the commission and the local council.

A steering committee, comprising representatives from St Margaret's, Queen Elizabeth Hospital, Western Domiciliary Care and the Health Commission, is overseeing the management of that service. I am pleased to say that we now have that collaborative approach in place to ensure that rehabilitation services in the region will continue to be improved and result in a very high standard of continuity of care through better patient coordination and outpatient and domiciliary care services, which should go a long way towards addressing the concerns the honourable member and his constituent have raised.

GRIEVANCE DEBATE

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

Dr ARMITAGE (Adelaide): It is with some sadness that I speak today, because I feel distressed that the Minister of Health is quite clearly letting down the system, through his own moves within the ALP. Now that he is one of them he has to do the right thing, and the Health portfolio will suffer. One of the things that are quite clear is that the Minister obviously knows the facts about the matter but quite clearly fails to admit them. The simple fact of the matter is that hospitals in the country face penalties which they will be unable to pay. One hospital faces a penalty of nearly one-third of its total budget, and what does the Minister say, faced with this potential disaster in the State? He says, 'We'll work all that out.' That is the same answer I got in the Estimates Committee when we did not have the year-to-date figures. Those figures indicate an impending sword of Damocles hanging over these hospitals, and the Minister, Nero-like, sits and fiddles.

Mrs Kotz: And he's out of tune.

Dr ARMITAGE: And he is out of tune, as the member for Newland says. These hospitals face appalling penalties, and by the admission of the officers of the Health Commission they will be forced to pay it. The Minister cannot get away with saying we will be moving this pea over there and that thimble back over there. The simple fact of the matter is that the hospitals face devastating penalties. As I said in Question Time, the Health Commission officer indicated:

> The private bed day quota set for the hospital was not negotiable, and penalties would be imposed if the quota was exceeded.

In the face of that, the Minister believes that these hospitals do not have a problem. It is quite remarkable, particularly where one looks at another letter, a memo to all chief executive officers from the Health Commission, and when one looks at what might happen in the private and public bed day ratio disaster. If private occupied bed days are exceeded the hospitals face a penalty, which we have already heard will be imposed, of $405 a day. If they increase the public patients in an attempt to make the ratio look better, they have a huge problem with their fee-for-service budget, because all the doctors who are providing the services for the public patients will need to be paid; so there is a huge fee-for-service implication. As we know from sad, historical fact, all fee-for-service adjustments have to come from within the hospitals' already identified budget; so that is another disaster.

Let us look at the other side of the coin. If hospitals attempt to decrease the patients so they can come back to the ratios, if they decrease the private occupied bed days (in other words, there are not as many private patients coming in), what happens then is that they do not make the revenue, and this Government has been saying to the hospitals for years, 'You increase the number of private patients coming through the hospitals and you can keep the money.' So, good

administrators have being out there hell for leather trying to increase the private bed day patients. If they are now forced to decrease that, they will not get the income from the private patients and, in an absolutely Machiavellian twist, because of the Medicare agreement which the Minister signed—tongue hanging out, unable to wait to do something or other as a new Minister a year ago, which has cost us dearly—if the number of public patients is decreased, again, a penalty of $405 applies per public occupied bed day.

It is a can of worms with potential disastrous effects on the health care of South Australians. The Minister cannot obfuscate, sit and twiddle his thumbs and indicate there is nothing wrong. The Minister's department says that penalties will be imposed, and the penalties will clearly see these hospitals close. There is a threat over all country hospitals, caused by the Medicare agreement signed by the incompetent Minister, and unfortunately he refuses to admit a problem. Every person in the country area of South Australia knows that they are being let down, not only by this Minister but also by this Government.

Mr HAMILTON (Albert Park): Last Thursday in this House, as indicated in *Hansard*, I presented to the House a petition signed by 431 residents of South Australia requesting the House to urge the Government to provide part of the former Seaton North Primary School campus for a children's playground. Subsequently in the grievance debate on the same day, as reported in *Hansard*, I indicated that the Minister had stated that, following an on-site inspection with Mr Lawrie Phillips, the Facilities Branch Manager of the Education Department, together with the local Mayor and another council employee, Mr Barry Heath and myself, it had been agreed that an area of land adjacent to my property would be set aside.

That area would be donated by the Education Department, including transfer fees, etc., to the local community and the local council, together with a $5 000 grant and $7 000 in playground equipment. I was ecstatic, as was the proponent of the petition, Mrs Westbrook, and as were the overwhelming majority of people in my electorate.

However, last night my delegate to the Seaton High School Council advised me that the Liberal candidate, a person who I am pleased to say does not receive the full support of members opposite, said that this was a 'pathetic decision', to use his words. In making a cheap political point—I am glad the member for Bragg is taking an interest in this—he went on to say that under a Liberal Government the land could be sold (true, that could happen under any Government) and the playground area could be sold off.

I challenge the Liberal Party and the shadow spokesperson on education to tell the House and the Seaton community what the Liberal Party intends to do. We have a clear commitment in black and white from this Government, a commitment about which I pursued the Minister, who gracefully accepted the proposal. Now the Liberal candidate in a cheap political shot says that the land could be sold off. On behalf of my constituents I demand to know what is going to happen and what is the Liberal Party's policy. What does the Liberal Party intend to do? Is Mr Rossi out on a limb by himself? Has he the support of Mr Lucas in the Upper House? Does he have the support of members opposite?

What is the Liberal Party policy on this matter? My constituents and I demand to know the Liberal Party's intentions. A clear unequivocal decision has been made and an undertaking given by the Labor Government, and neither Mrs Westbrook nor I have wasted time in raising this matter.

Mr Ingerson interjecting:

Mr HAMILTON: Is the member for Bragg saying that the Liberal Party disagrees with Mr Rossi? I want the Liberal Party to say exactly where it stands. If the member for Bragg is saying that Mr Rossi does not share his confidence, we want to know, because it goes to show, if that is the case, that Mr Rossi has made a cheap political shot at the Seaton High School Council meeting to try to win community support. At this stage he has little support, but the matter raises the issue of the sale of properties. It is the Opposition that plans to reduce debt by selling Government assets and, again, I challenge the Liberal Party to say which schools it plans to close and sell. I do not believe that Mr Rossi has the confidence of members opposite, given what they have said in the House today, and I hope that is the case. I await a response from the Liberal Party.

Mr LEWIS (Murray-Mallee): It is astonishing that the member for Albert Park and the Minister of Education earlier today, as well as Ministers in another place, both during the proceedings in the other place and on radio, have all adopted the mentality that they are going to lose. They are all asking what we are going to do, because they know they are done. I will tell the House, as I will tell them, why they are done: they have failed to do the job they set out to do, or at least claimed they were setting out to do. They have lost the trust of the people of South Australia. They did not ever deserve it in the first place, but now the public recognises that.

You cannot buy an election with $2 million as a bribe to a bank and expect to cover that up for ever. Sooner or later the truth comes out, and that is why the member for Albert Park, now in his siege mentality and acknowledging that the Labor Party is about to lose office, is fearful himself of losing his own seat.

The SPEAKER: Order! The member for Murray-Mallee will resume his seat. The member for Albert Park wishes to raise a point of order.

Mr HAMILTON: Mr Speaker, I have made no suggestion along the lines stated by the member for Murray-Mallee.

The SPEAKER: Order! There is no point of order. This merely reduces the time of the member speaking. The member for Murray-Mallee.

Mr LEWIS: Thank you, Mr Speaker; that is typical of the kind of thing we can expect from members opposite. When it hurts, they will do whatever they can to distract the attention of the House from the issue before it.

The next matter to which I wish to address myself concerns an advertisement that appeared in the *Advertiser* of 20 September. Before I quote that advertisement, I point out that a number of people in my electorate have drawn my attention to it. All members will know that the vast majority of people engaged in rural production are now living on negative incomes and have been doing so for at least three years.

Negative income means having no money after you have done a year's work and trading, when the income obtained for produce is not adequate to meet the costs incurred in the process of producing it. People have had to live on family support supplements and greater borrowings cutting into the equity they have in their farms, yet they see an advertisement by Bain & Company and Deutsche Bank Group directed to State public servants. Published in the *Advertiser* on 20 September, the advertisement states:

> If you accept a separation package, this seminar will explain how you could qualify for social security benefits. . . even if you think you'll have too much money to be eligible.

It says that it is a free seminar and then gives the following example:

> Roger Mason (aged 59) left his job with a superannuation payout of $250 000. . . supposedly too much money to get social security benefits. Find out how the Masons, after seeing Bain & Company, invested their superannuation payout and qualified for social security benefits of $13 500 a year. . . and pay no tax on their entire $22 000 per annum income.
>
> We will also explain how public sector employees could:
>
> Invest separation package payments in the most tax-effective way and for security.
>
> Generate retirement income. . . tax free.
>
> Achieve a secure worry-free retirement.

Something is crazy when the law, created by the Federal Government during the time when Paul Keating was either Treasurer or Prime Minister, contains such loopholes enabling this iniquitous situation to exist. I have people in my electorate who cannot even afford mouse bait to keep mice out of their bloody houses, yet they have to suffer reading this sort of thing in the newspaper, indicating that public servants can get a $250 000 payout and an income of $22 000 a year and still get social security benefits. There has to be something crooked and wrong if that situation is allowed to continue.

The other matter I want to draw attention to is the extent to which, after the Minister of Education's reply about children and their education today, the Minister proposes to allow the closure of CPCs in my electorate at schools which albeit have low populations—

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

Mr QUIRKE (Playford): Again, I want to draw to the attention of the House and the Department of Road Transport the problem in my electorate concerning Montague Road. Those members who have travelled north recently will know that much work has been done on the Main North Road and Montague Road intersection. The intersection is to be completely revamped with new bridgework across Dry Creek, with a three lane extender (which will open some time next year) on each side from Montague Road out to Port Wakefield Road. As I understand it, work is ahead of schedule. The schedule for the Montague Road extender was due for completion in about November 1994.

I understand it could be open as early as April 1994. The work on the intersection of Main North Road and Bridge Road has also been completed during 1993. It is now a much more efficient intersection for traffic turning onto Bridge Road to head either to Elizabeth or to the city and, indeed, for that traffic that is travelling along Bridge Road wishing to turn east into Montague Road either from Elizabeth or from the city. The problem is that from the intersection of Bridge and Montague Roads virtually to the bottom of the old Montague Road, down at Main North Road, we have a one lane each side track, which is very dangerous, and which has been made worse by a couple of other things that have happened in the past year or so.

What has happened is that the new Montague Farm estate has an opening onto Montague Road where Henderson Avenue now clearly comes through on the opening arches from the new estate, and Montague Road now has a new danger spot where traffic enters this part of Montague Road. This has made safety on the road far worse than was the case before this happened. If a car is now travelling east on Montague Road, that road which was straight before without any curving on the northern side now has a small turn in it where traffic moves onto the new Montague Farm estate.

The problem is that the intersection is so poorly lit at night that that small twist in the road is hardly observable at all. Many of my constituents have complained about the safety of this measure. Part of the Montague Road extension is to build a service road for some 300 yards along the existing Montague Road, which will be phased out around Trenton Terrace in the existing Pooraka area. That is to be welcomed. The problem is that there is a three lane expressway coming down from Modbury to Bridge Road at one end; there will be a three lane expressway on Montague Road the other way; and the two will be joined by a thin strip of road that is not even bordered by proper kerbing and other safety measures.

Many cars already go into the soft edges and turn over in that area. This is highly unsafe and, when the new Montague Road extender is opened, it will clog up with traffic to such a point that my constituents who live on this road will find it almost impossible to move in and out of their driveways. The DRT has to do something.

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

The Hon. B.C. EASTICK (Light): I want to raise a point which has been made here previously and which reflects very badly upon the Government and its public perception of being interested in justice and social equity. I refer to the position in relation to unleaded petrol. The Business Franchise Act went through this Parliament in 1992 at the request of the Government, with a sum of money relative to the funds to be raised on leaded petrol going to local government and so that unleaded petrol would have a particular benefit in relation to business franchise. It is only a small variation. However, it is an Act of this Parliament and it was an expectation of the public that the benefit for those who had use of unleaded petrol would be passed on to them at the petrol bowser.

I raised the matter in this House on an earlier occasion when about one in 15 or one in 18 service stations was passing on that .2¢; it was not very big but, nonetheless, a principle. Today I suggest that the figure may be closer to one in four and, on some occasions, perhaps one in three. But it still comes back to the point that the Government, with the assistance of this Parliament, has passed a piece of legislation that sought to give the public of South Australia a benefit at the petrol bowser for those who were expending more on the purchase of their vehicle in relation to unleaded capacity. When I drive down from Gawler to Parliament House, I pass on a regular basis 38 retail petrol outlets. Even this morning the variation in the price was between 75.9¢ and 64.1¢.

The Hon. Frank Blevins: It's private enterprise.

The Hon. B.C. EASTICK: I have no difficulty with that whatsoever. But time after time, for those establishments that have a price for leaded and a price for unleaded, the price on offer was exactly the same. The people who are purchasing unleaded petrol and who have the capacity within their vehicle for that product, are cross subsidising or lining the pockets of the people responsible for those franchises and outlets. I should have expected, from a Government that has stood in this place on a number of occasions claiming to be interested in the rights of the individual, that it would have taken some action—

The Hon. Frank Blevins: The only action you can take is price control.

The Hon. B.C. EASTICK: I am pleased that the Hon. Treasurer is here. He suggests that the only way he can take action is by price control. I do not know that one needs to go to that point, because the legislation already indicates that, for the purchase of that product by the outlets, there is a financial benefit to them and that that financial benefit ought to be passed on or was expected to be passed on. Indeed, in answer to questioning in this House on previous occasions, the Treasurer has given an indication that he expected that differential to be available to the public. I ask the Hon. Treasurer when he will take action on behalf of the people of this State.

It is just another situation relative to superannuation, where large numbers of people on casual work are having a benefit prepared for them by way of superannuation; by compulsion it goes into a fund and the whole lot is dissipated in the first five minutes by virtue of the costs associated with it. There is no protection for people undertaking the purchase of unleaded petrol as there is no protection for many people on superannuation.

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

The Hon. M.K. MAYES (Minister of Environment and Natural Resources): I thank the House for the opportunity to address a matter related to my electorate.

Members interjecting:

The SPEAKER: Order!

The Hon. M.K. MAYES: In accordance with the Standing Orders I am following the rules set down by the House, and it is proper for me to speak on behalf of my constituents. The issue I want to raise is in relation to a pamphlet that was distributed, according to its author, to 400 households in my electorate last Sunday morning.

It relates to the firearms issue and in particular it raises some questions about the efficiency and, I think more directly, it questions the whole structure and basis of the Government's introduction of firearms legislation. I want to put on record some background to this matter. I understand that the author, a Mr Gary Fleetwood—who apparently was on radio again today—has a licence as a firearms operator and operates somewhere in Adelaide. If he is interested he can respond to the comments that I am making today. He made some accusations about the fact that the Government is handpassing to the police and the police are handpassing it back to the Government in relation to who devised this policy.

Mr Speaker, as you well know, the firearms legislation goes back in this House for some time. There have been various inquiries, legislation has been brought forward and draft regulations have been put out for public consumption and comment. It has gone on and on, since about 1988, which was the origin the legislation and regulation as part of the firearms legislation that we have had in operation from 1 September this year. It is important to record the fact that the Government, along with other State Governments, agreed on a national approach. One recalls that former Prime Minister Hawke initiated all of this back in late 1987 or early 1988, calling on all State Governments to have uniform regulations or legislation. It is very important we look at the background to that.

I just want to add, for the information of those people who are interested in this, firearms owners and interested members of the community, that the States have, in effect, agreed at the recent Police Ministers' Conference in New Zealand to discuss this matter, and there was uniform agreement with all States, including Tasmania I might say, that we should have uniform legislation. We should not face the situation which currently exists in the United States where in one State there is a reasonable level of restriction of access, so that only responsible individuals can have access to firearms, while in the next State if one so desires one can buy a tank on mail order and have the thing home delivered.

There has to be uniformity if we are going to maintain responsibility and responsible firearms ownership in this country. I think that is the basis of it. I think the sort of pamphlet that Mr Fleetwood put out under the name of the Combined Shooters and Firearms Council of SA Incorporated—I am not sure whether he is authorised to do that; I have never come across Mr Fleetwood before—certainly breached the Electoral Act, in the way in which he presented his pamphlet by not having it authorised or printed by anyone.

I think he has done his cause a disservice because it is a fairly cheap and nasty pamphlet designed in what I would think would be seen as pretty much a reflection of what I and my friends in the firearms industry regard as the loony fringe group. These are people who go around blasting up the countryside. Responsible firearms owners do not want to be represented by these people. I have very close friends who are involved in shooting clubs, involved in Olympic shooting, etc and they want to be as far away as possible from these people because they know these sorts of pamphlets and this sort of publicity does not do their cause any good. Frankly, the more they put this out in my electorate the happier I am because I know that people in Unley are far too smart to be bought by this sort of rubbish and junk that goes into the mailbox. So I would just say to Mr Fleetwood and any of his friends who might be thinking of doing this: don't do it.

TECHNOLOGY DEVELOPMENT CORPORATION

The Hon. FRANK BLEVINS (Deputy Premier): On behalf of the Premier, and pursuant to statute, I lay on the table the Technology Development Corporation Annual Report 1992-93.

ENVIRONMENT PROTECTION BILL

Returned from Legislative Council with the following amendments:

No. 1. Page 1, line 11—Long Title—Leave out '1990 and' and insert '1990,'.

No. 2. Page 1, line 12—Long Title—After '1993' insert 'and the Development Act 1993'.

No. 3. Page 1 (clause 3)—After line 22 insert new definition as follows:

'activity' includes the storage or possession of a pollutant;'.

No. 4. Page 4, line 6 (clause 3)—After 'place' insert ', but does not include a mortgagee in possession unless the mortgagee assumes active management of the place'.

No. 5. Page 4, lines 24 to 27 (clause 3)—Leave out the definition of 'pollutant' and insert new definition as follows:

'pollutant' means—

(a) any solid, liquid or gas (or combination thereof) including waste, smoke, dust, fumes and odour; or

(b) noise; or

(c) heat; or

(d) anything declared by regulation to be a pollutant;'

No. 6. Page 5 (clause 3)—After line 18 insert new definition as follows:

'spouse' includes putative spouse (whether or not a declaration of the relationship has been made under the Family Relationships Act 1975);'

No. 7. Page 6, lines 27 to 33 and page 7, lines 1 to 10 (clause 5)—Leave out paragraphs (a), (b), (c) and (d) and insert new paragraphs as follow:

(a) environmental harm is to be treated as material environmental harm if—

(i) it consists of an environmental nuisance of a high impact or on a wide scale; or

(ii) it involves actual or potential harm to the health or safety of human beings that is not trivial, or other actual or potential environmental harm (not being merely an environmental nuisance) that is not trivial; or

(iii) it results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding $5 000;

(b) environmental harm is to be treated as serious environmental harm if—

(i) it involves actual or potential harm to the health or safety of human beings that is of a high impact or on a wide scale, or other actual or potential environmental harm (not being merely an environmental nuisance) that is of a high impact or on a wide scale; or

(ii) it results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding $50 000.'

No. 8. Page 13, line 25 (clause 13)—Leave out 'and implement'.

No. 9. Page 14, line 26 (clause 15)—Leave out 'five' and insert 'three'.

No. 10. Page 17, line 22 (clause 20)—After 'conservation' insert 'of whom one must be a person nominated by the Conservation Council of South Australia Incorporated'.

No. 11. Page 19 (clause 23)—After line 20 insert new subclause as follows:

'(5a)Where a member of the Forum has a direct or indirect pecuniary or personal interest in a matter decided or under consideration by the Forum—

(a) the member must, as soon as practicable after becoming aware of the interest, disclose the nature of the interest to the Forum; and

(b) the disclosure must be recorded in the minutes of the Forum.

Penalty:For a contravention of paragraph (a)—Division 8 fine.'

No. 12. Page 27, lines 6 to 20 (clause 29)—Leave out the clause.

No. 13. Page 27, line 23 (clause 30)—After 'modification' insert 'the whole or part of a national environment protection measure or'.

No. 14. Page 28, lines 4 and 5 (clause 31)—Leave out ', within 28 days, refer the policy to the Environment, Resources and Development Committee of the Parliament.' and insert:

'—

(a) within 14 days, refer the policy to the Environment, Resources and Development Committee of the Parliament; and

(b) within 14 sitting days, cause the policy to be laid before both Houses of Parliament.'

No. 15. Page 28, lines 6 to 22 (clause 31)—Leave out subclauses (2), (3), (4) and (5) and insert new subclause as follows:

'(2) If the Environment, Resources and Development Committee, after receipt of the policy under subsection (1), resolves to suggest an amendment to the policy, the Governor may, on the recommendation of the Minister, by notice in the *Gazette*, proceed to make such an amendment.'

No. 16. Page 28 (clause 31)—After line 24 insert new subclause as follows:

'(6a) If an amendment suggested by resolution under subsection (2) has been made to the policy by the Governor under that subsection, a resolution may nevertheless be passed under subsection (6) disallowing the policy as amended.'

No. 17. Page 29, line 23 (clause 32)—Leave out 'an amendment' and insert 'a policy'.

No. 18. Page 32, line 27 (clause 38)—After 'Part' insert 'but only as provided by the regulations'.

No. 19. Page 38, lines 8 to 12 (clause 48)—Leave out all words in these lines and insert new subparagraphs as follow:

'(i) a works approval authorising works for the purposes of a prescribed activity of environmental significance; or

(ii) a development authorisation under Division 1 of Part 4 of the Development Act 1993 authorising a development for the purposes of a prescribed activity of environmental significance on each application in respect of that development referred to the Authority in accordance with that Division; or

(iii) a development authorisation under Division 2 of Part 4 of the Development Act 1993 authorising a development or project for the purposes of a prescribed activity of environmental significance; and'.

No. 20. Page 38, line 16 (clause 48)—Leave out 'use the building or structure for' and insert 'undertake'.

No. 21. Page 48, lines 19 to 21 (clause 61)—Leave out all words in these lines.

No. 22. Page 55, line 12 (clause 73)—Leave out 'pressure.' and insert 'pressure; or'.

No. 23. Page 55 (clause 73)—After line 12 insert the following:

'(c) a plastic container of a class prescribed as prohibited containers.

(1a) The Governor may not make a regulation prescribing a class of plastic containers as prohibited containers for the purposes of paragraph (c) of the definition of 'prohibited container' in subsection (1) unless satisfied that an effective system of recovery, recycling, reprocessing or reuse of the containers—

(a) is not assured in advance of introduction of the containers to the market; or

(b) has not been established or maintained following the introduction of the containers to the market.'

No. 24. Page 63 (clause 88)—After line 11 insert new subclause as follows:

'(2a) An authorised officer may not exercise the power to enter or inspect a vehicle except—

(a) in relation to a vehicle of a class prescribed by regulation; or

(b) where the authorised officer reasonably suspects that—

(i) a contravention of this Act has been, is being, or is about to be, committed in relation to the vehicle; or

(ii) something may be found in or on the vehicle that has been used in, or constitutes evidence of, a contravention of this Act.'

No. 25. Page 63 (clause 88)—After line 29 insert new subclause as follows:

'(6) Where a person gives assistance to an authorised officer as required under subsection (5), the person must, if he or she so requires, be reimbursed by the authorised officer or the Authority for any reasonable costs and expenses incurred in giving the assistance.'

No. 26. Page 71, lines 10 and 11 (clause 95)—Leave out subparagraph (ii).

No. 27. Page 72, lines 5 to 7 (clause 96)—Leave out paragraph (d) and insert new paragraph as follows:

'(d) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers of an authorised officer.'

No. 28. Page 74, lines 1 to 3 (clause 98)—Leave out paragraph (d) and insert new paragraph as follows:

'(d) the person must produce the instrument of authority for the inspection of any person in relation

to whom the person intends to exercise powers of an authorised officer.'

No. 29. Page 76, lines 16 to 18 (clause 101)—Leave out paragraph (d) and insert new paragraph as follows:

'(d) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers of an authorised officer.'

No. 30. Page 77, lines 30 and 31 (clause 102)—Leave out subparagraph (ii).

No. 31. Page 78, lines 31 to 33 (clause 103)—Leave out paragraph (d) and insert new paragraph as follows:

'(d) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers of an authorised officer.'

No. 32. Page 81, lines 30 to 32 (clause 105)—Leave out paragraph (b) and insert the following:

'(b) by any person whose interests are affected by the subject matter of the application; or

(c) by any other person with the leave of the Court.

(7a) Before the Court may grant leave for the purposes of subsection (7)(c), the Court must be satisfied that—

(a) the proceedings on the application would not be an abuse of the process of the Court; and

(b) there is a real or significant likelihood that the requirements for the making of an order under subsection (1) on the application would be satisfied; and

(c) it is in the public interest that the proceedings should be brought.'

No. 33. Page 83 (clause 105)—After line 22 insert new subclause as follows:

'(21) The Court may, in any proceedings under this section, make such orders in relation to the costs of the proceedings as it thinks just and reasonable.'

No. 34. Page 87 (clause 110)—After line 33 insert new subclause as follows:

'(3a) The Authority must ensure that information required to be recorded in the register is recorded in the register as soon as practicable, but, in any event, within three months, after the information becomes available to the Authority.'

No. 35. Page 112 (Schedule 2)—After line 1 insert new paragraph as follows:

'(w) by inserting after clause 10 of Schedule 3 the following clause:

11. A reference in any other Act to the Water Resources Appeal Tribunal is, on and after the commencement of clause 2 of Schedule 2 of the Environment Protection Act 1993, to be read as a reference to the Environment, Resources and Development Court established under the Environment, Resources and Development Court Act 1993.'

No. 36. Page 112, lines 3 and 4 (Schedule 2)—Leave out 'by inserting after section 28 the following sections:' and insert:

'—

(a) by inserting after section 28 the following sections:'.

No. 37. Page 113 (Schedule 2)—After line 22 insert new paragraphs as follow:

(b) by inserting in section 39(1) 'to give an undertaking as to the payment of' after 'costs or';

(c) by inserting in section 39(4) 'or an undertaking,' after 'further security,';

(d) by inserting in section 39(5) after 'security' (twice occurring), in each case,',or the giving of an undertaking,".'

No. 38. Page 113 (Schedule 2)—Before line 23 insert new clause as follows:

'Amendment of Development Act

3A. The Development Act 1993 is amended—

(a) by inserting after the definition of 'document' in section 4(1) the following definition:

'Environment Protection Authority' means the Environment Protection Authority established under the Environment Protection Act 1993;;

(b) by inserting after section 36 the following section:

Reference of certain applications to Environment Protection Authority

36A. (1) Where—

(a) an application for a consent or approval of a proposed development is to be assessed by a relevant authority; and

(b) the development involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the Environment Protection Act 1993,

the relevant authority—

(c) must refer the application, together with a copy of any relevant information provided by the applicant, to the Environment Protection Authority; and

(d) must not make its decision until it has received a response from the Environment Protection Authority (but if a response is not received from the Authority within a period prescribed by the regulations, it will be presumed, unless the Authority notifies the relevant authority within that period that it requires an extension of time because of subsection (4) (being an extension equal to that period of time that the applicant takes to comply with a request under subsection (3)), that the Authority does not desire to make a response, or concurs (as the case requires)).

(2) Where an application for a consent to a proposed development is referred to the Environment Protection Authority under subsection (1), the Authority may, if it thinks fit, by notice in writing to the relevant authority, dispense with the requirement for a further application for a consent in respect of the same proposed development to be referred to the Authority or responded to by the Authority under that subsection.

(3) The Environment Protection Authority may, before it gives a response under this section, request the applicant—

(a) to provide such additional documents or information (including calculations and technical details) as the Authority may reasonably require to assess the application; and

(b) to comply with any other requirements or procedures of a prescribed kind.

(4) Where a request is made under subsection (3)—

(a) the Environment Protection Authority may specify a time within which the request must be complied with; and

(b) the Authority may, if it thinks fit, grant an extension of the time specified under paragraph (a).

(5) The Environment Protection Authority may direct the relevant authority—

(a) to refuse the application; or

(b) if the relevant authority decides to consent to or approve the development—to impose conditions determined by the Environment Protection Authority in accordance with the Environment Protection Act 1993,

(and the relevant authority must comply with any such direction).

(6) Where a relevant authority acting by direction of the Environment Protection Authority refuses an application or imposes conditions in respect of a development authorisation, the relevant authority must notify the applicant that the application was refused, or that the conditions were imposed, by direction under this section.

(7) Where a refusal or condition referred to in subsection (6) is the subject of an appeal under this Act, the Environment Protection Authority will be a party to the appeal.;

(c) by striking out from section 38(2) 'The following' and substituting 'Subject to subsection (2a), the following';

(d) by inserting after subsection (2) of section 38 the following subsection:

(2a) The assignment of a form of development to Category 1 under subsection (2)(a) cannot extend to a particular development if that development involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the Environment Protection Act 1993;

(e) by striking out subsection (6) of section 38 and substituting the following subsection:

(6) Except as otherwise provided by the regulations, the subject matter of—

(a) any notice required under this section; or

(b) any representations under this section; or

(c) any appeal against a decision on a Category 3 development by a person entitled to be given notice of the decision under subsection (12),

must be limited to the following:

(d) what should be the decision of the relevant authority as to provisional development plan consent;

(e) in a case where the Environment Protection Authority or a prescribed body is empowered to direct that the application be refused, or that conditions be imposed in relation to the development—what should be the decision of the Environment Protection Authority or the prescribed body in response to the application;

(f) by striking out from section 38(7) 'submissions' and substituting 'representations';

(g) by striking out paragraphs (a) and (b) of section 38(10) and substituting the following paragraphs:

(a) in the case of a Category 2 development—the relevant authority may, in its absolute discretion, allow a person who made a representation to appear personally or by representative before it to be heard in support of the representation; and

(b) in the case of a Category 3 development—the relevant authority must allow a person who made a representation and who, as part of that representation, indicated an interest in appearing before the authority, a reasonable opportunity to appear personally or by representative before it to be heard in support of the representation;

(h) by striking out subsections (14) and (15) of section 38 and substituting the following subsections:

(14) An appeal against a decision on a Category 3 development by a person who is entitled to be given notice of the decision under subsection (12) must be commenced within 15 business days after the date of the decision.

(15) If an appeal is lodged against a decision on a Category 3 development by a person who is entitled to be given notice of the decision under subsection (12)—

(a) the applicant for the relevant development authorisation must be notified by the Court of the appeal and will be a party to the appeal; and

(b) in a case where the decision of the Environment Protection Authority or a prescribed body in response to the application for the development authorisation could be a subject matter of such an appeal—the Environment Protection Authority or the prescribed body will be a party to the appeal;

(i) by inserting after paragraph (b) of the definition of 'environmental impact statement' in section 46(1) the following paragraph:

(ba) the extent to which the expected effects of the development or project are consistent with—

(i) the objects of the Environment Protection Act 1993; and

(ii) the general environmental duty under that Act; and

(iii) any relevant environment protection policies under that Act;;

(j) by inserting in section 46(4) 'consult with the Environment Protection Authority and' after 'subsection (2)(b),';

(k) by inserting in section 46(5)(a) 'the Environment Protection Authority and' after 'to';

(l) by striking out from section 46(8) (a) 'and any' and substituting 'by the Environment Protection Authority or by any';

(m) by inserting in section 46(9)(c) 'the Environment Protection Authority or by' after 'provided by';

(n) by inserting after paragraph (c) of section 48(8) the following paragraphs:

(ca) the objects of the Environment Protection Act 1993; and

(cb) the general environmental duty under the Environment Protection Act 1993; and

(cc) any relevant environment protection policies under the Environment Protection Act 1993; and;

(o) by striking out from section 85(15) all words after 'under this' and substituting the following:

section—

(a) to provide security for the payment of costs that may be awarded against the applicant if the application is subsequently dismissed;

(b) to give an undertaking as to the payment of any amount that may be awarded against the applicant under subsection (16);

(p) by striking out from section 86(1)(b) the passage in brackets and substituting 'subject to the limitations imposed by that section.'"

Amendments Nos 1 to 12:

The Hon. M.K. MAYES: I move:

That the Legislative Council's amendments Nos 1 to 12 be agreed to.

Motion carried.

Amendment No. 13:

The Hon. M.K. MAYES: I move:

That the Legislative Council's amendment No. 13 be disagreed to.

In another place the Opposition amended clause 30 to enable the whole or part of a national environment protection measure to be adopted and implemented in South Australia at the discretion of the Government of the day. Such an approach to national environment protection measures would seriously undermine the national scheme, which relies on all Governments being committed to national implementation. If it agreed to the amendment, the Government would be in breach of the obligations that it has entered into under the intergovernmental agreement on the environment. For those reasons, the Government opposes the amendment, preferring to delete any reference to national environment protection measures. The matter can be considered again when the South Australian legislation for the national scheme comes before this Parliament.

The Hon. D.C. WOTTON: I want to put on record where the Liberal Party stands in regard to this matter. In another place it was felt—and an amendment was moved accordingly—that it was inappropriate to adopt the legislation that the Government had put forward in this regard. The matter of national standards is one that the Liberal Party is very interested in and we would want to be able to work towards those standards. I look forward to that opportunity being provided. But there has been concern, and I expressed this concern in this place prior to the Bill going to the other place, that the legislation was not appropriate in its present form.

The Government has made the decision that it should withdraw this clause altogether and the Opposition supports that, on the basis that it will be dealt with at a different time, and I believe that it will be dealt with more appropriately when further legislation is considered. The Opposition supports this move.

Motion carried.

Amendments Nos 14 to 17:

The Hon. M.K. MAYES: I move:

That the Legislative Council's amendments Nos 14 to 17 be agreed to.

Motion carried.

Amendment No. 18:

The Hon. M.K. MAYES: I move:

That the Legislative Council's amendment No. 18 be disagreed to.

The amendment made in another place would make it possible for the EPA to grant an exemption only if regulations were in force authorising it to grant such an exemption. This concept would not be workable in practice. It is not possible to conceive in advance all types of exemptions which may be justified. It would require somebody seeking an exemption which appears to be reasonable but which does not fall into a class of exemptions already authorised by regulations to seek both the making of the necessary regulation and the subsequent EPA authorisation. This would tend to prejudice the independence of the EPA in determining exemption application, as the Government, in making the regulation, has indicated its desire that an exemption be granted. Furthermore, there would still be uncertainty on the part of the applicant, as the regulation may be disallowed.

Altogether the amendment would be cumbersome to implement in practice and is totally inconsistent with the aim of the Bill to reduce red tape and to have individual applications decided by the EPA at arm's length from the Government of the day. It mixes the policy issue with administration. For example, an industrial organisation might have to apply for exemption because of noise, dust or some such nuisance and as a consequence it would have to face considerable delays; it might not in fact obtain a licence and therefore it would not be able to proceed as an industrial organisation. That is the reason for the Government's position.

The Hon. D.C. WOTTON: The Opposition realises that this is a sticking point as far as this Bill is concerned. The Opposition supports the amendment supported by our colleagues in another place: it was moved by the Hon. Mr Elliott. There was considerable debate on this matter, but I would like to foreshadow that there will be further debate on this clause in another place. We believe that a suitable compromise can be reached in this area, and I make the point that the Opposition is certainly not looking to delay or to do anything that would interfere with the certainty that is required in a number of areas relating to business and industry, and so on.

What the Opposition is keen to do is to be able more clearly to delineate the responsibilities or the way in which exemptions are provided. We would be more interested in looking at an appropriate way, in regulations, for a criterion to be laid down as to how the exemptions would be provided. That would mean that the certainty to a large extent would remain. There would not be the delays that have been referred to as a result of this regulation but it would provide more clarity in this area. There will be further debate in another place on this matter but at this stage the Opposition supports the amendment that comes down from the other place.

Motion carried.

Amendments Nos 19 to 37:

The Hon. M.K. MAYES: I move:

That the Legislative Council's amendments Nos 19 to 37 be agreed to.

Motion carried.

Amendment No. 38:

The Hon. M.K. MAYES: I move:

That the Legislative Council's amendment No.38 be agreed to with the following amendments:

(a) leave out paragraph (b);

(b) leave out from paragraph (e) (and in particular from paragraph (e) of the proposed subsection (6) of section 38) the passage "the Environment Protection Authority or" twice occurring;

(c) leave out from paragraph (h) (and in particular from paragraph (h) of the proposed subsection (15) of section 38) the passage "the Environment Protection Authority of" twice occurring;

(d) in paragraph (i) before "the extent" insert "where the development or project involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the Environment Protection Act 1993,";

(e) leave out paragraphs (j) and (k) and substitute:

(j) by inserting in section 46(4) "and, in relation to a development or project that involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the Environment Protection Act 1993, consult with the Environment Protection Authority" after "require";

(k) by inserting before paragraph (a) of section 46(5) the following paragraph:

(aa) must, where the environmental impact statement relates to a development or project that involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the Environment Protection Act 1993, refer the statement to the Environment Protection Authority;;

(f) leave out paragraph (n) and substitute:

(n) by inserting after paragraph (c) of section 48(8) the following paragraph:

(ca) where the development involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the Environment Protection Act 1993—

(i) the objects of the Environment Protection Act 1993; and

(ii) the general environmental duty under the Environment Protection Act 1993; and

(iii) any relevant environment protection policies under the Environment Protection Act 1993; and;

Motion carried.

CROWN LANDS (LIABILITY OF THE CROWN) AMENDMENT BILL

The Hon. M.K. MAYES (Minister of Environment and Natural Resources) obtained leave and introduced a Bill for an Act to amend the Crown Lands Act 1929. Read a first time.

The Hon. M.K. MAYES: 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 purpose of this Bill is to limit the liability of the Crown in relation to unoccupied Crown land.

Land in South Australia falls into three broad categories: land alienated from the Crown in fee simple, land subject to Crown leases (perpetual, pastoral, irrigation and miscellaneous) and unalienated Crown land. Unalienated land is made up largely of land for which Western culture has little use. It forms a very large proportion of the

land mass of South Australia and it is mostly unoccupied. Because of its size and the fact that it is unoccupied it is not possible for anyone, including the Government, to know of the dangers waiting to trap the unwary visitor. Even when the dangers are known there is no effective way of protecting people in remote areas. Employing staff to patrol danger spots is prohibitively expensive. Fencing is also too expensive and impractical for other reasons. Many of the dangers in remote areas are caused by the use that people make of the land. Trail bike riding is a good example. If an area of bike trails is fenced off trail bike riders are likely to look for another area. The other weakness of fencing is that it is easily destroyed by bolt or wire cutters or by other means. Warning signs are also of little use because of a minority who are prepared to remove or deface them.

The Bill before the House limits the liability of the Crown in respect of injury, damage or loss occurring on or emanating from unoccupied Crown land. The effect of the Bill is that the Crown is not liable in respect of a naturally occurring danger or a dangerous situation created by someone else. The Crown will remain liable however for any danger created or contributed to by the Crown.

The limitation of liability provided by the Bill only applies in respect of unoccupied Crown land which the Bill defines to be land that is not used by the Crown for any purpose. The Crown will continue to be liable for failure to take reasonable care to protect people from dangers on land that it uses. For example the Crown will be under the normal duty of care to warn members of the public of a slippery floor in a toilet block in a national park or to lay out walking trails in safe areas or with adequate safety measures.

The Bill recognises that although technically the Crown has control of unalienated Crown land simply because the land has not been alienated to anyone the Crown does not have control of that land in a practical sense because of its size and remoteness. Under the new provision to be inserted into the Crown Lands Act 1929 by the Bill members of the public who venture onto unalienated Crown land are responsible for their own safety and cannot expect the Government to have been there before them to identify and protect them against every danger.

Explanation of Clauses

The provisions of the Bill are as follows:

Clause 1: Short title

Clause 1 is formal.

Clause 2: Insertion of s. 271f—Liability of Crown in relation to Crown lands

Clause 2 inserts new section 271f into the principal Act. Subsection (1) limits the liability of the Crown on unoccupied Crown land to injury, damage or loss caused by the Crown or by an agent or instrumentality of the Crown or by an officer or employee of the Crown (see the definition of 'the Crown' in subsection (2)). The definition of 'Crown land' excludes alienated land from the definition (see paragraphs (a), (b) and (c)) but includes reserves under the National Parks and Wildlife Act 1972 and wilderness protection areas and zones under the Wilderness Protection Act 1992 (paragraph (b)). The reason is that although reserves, areas and zones are constituted principally of unalienated land they may include land alienated to a Minister, body or other person. The effect of the definition of 'unoccupied Crown land' is that land will be taken to be occupied if it is being used by the Crown for any purpose. Subsection (3) prevents an argument being raised that the Crown is using land simply because it has leased, or granted a licence or easement over, the land or has dedicated the land for a particular purpose or constituted it as a reserve, area or zone referred to in subsection (3)(d).

The Hon. D.C. WOTTON secured the adjournment of the debate.

IRRIGATION BILL

The Hon. Frank Blevins, for the Hon. J.H.C. KLUNDER (Minister of Public Infrastructure), obtained leave and introduced a Bill for an Act to provide for the irrigation of land in Government and private irrigation districts; to repeal the Irrigation on Private Property Act 1939, the Lower River Broughton Irrigation Trust Act 1938, the Kingsland Irrigation Company Act 1922, the Pyap Irrigation Trust Act 1923, and the Ramco Heights Irrigation Act 1863; to amend the Crown Lands Act 1929, the Crown Rates and Taxes Recovery Act 1945, the Irrigation Act 1930, the Loans to Producers Act 1927 and the Local Government Act 1934; and for other purposes. Read a first time.

The Hon. FRANK BLEVINS: 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 is the result of the ongoing review of water-related legislation. It concerns the distribution of water for irrigation, and the drainage of irrigation water.

There has not been a comprehensive reform of irrigation legislation governing both Government and Private Irrigation Areas for over forty years. This legislation is the result of extensive public consultation particularly with the riverland irrigation community.

Statutory powers for irrigation may be found in eight separate Acts of Parliament. There is no good reason for several Acts to address the same issue. Considering the similarity of purpose of the various irrigation Acts, it is logical and practical to have standard provisions which would enable all areas to be managed in similar ways. This encompasses both Government and Private Irrigation bodies.

The responses to the "Green Paper" on the proposals for legislation were generally supportive of consolidated and updated legislation.

The Renmark Irrigation Trust will continue to operate under its existing statute, the Renmark Irrigation Trust Act 1936. It can however, elect at any time to have its Act repealed and operate under this legislation.

The need for land tenure and irrigation management to be dealt with in the Irrigation Act 1930 no longer exists. In fact this was recognised in 1978 when the administration of irrigation activities in Government Irrigation Areas was delegated by the Minister of Lands to the then Minister of Works. This Bill enshrines that arrangement in statute.

Much of the existing legislation is procedural and prescriptive and better suited to subordinate legislation. This Bill separates the procedural and the prescriptive from the substantive law.

The pertinent aspects of the Bill are:

- The establishment and management of Government and private "Irrigation Districts".
- It provides for a diversity of management structures with simplified rules to administer the irrigation and drainage function in an efficient, businesslike manner.
- The separation of the land tenure provisions from water management.
- The land tenure concept of "Irrigation Areas" is not relevant to water management. The water management function will now revolve around "Irrigation Districts" which are simply those properties to which the irrigation and drainage facilities are available.
- It considerably simplifies the conversion from Government Irrigation District to a Private Irrigation District, at the same time protecting the rights of individuals and taking into consideration Government's obligations.
- In addition to the normal regulation-making powers, there is also provision for private Trusts to make their own regulations to cover local requirements, subject to Ministerial approval.
- There is a right of appeal to the Environment, Resources and Development Court.
- There is a power to grant financial assistance under certain conditions to an owner or occupier in a Government Irrigation District or a Private Irrigation District.
- There is power for a Trust to borrow money from any institution it deems appropriate.
- The current legislation provides a number of different procedures for the charging and recovery of rates for the services provided. This legislation provides for a simple but effective means of setting and recovering charges but more importantly provides the flexibility to suit the needs of individual districts.

I am confident that this legislation will go a long way in improving the way Irrigation Districts are managed in the future. It will enable the important primary industries which rely on irrigation waters to manage their affairs in a businesslike manner be they Government or private.

I commend this Bill to the House.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title, and *Clause 2: Commencement:* are formal.

Clause 3: Repeal: repeals the Acts listed in schedule 1. The Bill supersedes these Acts.

Clause 4: Interpretation: defines terms used in the Bill.

PART 2

GOVERNMENT IRRIGATION DISTRICTS

Clause 5: Existing government irrigation areas: provides for the continuation of irrigation areas established under the Irrigation Act 1930. They are called government irrigation districts under the Bill and will be made up of the land connected to the irrigation systems in operation under the Act of 1930. See clause 4(2) for the concept of connection of land to an irrigation or drainage system.

Clause 6: Establishment or extension of irrigation districts: provides for the establishment of new government irrigation districts and the extension of existing districts by establishing or extending irrigation systems and connecting land to the new or extended systems.

Clause 7: Inclusion in or exclusion from a district: provides for individual properties to be included in or excluded from an irrigation district. The application must be made by the owner and any long term occupier of the property. A long term occupier is a registered lessee with at least five years of the term of the lease left to run. See the definition in clause 4(1).

Clause 8: Abolition of district: enables the Minister to abolish a government irrigation district by notice in the *Gazette*.

PART 3

PRIVATE IRRIGATION DISTRICTS AND IRRIGATION TRUSTS

DIVISION 1—PRIVATE IRRIGATION DISTRICTS

Clause 9: Establishment of private irrigation district: provides for the establishment of private irrigation districts. All land owners must apply and long term occupiers are given an opportunity to object. If a long term occupier does object the property that he or she occupies must be excluded from the district.

Clause 10: Existing private irrigation areas: provides for the continuation of existing private irrigation areas as private irrigation districts under the Bill.

Clause 11: Conversion from government to private irrigation district: refers to conversion from a government irrigation district to a private irrigation district pursuant to Part 4.

Clause 12: Inclusion in or exclusion from a district: provides for inclusion of a property in or exclusion of a property from a private irrigation district.

DIVISION 2—IRRIGATION TRUSTS

Clause 13: Constitution of Trust: provides that the owners of land constituting a private irrigation district are the members of a trust which is a body corporate.

Clause 14: Presiding officers of trust: makes provision for the presiding officer and deputy presiding officer of a trust.

Clause 15: Calling of meeting: provides for the calling of meetings of a trust.

Clause 16: Procedure at meetings of trust: provides for procedures at meetings.

Clause 17: Voting: provides for voting at meetings. One vote may be cast in respect of each property comprising the district. The values of the votes are determined in accordance with subclauses (6), (7), (8) and (9).

DIVISION 3—ACCOUNTS AND AUDIT

Clauses 18, 19 and 20: provide for accounts, financial statements and reports.

PART 4

CONVERSION FROM GOVERNMENT IRRIGATION DISTRICT TO PRIVATE IRRIGATION DISTRICT

Clause 21: Interpretation: is an interpretative provision.

Clause 22: Application for conversion: enables landowners in a government irrigation district to apply for conversion of the district to a private district.

Clause 23: Grant of application: provides for the notice granting an application under clause 22.

PART 5

FUNCTIONS AND POWERS OF IRRIGATION AUTHORITIES

DIVISION 1—FUNCTIONS OF AUTHORITIES

Clause 24: Functions: sets out the functions of irrigation authorities.

DIVISION 2—POWERS OF AUTHORITIES

Clause 25: Powers: sets out the powers of irrigation authorities.

Clause 26: Further powers of authorities: enables an irrigation authority to do "contract work" for property owners and enables a trust to buy in bulk on behalf of its members.

Clause 27: Irrigation and drainage outside district: provides for irrigation and drainage outside a district under agreement with the owner or occupier of land.

Clause 28: Water allocation: provides for the fixing of water allocations on a fair and equitable basis.

Clause 29: Transfer of water allocation: provides for the transfer of water allocation. They can be transferred between properties with the consent of the authority or may be transferred to the authority itself. The authority may resell the allocation to another landowner.

Clause 30: Power to restrict supply or reduce water allocation: enables an irrigation authority to restrict or stop the supply of irrigation water for the reasons set out in the clause. Action under this clause (except under subclause (1)*(d)*) must be on a fair and equitable basis.

Clause 31: Supply of water for other purposes: enables an irrigation authority to supply water for other purposes.

Clause 32: Drainage of other water: provides for the drainage of water other than irrigation water.

DIVISION 3—ADDITIONAL POWERS OF MINISTER

Clause 33: Establishment of boards: enables the Minister to establish advisory boards which may also exercise powers delegated by the Minister.

Clause 34: Delegation: is the Minister's power of delegation.

Clause 35: Direction of trust by Minister: enables the Minister to take action against a trust to prevent irrigation water draining onto or into land outside the trust's district.

DIVISION 4—ADDITIONAL POWERS OF TRUSTS

Clause 36: Boards of management and committees: enables a trust to establish a board of management to carry out its day-to-day operation. A trust can also establish committees for specific purposes.

Clause 37: Delegation: enables a trust to delegate its functions and powers.

Clause 38: Notice of resolution: provides that the establishment of a board of management or the delegation of functions or powers must be by resolution of which 21 days notice has been given.

Clause 39: Regulations by a trust: provides for the making of regulations by a trust. The regulations can only be made with the approval of the Minister but cannot be disallowed by Parliament (see subclause (4)).

DIVISION 5—GENERAL

Clauses 40 and 41: provide for the appointment and powers of authorised officers.

Clause 42: Hindering, etc., persons engaged in the administration of this Act: makes it an offence to hinder or obstruct a person referred to in subclause (2) in the administration of the Act.

PART 6

LANDOWNERS

Clause 43: Right to water: provides for a landowner's right to water.

Clause 44: Restrictions on and obligations of landowners: sets out the obligations of landowners under the Bill.

PART 7

CHARGES FOR IRRIGATION AND DRAINAGE

Clause 45: Charges: gives irrigation authorities the right to impose water supply and drainage charges.

Clause 46: Water supply charges: sets out the factors on which a water supply charge may be based.

Clause 47: Minimum charge: provides for the payment of a minimum charge.

Clause 48: Drainage charge: provides for declaration of a drainage charge and the basis of such a charge. A landowner may be exempted if water does not drain from his or her land into the authority's drainage system.

Clause 49: Determination of area for charging purposes: provides the degree of accuracy required when determining the area of land for charging purposes.

Clause 50: Notice of resolution for charges: requires 21 days notice of the resolution fixing the basis for water supply and drainage charges by a trust.

Clause 51: Liability for charges and interest on charges: sets out the basis for liability for charges and interest on charges.

Clause 52: Minister's approval required: requires a trust that is indebted to the Crown to obtain the Minister's approval for the declaration of charges and the fixing of interest.

Clause 53: Sale of land for non-payment of charges: provides for the sale of land to recover unpaid charges or interest on charges. The wording of this provision follows the wording of the corresponding provision in the Local Government Act 1934.

Clause 54: Authority may remit interest and discount charges: enables an authority to remit interest in case of hardship and discount charges to encourage early payment.

PART 8
APPEALS

Clause 55: Appeals: provides for appeals to the Environment, Resources and Development Court.

Clause 56: Decision may be suspended pending appeal: enables a decision appealed against to be suspended pending the determination of the appeal.

Clause 57: Constitution of Environment, Resources and Development Court: provides for the constitution of the Court when exercising the jurisdiction bestowed on it by the Bill.

PART 9
FINANCIAL PROVISIONS

Clause 58: Financial assistance to land owners in government irrigation districts: enables the Minister to give financial assistance to an owner or occupier of land in a government irrigation area.

Clause 59: Trust's power to borrow, etc.: sets out detailed borrowing powers of trusts.

Clause 60: Financial assistance to trust: enables the Minister to grant financial assistance to a trust.

PART 10
MISCELLANEOUS

Clause 61: Unauthorised use of water: makes the unauthorised taking of water from an irrigation or drainage system an offence.

Clause 62: Division of irrigated property: sets out provisions relating to the division of an irrigated property. This provision does not prohibit the division of a property but provides for certain consequences if a property is divided without the authority's consent. A person dividing a property would have to comply with any relevant planning legislation.

Clause 63: False or misleading information: makes it an offence to provide any false or misleading information to an irrigation authority.

Clause 64: Protection of irrigation system, etc: makes it an offence to interfere with an irrigation or drainage system without lawful authority.

Clause 65: Protection from liability: provides for immunity from liability in certain circumstances.

Clause 66: Offences by bodies corporate: is a standard provision making the persons who run a company or other body corporate guilty of an offence if the body corporate commits an offence.

Clause 67: General defence: is the standard defence provision.

Clause 68: Proceedings for offences: provides for proceedings for offences against the Act.

Clause 69: Evidentiary provisions: is an evidentiary provision.

Clause 70: Service etc., of notices: provides for service of notices.

Clause 71: Regulations by the Governor: provides for the making of regulations.

SCHEDULE 1 *Repeal of Acts:* repeals the Acts listed in the schedule.

SCHEDULE 2 *Consequential Amendment of Other Acts:* amends certain Acts. The title of the Irrigation Act 1930 is changed to the Irrigation (Land Tenure) Act 1930. The parts of the Act dealing with irrigation are struck out leaving the land tenure provisions as the principal provisions of the Act.

SCHEDULE 3 *Transitional Provisions:* sets out transitional provisions.

The Hon. P.B. ARNOLD secured the adjournment of the debate.

LAND TAX (RATES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 August. Page 547.)

Mr S.J. BAKER (Deputy Leader of the Opposition): The Opposition opposes this Bill. There have been many times in this Parliament when we have had reservations about legislation: on rare occasions we totally oppose legislation, and this is just one instance. Not only is the Bill destructive but it is really quite stupid, and we cannot understand the Government's introducing these measures. Members should be aware that, if the rate of land tax on properties valued at more than $1 million is increased from 2.8 per cent to 3.7 per cent, the rate of land tax prevailing in South Australia will be the highest rate in this country. We are aware that it has been estimated that, because of aggregation, the Government will collect some $12 million from this measure.

Before I debate some of the merits of the case that we wish the House to consider, it is important to recall that in his speech to this House the Treasurer said that there were no tax increases in the budget. Of course, that was not true: quite the opposite. We have here a very draconian measure, one which will impact on the future of this State and which must be defeated. Not only did the Treasurer make false statements in this House but also a document is being circulated in various parts of Adelaide, presumably mainly in marginal seats or seats that have become marginal because of the performance of the Government, and we note it is being spread far wider than the ALP would normally have circulated something similar. The pamphlet is entitled, 'Look at what is happening in South Australia'. We know the answer to that is that nothing is happening, but the pamphlet, with the smiling face of the Premier on it, suggests that some action is taking place in our beloved State. That is far from the truth again, but it is an interesting way to sell a message.

Importantly, this document makes a number of false claims. I will refer to only one because it is pertinent to the debate today. Under the heading 'Cutting Taxes' it states that 'taxes had to be cut, and now we have the second lowest tax rates in the country'. It further states that 'our tax cuts are rebuilding confidence and prosperity in South Australia'. I would like strongly to refute the suggestion that there is any tax relief whatsoever in South Australia.

If we look at revenue from land tax between 1982-83 and 1992-93, we find that it has increased from $23.7 million to $75.4 million, and the Government is hoping it will go over $78 million this year. On the basis of that 10 year record, there is a real increase of 133 per cent—and that is a real increase, not a money increase, of 133 per cent, well in advance of inflation, as everybody can see. Revenue from payroll tax increased from $222.8 million to $482 million, a real increase of 31 per cent. In 1982-83 financial institutions duty was not collected, but in the last financial year that collected $100.3 million for the State's coffers. We also did not have debits tax in 1982-83, and that is collecting about $40 million at present.

Revenue from stamp duties increased from $118.3 million in 1982-83 to $361.3 million in 1992-93, a real increase of 120 per cent. With respect to fuel franchise, there was an increase from $25.8 million in 1982-83 to $127.7 million, a real increase of 309 per cent. With respect to tobacco franchise, in 1982-83 we collected $16.1 million, and in 1992-93 we collected $153.4 million a real increase of 768 per cent. In total, revenue from State taxation, fees and fines has increased by 178 per cent in real terms, from $487 million in 1982-83 to $1 768 million in 1992-93.

I challenge the Treasurer and the Premier of this State to explain to the people where all these tax cuts are coming from, because there have been no tax cuts: it has been a high tax regime. When the Premier and the Treasurer of this State claim that we are a low tax State, they should recognise that

we are a low tax State only because we have no business activity; it has all been destroyed. In many areas we have the highest tax rates in the country. In terms of land tax, the Premier and the Treasurer of this Government are seeking to have the highest taxation regime in Australia. That will destroy any future investment incentive; it has stopped people from coming to South Australia to build and prosper.

That is why I said that this Bill was not only destructive but also stupid. Over the past 10 years we have seen general taxation increase by 178 per cent. There has been a real increase of 133 per cent in land tax. No-one in South Australia should misunderstand what has happened. We have seen a reckless abandonment of any of the sound rules of business management; we have seen taxation rates rise at unconscionable levels; and we have seen the people and the businesses of South Australia having to bear the burden. I know that the ALP is particularly good at manipulating the truth in this document, and there are a number of matters that will be taken up at a later stage, but it is downright dishonest.

I have dealt with the issue of general taxation. I will now focus on the specific issue of land tax. One of the reasons the Government wishes to increase the rate is that property values have fallen. The Government says, 'We will maintain the real revenue from land tax in this State.' It would be aware that most of the problems do come from falling property values because of the destruction it has wrought on this State. It is the Government's problem: it caused it, and now it wants to cause more. Members would know and perhaps understand that South Australia and particularly Adelaide is decorated by many vacant premises. It looks awful, it feels awful, and it does nothing for the pride of this State.

On the most recent available figures for commercial and industrial premises, the vacancy rates in the CBD rose from 18 per cent to 19.1 per cent from January to July this year. Even at 18 per cent, the vacancy rate is probably the highest that we have seen in Adelaide post Second World War, and we do not have any records before that; it might be the worst vacancy rate in the history of this State, but we do not have the records. In the wider parts of Adelaide, going beyond the CBD, the vacancy rate increased from 18.3 per cent in January to 19.7 per cent in July. Outside the Adelaide city council area, in the fringe areas, we have found a dramatic increase from 11.6 per cent to 16.4 per cent. We could say that about one in every five premises is currently vacant. The owners of those premises are paying land tax, and they continue to have to pay with no return or very little return, in many cases.

The Government has no credibility when it says to the people of South Australia, 'We want to maintain our revenue base', and at the same time it is destroying business in this State. It is fundamentally stupid for the Government to embark on this measure because it should have done some sums. I have had discussions about this matter, and I was informed that a property deal, which involved millions of dollars, was all ready to go. However, the interstate purchasers said that the deal was off because they would not put up with long-term vacancies in a struggling marketplace and, at the same time, get whacked over the head by the highest land tax rate in Australia. So that company, which wishes to buy into Adelaide—and we would encourage people to invest in Adelaide—has said, 'Either you reduce the price dramatically or we do not have a deal.' The Premier and the Treasurer of this State have said that the State Bank losses stop at $3 150 million.

The Hon. Frank Blevins interjecting:

Mr S.J. BAKER: They stop at $3 150 million, according to the Premier and the Treasurer of this State: 'We have it under control and we have lost the State only $3 150 million.' We also know that there is $113 million left of the indemnity or the bail-out figure to be lost.

We also know the position is extremely finely balanced; if we see any further deterioration in property values, we will see much greater losses being sustained by the Group Asset Management Division (GAMD). Anything that reduces property values in Adelaide or South Australia is bad not only for the GAMD, given the bail-out and the $3 150 million already lost, but also for business in this State. Any measure that decreases our chances of getting some sort of recovery in the property market is bad for South Australia. It is absolutely vital that Governments understand that you cannot tax entities when they are not getting returns. It is immoral to tax people when they do not have the capacity to pay, and in many cases—

Members interjecting:

Mr S.J. BAKER: I have told the Treasurer already that I am opposing the measure. We have here a stupid, destructive, high-tax piece of legislation which will reverberate for many years to come if it is allowed to succeed. It cannot be allowed to succeed—no way. By way of comparison I will inform the House of the rates that are prevailing interstate. There are a number of ways in which land tax is applied interstate: other States have different exemptions and starting rates from ours, and some of the groupings of the values upon which these rates are applied vary between jurisdictions. If we look at the outcome of the land tax regimes that are applied in the various States, we see that South Australia finishes in the worst situation. I seek leave to insert in *Hansard* a table of a purely statistical nature.

Leave granted.

	$1m	$10m	Marginal tax rate (trigger value)
NSW	12 700	147 700	1.5% ($160 000)
Vic	7 470	251 970	3.0% ($2.7m)
Qld	11 630	180 000	1.8% ($1.5m)
SA (proposed)	12 320	300 320	3.7% ($1m)
WA (proposed)	12 575	192 575	2.0% ($150 000)
Tasmania	21 125	225 000	2.5% ($500 000)
NT	Nil	—	—
ACT	15 000	150 000	1.5% ($200 000)

Mr S.J. BAKER: What the table quite clearly shows is that at property values of $10 million or more—and we are talking about aggregate values; one or more sites can make up that value, provided there is common ownership—in New South Wales the land tax payable on $10 million is $147 700, the marginal tax rate is 1.5 per cent and the trigger value is $160 000. In Victoria on $10 million value it is $251 970, the marginal tax rate is 3 per cent and the trigger value at which that 3 per cent applies is $2.7 million. In Queensland the comparable rate is $180 000, with a marginal tax rate of 1.8 per cent and a trigger value of $1.5 million. Under this proposal in South Australia, the $10 million value will incur a land tax of $300 320, with a marginal tax rate of 3.7 per cent and a trigger value of $1 million. In Western Australia, where the rates are being increased, the $10 million value incurs land tax of $192 575, but the marginal tax rate is 2 per cent, with a trigger value of $150 000. In Tasmania it is $225 000 on $10 million value, with a marginal rate of 2.5 per cent and a trigger value of $500 000. In the ACT a general rate of 1.5 per cent applies to properties over $200 000, and the take at the $10 million value is $150 000.

Not only are we affecting property values in this State but we are also providing a huge disincentive to anybody wishing to come and invest in this State. Time and time again we have talked about encouraging people to put money into this State, and if ever we want to wave a flag that says, 'Take your business elsewhere', the Government is leading the band in flying that flag high, because people will not come here when they are facing these sorts of imposts, irrespective of how people feel about land tax and whether or not it is a just tax. We are in a competitive situation with our neighbours, we have to compete with investment from other States and we have to be better than the other States. In this case, what we are offering is far worse than anything they have on offer.

It should be clearly understood that the Government is saying, 'We don't want your business; we don't want your investment in this State.' This relates not only to what we have here now—we have plenty of vacant premises; almost one-fifth of the premises are vacant—but also to any new proposals. The Government has talked about getting tourism infrastructure investment into South Australia. Talk is right: it has not been backed up by action. If the Government was interested in attracting that sort of investment, which we desperately need, the last thing it would be doing is introducing land tax to dissuade people from participating.

Members interjecting:

Mr S.J. BAKER: I can tell you this: it will not last long when we get into Government. This 3.7 per cent will be one of the first items of review once we get into government.

An honourable member interjecting:

Mr S.J. BAKER: It will come down, because we will not stand by and see people pushed away from this State because of the stupidity of the Labor Government. When we talk about the needs of industry and the need to provide a boost to this State and we are presented with a proposition like this, we can only conclude that this is a Government on the way out. It has no interest in the future of this State, and this is just one of its last gasp measures. It is important to understand that the Treasurer of this State told the House that only 2 per cent of land owners are affected by this measure. Let us talk about the facts. The information provided in the Estimates Committee, for 1993-94, indicated a group of 3 713 taxpayers involving a figure between $3 001 and $1 million. That statement is incorrect; I think the Treasurer probably did not get it quite right. When we are talking about the estimated receipts from the group with over $1 million worth of land taxable assets, we are talking about 651 taxpayers in that group, involving estimated receipts totalling $58.9 million.

The total number of taxpayers in all the groups is 31 614 and the estimated receipts from those three groups as published in the budget papers is $78.3 million. Clearly, there are 651 taxpayers in the $1 million-plus group who are having land tax dramatically increased and there are thousands of tenants who ultimately have to pay the bills associated with premises of $1 million or more in value, and that group provides the vast majority—75 per cent—of the total land tax take.

The Premier has talked about encouraging investment in South Australia when, in fact, the $1 million-plus group contributes 75 per cent or $58.9 million of the $78.3 million estimated revenue to be collected this year. People in business in South Australia must be absolutely dismayed by the measures proposed in this Bill. The Treasurer has received deputations and letters from various people about this measure, and I would like to read a letter written to the Treasurer by BOMA, because it describes clearly the current situation and the impact that the land tax hike would have on South Australian businesses. The letter states:

Dear Treasurer,

The past three years have been, in economic terms, particularly difficult for most sectors of the community but none more so than the property industry. BOMA is unable to reconcile your Government's proposal to increase land tax yet again for properties with site values in excess of $1 million. At a time when our industry is experiencing record vacancy levels in offices and shops, reduced income, lower returns for investors, business closures and higher unemployment, we cannot fathom why your Government remains intent on propping up its budget at the expense of property owners.

In 1991 your Government increased the tax rate from 1.9 per cent to 2.3 per cent, in 1992 from 2.3 per cent to 2.8 per cent and now unbelievably from 2.8 per cent to 3.7 per cent. In some cases this will increase an owner's tax liability by nearly 30 per cent.

The case is given of a property with site value of $5 million, being subject to an increase from $124 320 to $160 320 per annum. The letter continues:

For that same property, assuming a similar site value, the tax has risen from $103 270 in 1991-92 to $160 320 in 1993-94—a staggering 55 per cent increase. Treasurer, are you fully aware that increases of this magnitude are a major disincentive to investment in South Australia? Do you realise that the majority of stakeholders in the commercial and retail property industry are life assurance companies and superannuation funds? As a consequence of your actions returns for ordinary Australians through their superannuation and life policies are significantly eroded.

BOMA objects in the strongest possible terms to this backdoor method of revenue raising in which a pattern is emerging where industries with good prospects, like the property industry, are continually slugged with tax increases. Enough is enough. This proposal must not be implemented, otherwise we will see further business closures, especially in Rundle Mall, as site values continue to rise and the tax burden likewise. Some businesses may on the other hand be forced to relocate to the suburbs as those site values will not be affected to anywhere near the same extent, thus exacerbating the current difficulties this city is facing.

Treasurer, what this State needs now, more than ever, is a Government that is sensitive to the many problems facing business today, is committed to creating a positive business climate and believes in fair and equitable taxation. Business cannot continue to absorb rising Government imposts without being forced to modify its operations. In all likelihood that will result in higher unemployment. Does your Government want to be responsible for increasing our already record and unenviable level of unemployed persons in this State? We think not.

It is no wonder our State is looked at by outside investors as an unattractive proposition. Accordingly, we ask that your Government reconsiders its position and does not proceed with any increase at this stage or, at the outside, increases the tax to CPI equivalent. Indeed, the majority of commercial property owners/managers, not believing your Government could possibly follow up the 1992-93 land tax increases with similar increases, have budgeted on CPI increases for their outgoings. BOMA believes the current proposal is particularly unpalatable, unwarranted and potentially very damaging.

We would be pleased to meet with you to discuss the matter at any time.

They have forwarded a copy of this letter to the Opposition and the Democrats. The letter is clear. The Minister would say that BOMA is not relevant and is interested only in property and big developers, but BOMA is relevant because it represents a complete cross-section of people in business in South Australia involved in the provision of space. We have had another communication from the Chamber of Commerce and Industry, which is also appalled at the rate of increase relating to these provisions. We have had other calls from business operators saying, 'Please defeat this Bill because it is not in our best interests or in the best interests of the State.'

Again, I emphasise: how can we continue to impose taxation which has no relevance to the earning capacity of a business? We have many examples even within my electorate where, for example, there are vacant shops where there have never been vacant shops since the Second World War. The

old butcher shops that were closed were always taken over and houses were wrapped around them, or delis were closed down, but we have never seen anything like we are seeing now, with such a number of vacant shops, even in what I regard as a reasonably affluent area such as the electorate of Mitcham.

This has a terrible impact on people's confidence and pride. The Government does not have much pride, but certainly people in my electorate and most people in South Australia would like to believe that they are proud of their State. The Bill is anti-business, anti-jobs and anti-investment, and I believe it is just another nail in the coffin of South Australia and the coffin of this Government. The Opposition is vehemently opposed to the measure.

The Hon. FRANK BLEVINS (Treasurer): It is a great pity that members opposite have decided to oppose this measure. I would not have thought it was in the interests of the Opposition to do that. However, that is a decision it has taken and it is a decision that will be noted and long remembered. In this Parliament there has always been a tradition that budget and taxation measures, whilst there may be some criticism of them, are not opposed. I will be interested to see what happens in another place.

Having said that, I think it is extremely odd that the Opposition chooses to oppose this taxation measure because it is a tax that does not fall on the principal place of residence or on primary producers, because exemptions have been given in those areas. It is a relatively narrow based tax and not a tax that anyone particularly favours, but all State Governments do apply such a tax. As has been mentioned in the House before, that is because Governments must get the revenue to supply the needs of the community in health, education and the myriad other things Governments are expected to supply. We made a very conscious decision with this budget not to increase taxes and we have adhered to that. We have a reputation, as the Arthur D. Little report and KPMG Peat Marwick have also stated, for being a low tax State, and that is fine; I have no argument with that. Independent consultants have made very clear that the level of taxation in this State is pretty low. This State is the second lowest for land tax up to $1 million in the whole of Australia. Only Victoria has a lower rate than we have for up to $1 million.

Over $1 million we are the second highest in Australia, and we make no apologies for that. Victoria, again, has a higher rate of land tax over $1 million than we do. It is interesting to look at what has happened in the recent Victorian budget. In Victoria previously, tax payable on site values up to $1 million was $8 445. That increased to $14 540. I will repeat that, since people may have thought they misheard: from $8 445 to $14 540. That is an incredible amount of increase. Between $1 million and $2 million it went up in Victoria from $23 445 to an incredible $44 540. I will repeat that because, again, that is a staggering amount: $23 445 to $44 540. That is some increase: that is a Jeff Kennett-style increase. It is very substantial.

But it gets worse. For site values of $3 million in Victoria prior to this budget that has just been brought down it was $44 445, which has increased to $80 540. If we are talking about land tax, then Victoria is the daddy of them all, with increases of proportions at which this State and BOMA would be appalled. But that is the type of Government that members opposite support. I am quite sure that BOMA in Victoria supports Jeff Kennett and the Liberal Party, and there are the figures: almost a 100 per cent increase in one hit. It really is quite vicious, but I have no doubt that BOMA has congratulated Jeff Kennett on those increases. The fact is that this State, according to the ABS, does have the second lowest rate of State taxation of any State in Australia.

Mr S.J. Baker interjecting:

The Hon. FRANK BLEVINS: That's right.

Mr S.J. Baker interjecting:

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

Mr S.J. Baker: That's a fact.

The SPEAKER: Order! The Deputy Leader has had unlimited time to speak on this Bill.

Mr S.J. Baker: Just trying to help.

The SPEAKER: The Chair might have to help the Deputy Leader. The Deputy Premier.

Mr S.G. EVANS: Mr Speaker, I draw your attention to the state of the House.

A quorum having been formed:

The Hon. FRANK BLEVINS: The history of land tax over the past 10 years is interesting. We can all remember the 1980s when land tax was ever escalating because of the increase in land values. I can remember those days, with Cabinet decisions being made actually to rebate some of those increases to land taxpayers, and I did not hear any land taxpayers complain about the cheque they got, which was a rebate, when the rate was properly struck by Parliament and it would have been very easy in those days for Governments to have kept the very large amounts of land tax that we had been paid. But we thought in all equity that we should not take undue advantage of increasing property values and we gave those extensive rebates to land taxpayers.

BOMA, as with other land taxpayers, came to us and said 'We would like some modification to the system. We believe that some system that gives an overall CPI increase is one that we can live with.' I thought that that was fair enough and something that we should investigate. And we did, I think about three years ago now. We approached the industry and said 'We believe that it is perfectly proper that the total land tax take not exceed CPI, and we will make adjustments accordingly.' Indeed, that is what happened over the past three years. In fact, over the past three years the take has gone down, not just in real terms but in dollar terms.

I have no argument with that. Substantial relief has been given to land taxpayers in this State. This year again we have said to land taxpayers that the total take from land tax will not exceed CPI and, in fact, leaving to one side these two quite significant new land taxpayers, again the projections for the amount that will be raised by land tax this year will be slightly less than the increase in the CPI for this State. Everyone can see that we have been very fair as regards the total tax take.

You can argue amongst the 20 000-odd land taxpayers the split of land tax and, of course, you can do the permutations in a variety of ways, in as many ways as you wish, just by introducing new steps into the scale and adjusting rates accordingly. You can charge a lot of people a little, little people a lot, or any combination of the two you choose to come up with. What we have chosen to do is have an impact in the split-up, an apportioning of land tax among taxpayers to affect the least number of people we possibly can. That has been our philosophy. It was our philosophy last year and the statement was made in the budget speech that, for the next three years, we intend to continue this policy whereby the

aggregate take on land tax will be no more than the CPI for South Australia.

That has been generally welcomed by land tax payers. As I say, as a Treasurer, I do not like bringing tax Bills before Parliament, but to bring a tax Bill before Parliament which does not increase the total aggregate of a particular tax is something that I can certainly live with. I would urge the Opposition, over the next week or so, to reconsider its position in opposing that. They have made the point on behalf of the people who support them and who finance them, and I think they have done their duty there. I would not like, as a member of Parliament, to get into the habit of opposing tax measures that have been brought down by the Government. It is the second time it has happened to me in my short period as Minister of Finance and Treasurer.

Mr S.J. Baker interjecting:

The Hon. FRANK BLEVINS: I think that it is a great pity that that occurs. Nevertheless, if that is going to be the pattern, then so be it. You cannot have one rule for one group in Parliament and a different rule for another. I think it would be unfortunate if we got into the position where budgets were negotiable documents. My view is—and provided it is a view that is held throughout the Parliament—that Governments bring down budgets and if the people do not like it then that is why we have elections. But one cannot hold that view in isolation: it has to be a view that is held by all the Parliament for it to work effectively. I urge the Opposition to temper its opposition. It has made its point and I think its point is quite wrong—nevertheless, it perfectly legitimately makes that point. I urge the House to support the Bill.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Scale of land tax.'

Mr S.J. BAKER: This is the clause that increases the rate from 2.8 per cent to 3.7 per cent. I am not going to go over all the arguments that were expressed in the second reading debate. I do know however that the Treasurer made a number of gratuitous comments about the fact that the Opposition was opposing this measure because our friends would wish us to do so. Let it be quite clear that we are opposing this measure because it is anti-business and anti-South Australia.

The Hon. Frank Blevins interjecting:

The CHAIRMAN: Order!

Mr S.J. BAKER: All I did during the debate was in fact read some comments and letters from those people who had written to us.

The Hon. Frank Blevins interjecting:

Mr S.J. BAKER: I suggest that the Treasurer check the *Hansard*. As he would be well aware, approaches are made to us from various elements of the community. If they have merit we support those proposals; if they do not have merit we do not support them, and in some cases we oppose them quite vigorously. In this case, if the rates had been reasonable, obviously our opposition would have been tempered, as the Treasurer suggests, but when he sets the highest marginal tax rate in Australia then I do not think that is something of which South Australia can be particularly proud, and it is something that I believe in principle we should move to defeat.

The Hon. Frank Blevins interjecting:

Mr S.J. BAKER: In fact, it is the highest.

The Hon. Frank Blevins interjecting:

Mr S.J. BAKER: The Treasurer is wrong. He is wrong again. The fact of life is that the highest marginal tax rate will exist now in South Australia with 3.7 per cent.

The Hon. Frank Blevins: Don't you know about the Victorian budget?

Mr S.J. BAKER: I was provided with information on all the—

The Hon. Frank Blevins: That's your problem; you should always check your information.

Mr S.J. BAKER: The Treasurer may like to provide information to Parliament on the highest marginal tax rate prevailing in Australia. He did not provide it in the—

The Hon. Frank Blevins interjecting:

The CHAIRMAN: Order! I will give the Treasurer the opportunity to reply in a minute.

Mr S.J. BAKER: He will have the opportunity to provide us with the highest marginal tax rate—

The Hon. Frank Blevins interjecting:

The CHAIRMAN: I will give the Treasurer an opportunity to reply in a minute.

Mr S.J. BAKER: The information that was provided from research—and it was some weeks ago, as the Treasurer would know—when the measure first came before the House was that South Australia clearly led the band. That information was provided to me and I have no reason to disbelieve it. I would make the point quite strongly that if we cannot be more efficient and more effective and have tax rates which do not push people away from the State then this State will continue to decline as it has over the past few years under the Bannon and Arnold Labor Governments. Can the Treasurer provide the House with the amount of revenue that is expected to be raised by the change in the rate from 2.8 per cent to 3.7 per cent?

The Hon. FRANK BLEVINS: I have already told you in the second reading debate. It will bring in a total of $78.3 million.

Mr S.J. BAKER: I will ask the question again. The Treasurer was not listening. Specifically, what additional revenues will come to the Treasury from the change from 2.8 per cent to 3.7 per cent?

The Hon. FRANK BLEVINS: Of the $78.3 million about $12.5 million additional will come from that particular group.

Mr S.J. BAKER: In other words, we are talking about 20 per cent of that particular group that falls within the $1 million plus. Twenty per cent of the revenue is coming from an increase imposed on that area, which includes many of the small shopkeepers in Adelaide who ultimately have to pay the land tax bills. There are costs of running those premises, and this tax is one of the overheads of those premises. Invariably, they are passed onto the tenants, although not directly because the laws have changed, but indirectly they always find their way into the pockets or take money out of the pockets of tenants of all of these premises. They are the people that are dramatically affected by this particular measure.

The Hon. FRANK BLEVINS: In response to the second reading debate I pointed out the increase and the amount of the rates in Victoria. I stated quite clearly that Victoria had the highest. The Victorian top rate is now 5 per cent, which is the top rate. I make great play of the fact that I am sure that the equivalent of BOMA in Victoria is one of those bodies whose members would have funded the Kennett Government's election. I assume that they agree wholehearted with the top rate of 5 per cent. I made great play of that. The

Deputy Leader must not have been listening. What would the Committee rather the Government do? In aggregate we are taking marginally less land tax than last year, on an adjusted basis for consumer price index, and leaving aside the question of the two new large taxpayers who, because of the change in the status of Federal Government bodies, now come into our tax net. We are taking less. To arrive at that there has to be a reshuffling of the amount within land tax payers. Would the Committee have preferred the Government to have made that change in the various percentages that people pay to the detriment of the small land owner?

I would have thought that every member of the committee would say, 'No, leave the small landowner alone and, if there has to be this redistribution amongst land taxpayers, the way the Government is doing it is the most equitable.' Again, I urge the Committee to pass clause 3.

The Committee divided on the clause:

AYES (23)

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

NOES (21)

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

Majority of 2 for the Ayes.

Clause thus passed.

Title passed.

Bill read a third time and passed.

CHILDREN'S PROTECTION BILL

Adjourned debate on second reading.

(Continued from 5 August. Page 115.)

The Hon. D.C. WOTTON (Heysen): The Opposition supports this legislation, although it will be necessary for us to amend the Bill at the appropriate time. At the outset can I say that the Liberal Party supports the aims of the Minister when he says that families need to become more involved in decisions made about their children. I think the majority of families are very responsible when it comes to caring for their offspring, but I take the point that the Minister makes. We support the move to empower and include families in the system of child protection.

There is no doubt that the Bill contains a number of progressive measures. As far as I am concerned and as far as the Opposition is concerned, however, this legislation must be child centred but family focused. The Bill needs to be amended to ensure that it is sound and balanced. I am sure that many members on both sides of this House have received a considerable amount of representation on this Bill: I certainly have as the Opposition spokesperson. In this contribution on the second reading, I am able to refer only to a section of that representation.

However, I acknowledge representation from SACOSS (South Australian Council of Social Services), the Aboriginal Child Care Agency, the Youth Affairs Council of South Australia, Action for Children Incorporated, the Law Society of South Australia, Child Adolescent and Family Health Service, the South Australian Youth Housing Network, the South Australian Branch of the Australian Early Childhood Association, People Against Child Sexual Abuse Incorporated, SSAFE in the Noarlunga Centre, the Child Protection Coalition (a new organisation to which I will refer in some detail later), and the large number of individual professional people and concerned people who have made representation to the Opposition regarding this Bill. In the Minister's second reading explanation he states:

> This Bill aims to establish a child protection system based on the premise that partnership between the community, families and the State will best provide for the care and protection of children.

The Opposition endorses that principle. There has been initial concern about the lack of consultation in regard to this Bill. That was of great concern to many people and no member would not recognise the importance of this Bill in terms of care and protection of children in this State. While I know that the delay in the debate has probably caused some frustration to the Minister, I would suggest that it has provided a more appropriate period for consultation. Having said that, I should report to the House that as late as half an hour ago I was still receiving representation from major organisations that wished to have their say in matters pertaining to this legislation. It is appropriate that the Bill has been delayed, because undue haste might have led to legislation which would lack a sound theoretical base and which would or could ultimately harm the very people it seeks to protect—children and their families.

Can I say at the outset that, whilst the Opposition will be seeking to amend the Bill in a number of areas, as I have already pointed out, there are other areas which we firmly believe can be addressed only by the Government of the day. With that in mind, on behalf of the Opposition, I would give a commitment that, on coming to office, a Liberal Government would review the effectiveness of the legislation and consult with the organisations and individuals who have made representation to the Opposition to determine whether further changes to the legislation were necessary.

There is some concern in the community that an impression has been given that this legislation is similar to or is mirrored on the legislation enacted in New Zealand. While I recognise that there are some basic similarities, I do not believe that this legislation can be said to be mirrored on that enacted in New Zealand. The New Zealand legislation was enacted in conjunction with the Bill of Rights for children and the creation of a position of children's commissioner. This is not taking place in South Australia. There are other guarantees for the rights of the child in that legislation which are also missing from this Bill. I would have thought—and I am sure I share the point of view that has been put by a number of other people who have made representation to us—that prior to enactment of such a major reform, the present system would have been evaluated. I do not believe that that has

happened. It is felt that it is crucial to identify the weaknesses and strengths of the present system before radically altering it.

Furthermore, there are those who believe that piloting the family care meetings would be more appropriate than changing the entire system. That is what has occurred in Victoria and New South Wales. I am led to believe that there are over 5 000 notifications of abuse per year in this State, but only 352 went to court in the 1992-93 financial year. A Bill which is aimed at only 352 cases cannot possibly address all the issues which must be addressed if adequate services and support are to be delivered to families. I would suggest (and it has been put to me that it would make more sense) that the Child Protection Bill be part of an overall revision including other legislation such as the Community Welfare Act. I wonder whether the Minister, in response, might point out to the House why that package was not considered, because one recognises the need to amend the Community Welfare Act as well.

Although the goal of improving family relations certainly is laudable, it cannot and will not be attained unless services to families are targeted in light of current knowledge about the needs of families. It certainly will not be achieved unless evaluation mechanisms are put in place. Regrettably, the present system is devoid of effective evaluation and the legislation that we are now debating does nothing to change this. Whilst the Bill certainly seeks to put children in the context of their families and communities, it does little, I would suggest, to define what is meant by a family and offers no guidance as to what is meant by the community.

Although there are many reservations about the use in cases of serious abuse, there is also concern as to why such a system was not adopted for those 4 700 cases which do not ultimately go to court. It has been indicated on a number of occasions that this legislation is designed to be resource neutral. I must say that I find it rather difficult to understand how such a major shift in policy and emphasis can be brought about without the infusion of resources, and that is a matter that I will be referring to on a number of occasions, because it is not a bit of good looking at bringing in new legislation if that legislation is hampered by a lack of resources. I have some concern about the point that has been made about this legislation being resource neutral.

Mr Ferguson: What is your policy?

The Hon. D.C. WOTTON: I know that I should not respond to the member for Henley Beach, who should know better than to interject at this time, but I will be pleased on behalf of the Liberal Party to announce our policy on this and many other matters that are my responsibility at the appropriate time.

Mr Ferguson: When is that, five minutes before the election?

The Hon. D.C. WOTTON: You just convince your Leader that we need to have an election, and we will tell you what we will be doing in government. We will be very pleased to do that. As I said earlier, this legislation is drafted outside the context of the Community Welfare Act. To some extent, that would seem to defeat its own purposes and to stand it in strong contrast to the New Zealand legislation, which clearly sets out the steps the Government is to take to support and strengthen families. I am led to believe that the concept of resource neutrality is derived from the idea that fewer cases will be going to court. However, it would seem to those on this side impossible to accept that the number of cases that go to court, or even a significant proportion of that number, will not ultimately end up in court. The reason why cases end up in court is that, after much effort and consideration, officers of the department are of the view that the child is not safe, and I would suggest that it is hardly likely that one family group conference can assure that a child will be safe.

It is also difficult to understand how a piece of legislation which claims to put emphasis on the community can have been drafted with, I would suggest, very little consultation with the community in the first instance. All the work that has been done by UNICEF and the World Health Organisation with respect to the concept of self-reliant development emphasises the importance of community participation and makes clear that any program which is imposed by Government on a community will ultimately fail because of the lack of community participation.

This legislation is effectively directing families to be families and the community to be a community without what I would suggest is meaningful discussion having taken place as to how these families might define themselves and the relationships that they wish to have with other members of the family or without any possibility of different types of communities being able to talk about the resources and assistance that they need.

Certainly, there are ethnic communities within Australia who would have very defined views about their concept of being a community and the way in which they could be assisted. It has also been put to me that this legislation violates the Convention on the Rights of the Child as well as the Covenant on Civil and Political Rights, which calls for States to guarantee special protection for children. I realise that that might be seen to be going over the top a little, but we should note in this regard that children have the right under the optional protocol to that covenant to bring complaints before the Human Rights Committee. There are those in the community who have no doubt at all that, if this legislation is enacted, children in this State will be making such complaints and that ultimately South Australia will be found to have violated the Covenant on Civil and Political Rights.

I have been interested to read comments about the New Zealand legislation and in particular the family group conference, and I regret that I have not had the opportunity to visit New Zealand and to see how these conferences work at first hand, but some of my colleagues have had that opportunity and have reported back to me. I was interested to read an article that was prepared by Dr Gabrielle Maxwell (currently senior researcher for the Office of the Commissioner for Children and a research fellow at the Institute of Criminology at the Victoria University of Wellington, in New Zealand) and also Dr Allison Morris (currently a lecturer at the Institute of Criminology at Cambridge University in England). They make a number of points about the New Zealand system, stating that over recent decades throughout most of the western world large numbers of children and young people have been removed from their families and placed in institutions either for their own good or for punishment.

Children who have been abused and neglected have frequently been placed in State homes which distance them from their families, communities and cultures. They make the point that it has become apparent that in New Zealand as elsewhere the institutionalisation of large numbers of children and young people is damaging to them and their families, ineffective in preventing delinquency and quite unjust. The new approach in New Zealand under the Children, Young Persons and Their Families Act 1989 emphasises keeping

children and young people with their families, in their communities and in contact with their culture.

This article goes into some detail about this piece of legislation. It spells out the fact that the legislation sets out the general object of promoting the well-being of children, young persons, their families and family groups, and it goes into some detail about the provisions of the Bill. I am more interested in the actual evaluation of the family group conferences, and the authors make the point that these conferences are new and that it is hardly surprising that there are some difficulties in their arrangements. It has been suggested that families can be coerced when matters relating to care and protection are resolved in family meetings with social workers instead of a full family group conference.

Too many family group conferences are held at places and times best suited to the professionals involved in the system; victims who say they are willing to attend are often not invited or are often given inadequate notice; families are often not given full enough information on what the family group conferences involve, what might be expected of them and what are their rights in the situation; and procedures at family group conferences involve some difficulty in a number of these areas. The article goes on to point out that procedures at family group conferences cannot yet be described as always culturally appropriate, and not all professionals have yet given up their control over information or decision making. These results come from a number of reports that are referred to in this article, and I found it interesting to be able to refer to two particular women who obviously have had a significant involvement in this area.

Some weeks ago, a public meeting was held in connection with this legislation. The meeting was headed up 'What is it for; does this Bill do that, or any problems', and the speakers were the Minister; Mr Kym Davey, the Executive Director of the Youth Affairs Council of South Australia; and Dr Deirdre White, the community paediatrician at the Flinders Medical Centre who is also involved with CAFHS and Noarlunga Health Service. It was a most interesting meeting and was attended by people who obviously had a particular interest in this legislation. The first speaker was Dr Deirdre White, and the first point she made was that in such a protection Bill the interests of the child must be paramount.

It is clearly stated in the current legislation that, where the proceedings are under Part III of the Act (that is, regarding children in need of care and protection), the court, panel or other body or person must regard the interests of the child as the paramount consideration. In the legislation before us, the word 'paramount' has been deleted, and I am interested to see that there are moves to overcome that situation with amendments being proposed by the Minister and also by the Opposition. In 1990, Australia ratified the United Nations Convention on the Rights of the Child, joining 129 other countries that had done so, and by so doing accepted the requirement of all Australian Governments to embark on a program of implementation and for the Federal Government to report regularly on progress.

Dr White pointed out that the convention explicitly states that children possess the full range of human rights of adults. In doing this it is in no way anti-family but, in fact, stresses the role and importance of the family in the development of the child and also stresses that the family should be assisted so that it can fully assume its responsibilities within the community. However, this emphasis on the primary caring and protective responsibility of the family does not detract from the rights of the child as an individual. Dr White goes on to say that the child is an individual, not the property of his or her parents, and that the natural authority of parents does not confer an absolute right over children. This certainly does not deny that parents have rights to nurture, educate and discipline their children, but the expression of these rights through violence or abuse in its many forms is intolerable and must be treated as such by society. I would hope that all members in this place would agree with those sentiments.

Dr White talked about the importance of the child having an advocate, a matter that I will be referring to in more detail a little later. She went on to say that the this legislation suggests providing a support person for the child from within the family during the family care meetings. The report on the Bill states that a family member who will act as an advocate for the child in the child's interests and wishes can ensure that current and future needs for safety are met.

It goes on to state that 'this system will at least undermine family responsibility and ensure that the focus of the child is maintained in the arrangements that are planned from this meeting'. Dr White disagrees that this should be the case and makes the point that she does not believe it is feasible for family members to act as independent advocates. Many of these families have been in turmoil for a number of years; there may be inter and transgenerational conflicts, and she states that children will easily have their best interests sacrificed to those of an adult or the family unit. The risk exists of collusion between family members and between family members and other professionals. The rights of the child can be definitely undermined with the power residing with family and professionals.

Dr White also went on to refer to the New Zealand legislation, particularly those areas where a comparison is being made between the workings of that Act and this Bill. I believe she has had considerable experience in matters relating to the welfare of children, and I appreciated greatly the contribution she made at the meeting. Another person who contributed was Mr Brian Butler, Chief Executive Officer, Aboriginal Child Care Agency. His contribution was excellent, especially on the subject of support for Aboriginal children. He talked about the crucial aspect of identity of Aborigines and a number of their welfare cases. He put before the meeting that the Aboriginal Child Care Agency was determined to assert the principle that Aboriginal children were the responsibility of their parents, and the principal areas to which he referred were well received. Mr Butler made the following point:

> Legislation or policy without resources is not going to make a great deal of difference in the approach if we are not allowed to tackle the causes of problems of poor children and families.

Linked to this lack of resources is the inability due to income levels of many of their own people to take in children as alternative placement or out of home care. He then stated:

> What we want, therefore, is not to have the legislative and policy environment to allow us to operate as another non-government welfare agency. What we want is to overturn the effects of colonisation on our families and children and in the process to maintain our identity, indeed to strengthen it and our communities to ensure that we can survive and, more than that, to live and not struggle as we have for all the time we have known white settlement in our country.

The last person to contribute was Kym Davey, Executive Director, Youth Affairs Council, in South Australia, who stated that the council had contributed to the debate over a period and concurred that this Bill was a more sound piece of legislation than the draft released in April. That is the general feeling in the community, that the Bill is a vast improvement on the draft Bill released earlier.

He wished to support the Minister's fundamental thesis, that families must become more involved in decisions made about their children, and he went on to say that his organisation believed the use of the term 'at risk' as a definition is unwise in the context of the legislation: the term is highly contentious in the community services field and places no emphasis on prevention strategies. As an alternative he suggested that a far more acceptable approach would be to adopt the concept of care and protection included in both the Victorian and New Zealand legislation, and I will refer to that later.

He put down two clear possible options for amending the present interpretation of 'at risk'. He referred to the Minister's functions and indicated to the meeting that that provision should be amended so that the Minister would provide coordinated service and strategies for dealing with the problem of child abuse and neglect and, therefore, deleting the word 'promote' and replacing it with 'provide'. He made a number of suggestions that will be raised later in the debate. One point he made strongly concerned the need for appropriate training of care and protection coordinators. He said:

> The Youth Affairs Council of South Australia asserts that care and protection coordinators require appropriate training to ensure a high degree and diversity of skill and knowledge in areas ranging from communication and negotiation to child development and child protection.

The people who have this responsibility need to be better trained than almost anyone else serving in similar capacities. Those people will have considerable responsibility in the future for a child's welfare and, again, it is a matter to which I will refer in some detail. Mr Davey also made reference to the need for advocates for children to be provided. He said that children requiring assistance to secure their own protection and care are among the most vulnerable of young people—

Mr Atkinson: What do you think?

The Hon. D.C. WOTTON: I would hardly be referring to contributions made by other people if I did not agree with them, and I would have thought that the honourable member would recognise that. I look forward to his contribution because I would hope that he can explain clearly where he stands on a number of matters when they come before the House for amendment. Earlier I referred to the Child Protection Coalition established recently, only in the past few days. Until late last evening I was corresponding with members of the coalition about matters it wished to have brought before the House in this debate.

I commend that organisation, because it is good to have a Child Protection Coalition. The member organisations are the Youth Affairs Council of South Australia, Action for Children SA, Anglican Community Services, Law Society of South Australia, Catholic Family Services, Norwood Community Legal Service, Youth Housing Network, Service to Youth Council, Emergency Foster Care and the Placement, Prevention and Substitute Care Association. The representation contained in that group of organisations should be listened to seriously.

A number of those organisations have membership that has been involved in matters relating to children's welfare over a very long period of time, and I commend those people on the work that they are doing in this area and on the contribution they have made in providing information that can be used in this debate. I noted earlier that I had also received representation from SACOSS (the South Australian Council of Social Service), and only a few moments ago I received a fax from SACOSS indicating its strong support for the legislation. SACOSS has made representation to me on a number of occasions about matters about which it feels very strongly.

It seems to have a different opinion from some of the other organisations that I have referred to as being part of the coalition. I do not intend to go through all the submission SACOSS has provided, other than to say that it makes the following point:

> SACOSS has strongly supported the moves to amend this Bill which we understood had strong bipartisan support as a result of the select committee's deliberations and after hearing substantial evidence from wide sections of the community. . . We are aware, as I advised you, that there are a small number of professionals who remain concerned about some aspects of the Bill. We do not support, in particular, the stated need to change the definition of 'children at risk'. For professionals who have worked in this area for some time the difficulty of trying to define 'at risk' in such detail has been one of the most difficult and vexing issues and one which has created the biggest dilemmas for many professionals.

It goes on to say:

> We also do not agree that the family care meeting coordinators must be totally independent of the department and, whilst we appreciate that this is a view being put, we fail to understand why this is of such significance if the practice issues and regulations are able to address some of these concerns.

A significant number of organisations have made representation and I only wish that I had the time to refer to all of them. I am sure that many of these representations have been received by other members of the House and I hope that they will be picked up in ongoing debate about this legislation. I refer to another organisation, which has been recently established, Action for Children, which was launched as an organisation in May this year with its aims being to promote the status of children in Australia.

Its objects are excellent. They are: to lobby and advocate on behalf of children on issues that affect children; to provide a mechanism for genuine Government consultation on those issues that affect children; to advance the interests of children through non-Party political electoral and Government lobbying; to further and heighten awareness of the ideals as written in the United Nations Convention on the Rights of the Child; to liaise with organisations and associations with similar objectives; and to do such other things as may be incidental to the attainment of such objects.

The membership of that organisation includes parents as well as persons from different professional backgrounds and children's service organisations, both Government and non-government and, during the Committee stage, I will be referring to some of the matters it has brought forward. The contribution that has been made by David Lyons, Associate Professor in Paediatrics and Child Health at the Flinders Medical Centre, is a very interesting one. He indicates that he is writing because he has concerns about this legislation. He writes merely as someone working in the field who is concerned for the welfare of the children. The predominant point that he makes is that in the Child Protection Bill the needs and interests of the child should be paramount.

It is generally agreed in civilised societies that the State should intervene when a child's needs for safety and protection are denied. He makes the point that in New Zealand a review mechanism for decisions made is available. There are no appeal complaint mechanisms in the current legislation before this House. He compares the New Zealand legislation in that there is a mechanism for cases to be referred to a district family court resource panel, somewhat equivalent to

our child protection panels, yet these are to disappear in the legislation before the House.

He also makes the point that I have made previously in this debate that, while it is important that we consider new legislation and, as I have said before, improve legislation, very little will be gained if appropriate resources are not made available to ensure that the responsibilities that the Government has in these areas are carried out effectively. I am hoping that, when the time comes, the opportunity will be provided for the Minister to indicate just what resources will be provided for this legislation. As I said earlier, some excellent contributions have been made by the Early Childhood Association, People Against Child Sexual Abuse, and the Law Society has made a substantial representation.

It makes the point that the Bill before the House reflects some of the suggestions that it has made but still is seriously deficient in many major areas, as detailed in its substantive submission. Of particular concern to the Law Society are the rules of evidence, the denial of essential information to the court, the possibility of warrants being issued by justices, the potential for major infringement of human rights and the omnipresence of the department in crucial functions and processes. Again the opportunity will be provided for those matters to be dealt with during the Committee stage and it is not appropriate for me to deal with them in detail now.

I noted earlier a number of individuals as well as those representing various organisations. I should like particularly to recognise the contribution made by Dr Limmer, the President of the South Australian Medical Women's Society and Ms Helen Cox, Research Officer for the Norwood Community Legal Services. I hope that the Minister has considered the representations these individuals have made. They are excellent contributions, which I hope the Minister will take very seriously when he considers this Bill further.

Another contribution has come from the Festival of Light. The honorary administrator of that organisation makes reference to the public meeting that was held and refers in particular to a number of the issues that were raised by speakers to which I have already referred in the House. I should also say that I am very much aware of a petition that is presently circulating to members in this place. It reads:

> In December 1990 Australia ratified the United Nations Convention on the Rights of the Child, thereby giving a commitment to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the Convention. One of the rights recognised in this Convention is the right of the child to freedom from abuse, exploitation and neglect.
>
> The right of the child to freedom from abuse and neglect is recognised in existing legislation, but the rights of the child to freedom from exploitation is not addressed in current or proposed legislation. Exploitation of children does exist in our society in many forms.
>
> The petitioners pray that this House will introduce legislation to protect the children of South Australia from exploitation as a matter of urgency and ensure that adequate measures for the administration and policing of legislation are implemented.

The matter of exploitation is one that has been brought to my notice on a number of occasions by those who have made contact with me. It is a matter that I hope the Minister will address because there certainly is concern that the matter of exploitation is not addressed in this Bill. The Minister I am sure would be aware, and I know that he has received some of the same representations that I have received on this matter, of the concern that there is in the community. As a result of that concern, the petition is being circulated at this time. I understand that a significant number of people have already signed that petition and that more will do so in the future.

In closing, I want to refer to a matter that I have raised in this House previously, namely, the future of the Children's Interests Bureau. I am aware that a draft Bill is circulating at the present time. I have certainly seen that Bill and I must say that I have some concerns. It is not appropriate for us to be discussing at this stage a draft Bill that may or may not be brought before this House at a later stage. I would hope that, if the Minister is intent on bringing that Bill before the House, he will consider some of the provisions of that legislation very carefully before he does so.

I have considerable respect for those who have worked in the Children's Interests Bureau. I believe that they have a very real role to play and I believe that that role should continue. In looking at legislative activities in other States and in other parts of the world, one realises that recently there has been a move to ensure that there is either an individual as an ombudsman or a group of people who have the responsibility to act as a watchdog in regard to children's welfare. I believe that that is essential. I believe it is totally appropriate that an organisation such as the Children's Interests Bureau should carry out that responsibility and I would hope, as I say, that the Minister will give serious consideration to that matter prior to the Bill being introduced.

As I said earlier, there is no doubt that this legislation is a vast improvement on the draft that was brought down previously. I believe it goes a long way towards ensuring that our children will be cared for appropriately and protected where necessary. I recognise that this is an extremely sensitive area, and so it should be. That is why so many organisations and individuals have been keen to have their say on such an important piece of legislation. I also realise that many of the views that have been expressed are differing in the points that those organisations and people want to make. I have found it difficult, on wading through the large number of submissions that I have received, to determine an appropriate direction in this very important area. I believe that, with the direction that has been adopted by the Minister, and if the Minister and the Government are prepared to accept some of the amendments that will be put forward by the Opposition at a later stage, this will be excellent legislation in dealing with the welfare of our children. I hope that that is the case and I know that that is the hope of all South Australians. The Opposition supports this legislation.

The Hon. JENNIFER CASHMORE (Coles): I thank the member for Spence for acceding to me and permitting me to speak before the dinner break in support of this Bill. As the member for Heysen has said, this evening we are dealing with an extremely contentious and extremely sensitive topic, one that profoundly affects the whole community and one to which the House should give its very best endeavours to ensure that the outcome of our deliberations on this Bill is an improvement on what is basically a good Bill but one which, I believe, needs amendment to improve it further. The Minister's second reading speech on the Bill provided worthwhile and interesting background. Obviously all members of the House believe it is proper to separate protection of children in the statutory sense from youth offences, and until now those two issues have been dealt with under the one Act. We have come a long way in the past decade—plus a few years—since, what was then, reforming legislation was passed.

In that decade there has been an emerging recognition of the nature and extent and social impact of child abuse and, with it, a recognition of the importance of protecting children. The question is: how is that protection best afforded and in what framework is it best administered? Despite the fact that we have come a very long way in the past decade, I think that western society is still in the very early stages of comprehending how to deal with the issues relating to child abuse. I believe that if we could look back in 20 years time we would realise at what a fundamental stage western society is in respect of these matters. For centuries they have been buried so deep and for so long and in such extraordinary ways that it requires not only great sensitivity but also great courage and, dare I say it, great insight, and almost ingenuity, to deal with these matters in ways which do not inflict greater damage but which open up the issues for public scrutiny and debate and which enable them to be addressed in a proper fashion.

The Minister's second reading debate acknowledges the development of research and literature over the past decade. The South Australian Government task force on child sexual abuse, the final report of which was released in October 1986, dealt in a very detailed fashion with many of the issues. That is now seven years ago and much more has emerged since then. In fact, it is really only in the past seven months in Australia, and perhaps in North America, that the issues of child sexual abuse within churches have been brought out into the open.

As we debate this Bill, we realise that we have come a great deal further even than the stage that was reached when the Bill was introduced. Even in a matter of weeks there has been emerging debate. I commend the Minister, his officers and all those whom he consulted for the development of a Bill which has basically a very good framework.

However, I have some criticisms of it and I would like to identify those. The Bill is described as an Act to provide for the care and protection of children and for other purposes. I believe that the objects of the Bill, which are set out in clause 3, should be much more forthright in expressing the principle that the child's best interests should be paramount and that should be stated as an article of faith at the outset of the Bill.

I believe that the Minister has done his utmost to reconcile the power balance, or the imbalance that he perceives at the moment (and many people agree with him), between the State and the family in respect of protection of children. But however unbalanced that power structure may be at present, I believe at the base of it, at the pinnacle of it and running right through it as a backbone should be recognition that the child's interests are paramount. The word 'paramount' means above everything and that means necessarily that in certain cases the child's interests will have to come before the family's interests. They may seem to be interdependent but that is not always the case and, where a family is unable or unwilling to fulfil its obligations to the child, the State must identify that fact and deal with it on the basis that the child's interests are paramount.

That is my position; I believe it is the position of the Opposition and I think it is the position of everyone in the House. It is a question of how we approach that matter. The role of the law is to establish that proper balance and to establish the framework. As I said, in the first instance the objects of the Bill should more clearly establish the fact that the child's best interests are paramount. I have a special interest in part 5, division I: family care meetings are to be held when the Minister is of the opinion that a child is at risk and that arrangements should be made to secure the child's care and protection. The way in which that is done is to cause a family care meeting to be convened.

I quarrel with clause 29 of the Bill, which provides that the care and protection coordinator convenes a family care meeting and issues written invitations to the following persons: the child, the guardians, other members of the child's family, a person who has had a close association with the child, and any other adult person (not being a legal practitioner) who the child or the child's guardians wish to support them at the meeting and who, in the opinion of the coordinator, would be of assistance in that role.

I do not think that it should be the coordinator who makes the judgment as to whether the child has an advocate to speak for him or her. I think that is something that should be automatic. There ought to be an independent advocate. At a meeting of interested groups held last month or the previous month at the Adelaide Children's Hospital, the Early Childhood Association representative made the point that infants cannot state their developmental needs and parents may not be able or willing to do so. An advocate should always be present to speak for the child, and that advocate should be and be seen to be independent, qualified and trained in children's developmental needs.

That is a highly specialised field; it is not a field of social work or necessarily exclusively of medicine. It can be that the disciplines of medicine, education and social work combine or work together as a multi-disciplinary team. Certainly independent, trained advocates are needed early in the piece, and they must be people who are qualified and not just working on gut feeling or ideology. They must have a thorough understanding of child development and be trained in that field. That was a feeling strongly echoed at that meeting by people from virtually all groups. I quote from the statement of the representative of the Youth Affairs Council of South Australia:

> Children requiring assistance to secure their own protection and care are among the most vulnerable of young people. Section 30(e) allows for the use of advocates at the discretion of the coordinator. YACSA believes that the family care meeting process needs more than the goodwill of participants to achieve a successful resolution. In many cases children will need to have advocacy support to participate meaningfully and with some confidence. Similarly, advocates could be used as a resource to all parties struggling to resolve a child protection matter. Skills in analysis, representation and some detachment from the emotion of the process would assist in many situations particularly—where families have poor communication skills. Use of advocates should therefore continue to be mandatory.

The Youth Affairs Council is approaching the same issue from a perspective that is different from that of the Early Childhood Association but it has come to the same conclusion. I plead with the Minister to recognise the importance of its argument and to accept amendments which will ensure that what those groups are wanting is incorporated in the law.

In view of time constraints, I want now to speak generally but for one matter, and that one matter is mandatory reporting which has been provided for since the mid 1970s, which has been extended over that period and which is dealt with under clause 10 of this Bill. There is a division 7 fine as a penalty for failure to notify the Department for Family and Community Services when it is suspected, on reasonable grounds, that a child has been or is being abused or neglected. I would like to commend to the Minister the notion not only that there be a division 7 fine but that those institutions or individuals who fail to notify have their names reported in the annual report of the department.

I can think of no greater deterrent for failure to report than the realisation that publicity will be given to those who fail to report. It has become clear to me that institutions run the risk of putting their reputations ahead of the protection of children. I know for a fact that in South Australia at this moment there are at least three schools which have failed to report under the mandatory reporting procedure. They failed to report and I am not now referring to any institution which I have publicly named previously in this House; it has come to my notice that there are others. The publication of those names is, to my mind, a far greater deterrent than any fine that could be imposed.

I want to conclude by saying that basically what this Bill is about is addressing the inequalities of power which exist between children and adults. Any individual who has the power to withstand abuse, either sexual, physical, emotional or intellectual, will do so. Children do not have that power. It is one of society's greatest challenges and it runs through every decision we make—from the laws we enact to control child pornography (an industry which is flourishing in this country) to the way we administer our housing, education and our taxation policies which are designed to strengthen families and give them a sense of stability and which enables them in turn to nourish, nurture and emotionally care for their children. Those are the things we should be addressing. This Bill is but one aspect of it.

I plead with the Minister to consider very sympathetically the amendments that the Opposition will move with the support of the groups in the community who have nothing but the interests of children at heart and who urge amendments that will improve a Bill which is sound but which needs some modification if the interests of children are to be served. The notion of child abuse is so horrific and the sense of violation endured by children is so all encompassing that our minds can hardly comprehend the damage that is done. I hope that this Bill will go some way towards not only preventing damage, which should be our goal, but dealing with the damage that has occurred. I support the Bill and commend any further modifications to the Minister.

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

Mr ATKINSON (Spence): This Bill improves the law regarding child protection. It also improves the Government's approach to dysfunctional families. There are three aspects of the Bill which constitute this improvement, the first being the introduction of the principle of preserving and strengthening family relationships. That is the most important improvement in the law. The second improvement is the annual review of children under long-term guardianship and the third major improvement is the concept of family care meetings.

Before this debate started, Government members were apprehensive about the direction from which the Opposition would criticise this Bill. Some of us thought that the Liberal Party would side with those who believe that the law ought to protect families; some of us thought that the Liberal Party would adopt the traditional conservative position of trying to defend the family against encroachment by Government; but others of us thought that the Opposition would fall for the left Liberal academic line of supporting the principle of paramountcy of the child at the expense of the family because, make no mistake, the rhetoric from the member for Heysen and the member for Coles about the interests of the child being paramount means, in effect, the interests of the child as interpreted by bureaucrats in the Department for Family and Community Services. That is what it really means.

The Hon. D.C. Wotton: Have you read your Minister's amendment?

The SPEAKER: Order!

Mr ATKINSON: Thank you for your protection, Mr Speaker. In fact, what has happened in this debate is that the Liberal Party has fallen for the left-liberal academic line, and it has abandoned its traditional allies who seek to defend the family against encroachment by the State. Organisations such as Torn Apart Families will be most disappointed with the repudiation of their position by the member for Heysen and the member for Coles. It is usual for the contribution of the member for Heysen to consist entirely of a patchwork of remarks by other people. He rises in his place and, instead of offering his own analysis of the Bill before us, he cites letters he has received from people, he reads out sentences and paragraphs from academic papers and he tells us what people told him in telephone calls, but rarely do we hear what the member for Heysen himself thinks and we certainly do not hear what the Liberal Party policy is. So it seems to me that the Opposition spokesman in this area adopts a lazy policy towards analysis of this Bill.

As I said, I welcome the Bill. I welcome the three main improvements—preservation and strengthening of family relationships, the annual review of children under long-term guardianship and family care meetings. The member for Coles went further along the left-liberal line than did the member for Heysen, because she advocated the introduction of taxpayer funded advocates for children chosen from a bureaucratic panel. So here is a Party, the Liberal Party, which is committed to deep cuts in the public sector, cuts of between 15 and 25 per cent, says the Leader of the Opposition, but which simultaneously proposes a new class of taxpayer funded mandarins, namely a permanent panel of advocates for children. It seems to me an inconsistency and I rather doubt that the Liberal Party in office would implement this proposal of the member for Coles.

I want to dwell for just a moment on the principle of preserving and strengthening family relationships, which I regard as the most important provision in this Bill. The member for Heysen attacked the clause, saying that it ought to be subordinate to other clauses, such as that relating to the paramountcy of the interests of the child. It is common for constituents who come to my office with complaints about the Department for Family and Community Services, and people who ring talkback radio with complaints about the Department for Family and Community Services, to complain that the department is trespassing on their family and they believe that it intrudes unnecessarily in family life. Obviously, not all the complaints of the people who constitute organisations such as Torn Apart Families are valid, and I accept that the department has a difficult job of sorting out the truth when teenage runaways claim that they have been abused and their parents deny it. I find that most parents who approach me with complaints about the department are reassured to know that, as parents, they have a common law right to the reasonable chastisement of their children.

I must say that I am the father of three children, aged six, four and two, and I do not mind confessing to you, Mr Speaker, and the Parliament that, when they are naughty, they are smacked by their mother and/or their father. I am a smacking parent. I guess I am among those condemned for my violence by the member for Heysen in his speech but, if the Liberal Party wants to take away from parents their right

to reasonable chastisement of their children, I suggest not only that the member for Heysen make that point in this place but that he go out on the hustings during the next State election campaign and tell the parents of South Australia that it is Liberal Party policy to take this common law right away from them. I know how the parents of South Australia feel about it. They want their right to reasonable chastisement and, as the member for Spence, I will be defending and upholding that right. I support the Bill.

Mr BLACKER (Flinders): As this is principally a Committee Bill, it is not my intention to debate it at length other than to add my support to the basic concept of the Bill, because it gives a direction to the department and to all persons handling this very difficult situation. The guidelines reflect that the interests of the child must be paramount, that it is desirable to keep a child within his or her family, if that is necessary in the interests of the child, and that family relationships should be preserved and strengthened. I think we would all agree that they are desirable objectives and should be pursued at all times.

No doubt every member of Parliament has had brought to his or her attention an issue relating to child abuse. Sometimes it is because parents believe that the department has acted inappropriately and has taken at first-hand the comment made by a child who might well be vindictive against its parents and has used that as an excuse to get away from the family. It therefore becomes a very difficult situation for any departmental officer to be able to step in and ask, 'Is the child right?' If there is a risk, the child's word must be taken first and then hopefully the issue is worked through.

This creates enormous problems within families, and every member of Parliament would have had some dealings with members of families in relation to this difficulty. I have had cases brought to me from both sides. In one case the parents actually went through the complete court process and because of insufficient evidence were not convicted. The department was of the view that the children were still at risk, and I believe the department had very good reason for holding that view. I shared the concerns of the department that it should still have the ability to put those children into a better protective environment. So, there are two sides of the story.

I hope that this Bill will address most of those issues. It does highlight the need for independent advocates for the children and if necessary the parents, because sometimes people can be too close to the issue. Whatever happens, the children must be able to have that independent authority present so they can express their view without intimidation.

I am not one who normally watches soap operas on television, but within the past week *A Country Practice* showed a program in two segments in relation to child abuse. In that instance a father had abused his son. Whilst it is not the sort of thing we would like, I believe there was an educative component to that program being screened, because it may encourage some poor child to come forward (a child who may well have been abused and too frightened and fearful otherwise to say anything about it; a child who was being pressured because of this attitude that we have a secret and must keep it, and who may therefore have been reluctant to speak out). In that program the policeman who first identified the potential problem, which subsequently proved to be the case, was himself abused as a child.

The message from this program indicates the complexity of the issue and shows that it is not an easy one for any departmental officer, whether it be the policeman, officer from the Department of Family and Community Services or a school teacher, who may be the first person to identify an area of concern. It may well be that the child releases his or her frustrations and it is first picked up by the people at school. The issue is a very complex one, and it is appropriate that the Government of the day try to address at least some aspects of it. Amendments are being foreshadowed which I believe should be properly and fully debated in this House. No doubt however long we sit here tonight or at any other time, this House will not necessarily get it right, but I hope that as a result of this debate the legislation will be greatly improved and more closely directed in the interests of protecting the child.

Mr BRINDAL (Hayward): I join my colleagues on this side of the House in commending this Bill but, as my colleague the member for Flinders has just commented, it raises perhaps as many questions as it solves. This Bill or any Bill which comes before the Parliament creates an expectation. It creates in the mind of people in this State an expectation that this Parliament believes that the State has some responsibility in the matter and, in the matter of child protection, I believe that that is an important and correct expectation to create. But we can legislate as much as we like: having legislated, we must ensure that the legislation is such that it is sensible and enforceable because of its sensible approach to the problem. The State then has an absolute obligation to provide the resources whereby the legislation can be enforced.

There is a great danger in passing legislation that makes us and the electors of South Australia feel good because we have passed legislation that protects Aborigines, children, women or a plethora of people. If that legislation is impracticable, more importantly if that legislation is unenforceable and even more importantly if the resources are not provided to see that that legislation, once enacted, is carried through properly, then it is not only useless but dangerous, because legislation that creates a false belief in the people that a problem has been solved merely because it has been legislated for is the most dangerous sort of legislation that any society can have.

So, as we bring this measure before the House, let us all be aware that with the passage of this Bill comes an inherent responsibility for whichever Party may sit on the Government benches in the future. That responsibility is quite clearly to see that the measures that are contained in this Bill are adequate and can be adequately policed. That is the challenge confronting not only this Minister and this Government but Ministers and Governments that follow.

Like every other member in this and the other place, I do not support the abuse of children for one moment, but I do believe that the approach that must be taken in this Bill is a commonsense approach, and the evidence is that this Bill does that. Even though we might have a commonsense approach in this legislation, and even though there has often been a commonsense approach in previous legislation, my own experience in my electorate office is that, once interpreted by bureaucrats in the field, the approach often is far from being one of commonsense. A very good friend of mine has a daughter who is 16 years of age and who recently left home. This friend is a parent much as the member for Spence described himself. The honourable member described to the House the drugs, sex and rock'n'roll involving youth who through no fault of their own are unemployed and who have nothing to do all day but perhaps get into a bit of trouble because of it.

This parent went to retrieve his daughter. When he arrived at the address, the police happened to be visiting a house next door and, hearing some sort of commotion, they came over to see what it was about. Not only was the man told that he had absolutely no rights in respect of his daughter, but the police told his daughter in his company that if he even went near the flat she was to telephone the police and they would come and arrest him. He was then put in the police car and taken home, because the child had all the rights and the parent had none.

I note that this legislation describes a child as being a person under the age of 18. Quite sensibly, it provides in clause 4(3) that, if a child is able to express his or her own views as to his or her ongoing care and protection, those views should be sought and given serious consideration, taking into account the child's age and maturity. The current evidence seems to be that Family and Community Services assume that because children have some level of functional intelligence they are therefore mature and quite capable of making profound decisions that will affect the rest of their lives. Too often in the past it has been my experience and that of a significant number of electors that, in matters where children are 13 and 14, Family and Community Services officers will say that the child is right.

When I taught in Cook, a girl of 14 left home and went to live in Port Augusta. The mother was distraught and telephoned Beryl Schiller, who then ran the RICE project, and said she wanted her daughter sent on the next train back, because her daughter was going to Port Augusta with the intention of living with a 27-year-old male, and the mother did not quite approve of the set up.

The RICE coordinator, believing she had no power in the matter, consulted Family and Community Services, who met the girl from the train. Not only did they set her up in a house, but they informed me and others who asked if this was the correct procedure that it was a dreadful allegation to make that the people might be living together (although some months later the girl apparently had an immaculate conception); it had been a dreadful allegation to make, people had no right to make any assumptions on the moral welfare of the child, and they would keep supporting that child in Port Augusta, as they did.

They claimed the mother was unreasonable and unfair in asking the child to return to the family home at Cook because, according to the FACS counsellor or social worker, only lunatics would live in Cook. The social worker made value judgments not only about the quality of the child's home but about where the parents chose to bring up their child, and acted accordingly.

That girl is now considerably older and I think is still an unmarried mother, now with four children. She has never worked in her life and has cost this State a considerable amount of money. That is neither right nor wrong, but I am afraid that I cannot see much virtue in the actions of the department in any aspect of the matter. The Minister can look askance from under his eyebrows; probably afterwards he will tell me that that is not what I should have said, but that is central to the Bill.

Central to the Bill is that, once it is passed, it must have sympathetic consideration in its implementation. None of us in this Chamber will implement this Bill: Family and Community Services officers will do that. As the Bill stands, it is fine if it is interpreted in a commonsense and logical way. As my colleague the member for Flinders has said, it is largely a Committee Bill and I feel sure in Committee the Minister will give us all the answers and assurances that we want so that largely the Bill will pass, but the Bill will be successful only if the Minister acts in good faith and if, for so long as he is Minister, he ensures that his officers in the department for which he is responsible take the same commonsense approach that is suggested in the legislation.

I am sure that in a few months when my colleague the member for Heysen is himself the Minister one of the things he will be doing most assiduously is ensuring that in Bills such as this matters involving the care and custody of children are left to the Minister, because I agree with the member for Spence that the most important part of the Bill should be that part which emphasises the role of the family in the nurture of the young. I do not care whether it is a traditional family of a husband and wife who are married or people who are not married: a family is comprised of whatever relationship adults choose to live in; whatever the nature of that family in 1993, it needs nurture and protection. I now refer to what I consider to be one of the oddities of the Bill. I refer to clause 4(2)(e), as follows:

> . . . preserving and enhancing the child's sense of racial, ethnic or cultural identity, and making decisions and orders that do not contravene racial or ethic traditions or cultural values;

That is a good example—and we are all guilty of it—of Government hypocrisy. We have a number of Bills that guarantee things like non-discrimination against people on the grounds of gender. The Minister knows of many cultures that by nature are paternalistic and certainly do not teach cultural values that are in accord with other laws which the Parliament passes. Yet we persist—

Mr Atkinson: What is the point?

Mr BRINDAL: The point is that we persist in often paying lip service to values which on other occasions and in other speeches we say we will condemn. We say we want to preserve a culture, but do we want to preserve a culture, or only preserve those parts of a culture which accord with the rest of the laws which this Parliament thinks are reasonable for all the people of this State? Are we going to have one law for the people of Greek background, another law for the people of Aboriginal background and a third law for the people of Italian background? I do not think that will work. I raise that matter as an oddity of the Bill. I commend the measure to the House and I hope the Minister will use common sense because, as he becomes more and more imbued with a Party ethos over there, I begin to wonder.

The Hon. T.H. HEMMINGS (Napier): I had no intention of taking part in the debate, as I have already gone on record in this House in congratulating the select committee on its deliberations and the way it went about the State taking evidence. This is the final Bill to come from the committee's deliberations and members of the committee are to be congratulated. It is only right and proper that the Minister at the front bench, who was a member of the select committee, now sees the fruits of those deliberations collected from around the State coming together in legislation. My colleague the member for Henley Beach reminded me that it was a bipartisan select committee which acted in a completely bipartisan way. Once again, that proves the strength of the committee system and I will say more about that later. The member for Hayward said that in a couple of months the member for Heysen would have the carriage of this legislation. Of course, that would be over the dead body of Joan Bullock. Knowing Joan Bullock, I think she will carry the day if the Liberal Party ever did win the election.

Mr BRINDAL: Mr Speaker, I rise on a point of order. What part of the Bill does Joan Bullock relate to?

The SPEAKER: I point out that there is a need for relevance, but I noticed many members expanding and giving anecdotal evidence for or against the Bill and the point being made here has some relevance. Certainly, there is the point of relevance to be observed, and I remind the member for Napier of that and ask him to bring his comments back to the Bill.

The Hon. T.H. HEMMINGS: Yes, Sir, I take your point. I was simply rebutting something the member for Hayward said, and this situation just shows the Liberal Party's approach to this important legislation. The example was given to the House of how that Party would interpret this legislation, and the Minister on the front bench was being told repeatedly that he had to approach it in a commonsense manner. The member for Heysen was then put up as an example of someone having a more commonsense approach than the Minister on the front bench, but I refute that. I took the matter one step further by saying that the new member for Coles would be a better Family and Community Services Minister than the member for Heysen. It just shows the House how sensitive they are becoming on the other side.

Mr Ferguson interjecting:

The Hon. T.H. HEMMINGS: The honourable member says that Joan will get the Ministry if we do lose the next election, but I will be anxiously reading the *Advertiser* about that tussle if it ever comes to that. I must admit that I did digress for about two minutes there, just to put the record straight. This legislation will not solve all the problems. Even after all the work that has been done by the select committee and by the number of meetings that were held throughout the metropolitan area and the rest of this State, we still have a situation where, from the opposite side of politics, we see time and again those so-called experts in the field of child protection. Once again, in the time this second reading debate has been taking place, we have had classic examples from members opposite, particularly the member for Hayward, in Family and Community Service bashing.

That is one branch of the Public Service that gets more flak and more stick from ill-informed members of Parliament whose only field of expertise is that they won an election, and they listen to the stream of complaints coming into their electoral offices and then raise them in the House and with the media so they can get a little bit of publicity. The poor, hapless Minister stands up and has to defend his department, because the Minister is actually defending the indefensible as far as the Liberal Party is concerned.

I get those complaints from those who come into my office and I am sure you do, Sir; but at least we approach it in a commonsense way and make sure that most of the facts are obtained before we go writing to the Minister or making statements to the local media. In the time that I have been a member, child abuse was highlighted in my electorate and that of the Minister in the pilot scheme where we actually laid it out in the open and encouraged people to make complaints, and some very progressive moves were made within the Police and Education Departments.

I usually found that when the truth eventually came out it was very rarely that the Department of Family and Community Services officer involved was actually coming up with this story of giving the child more rights than the parents. Usually, we had a very balanced attitude and the advice that was being given was in the best interests of the child and, ultimately, if people sat down and thought about it, in the best interests of the parents. That is all I want to say on this piece of legislation. Once again I congratulate the Minister for drawing from the recommendations of the select committee the best possible legislation.

I do not know whether the Minister makes it a practice to ask members of his department to read my speeches: I doubt if he does! But I suggest that the Minister pass on my thanks to the Department of Family and Community Services for the job they do in a very hostile environment, especially that emanating from that side of politics. I wish that some of them would have a few more children and they would understand what it is all about.

Mr S.G. EVANS (Davenport): I want to say right at the beginning that I am pleased that I raised my children at the time I did. I would not like to be a parent raising a family in the future, whether as a single parent or the conventional parents as we have known them. I know that people who are appointed as adjudicators over the behaviour of a parent or another person can at times become little dictators. I have told the House before that I hit my daughter: I have hit all my children, but I hit my daughter when she was 15 and broke my wrist. Under this legislation I would most probably face a severe fine, perhaps gaol.

My daughter cried quarter of an hour later, not because I hit her but because I broke my wrist and had to go to hospital to have it set. We are a close family, and that daughter now asks that I take her children, in particular her son, and make sure that he learns to work alongside me and learns some of the skills that I may have, and takes the approaches that I may have in toughing it out at times.

I have had a discussion with the Minister over a case I have at the moment where there are three foster children. What was happening is still going on, and I will raise it in this place later in a grievance debate. If someone is prepared to foster three children and departmental officers want to tell untruths as to where they will meet to have discussions with the parents, who may be Aboriginal and who may have had children by three or four different fathers; if someone wants to raise those children, then it is pretty rough if departmental officers do not stick to the agreements that are made about where discussions and access may take place and how it will take place. But I will say more about that on another occasion.

In these times of unemployment and financial difficulties, the problems are exacerbated for a family. Slapping someone on the spur of the moment because they have been told several times not to do something I do not believe is child abuse if it is done in a reasonable manner. The reason I broke my wrist is that my daughter put up her hand to protect herself and I hit her arm, and her arm was tougher than mine. In this day and age, so many people have great difficulty in trying to lead their life and there are so many agencies to which they are answerable, that some will go over the top. They will break down. They will take actions that are cruel and damaging to the child's immediate health and future psychological health.

But part of that has been brought about by us, the politicians in the country, because we have not set out to make sure that we have an economy that creates jobs, that gives opportunity to people. Some of us lived through the depression years as young children. I am one of them. I remember the lady next door to my home had seven children, and her husband belted her one day with a calf chain. Nobody can

accept that. But it was brought about because they lived in an impossible set of circumstances and there was not the help.

Today there is more help: I admit that. But many of us making this decision tonight have raised our children or had no children. When I talk about having and raising children, most have raised them, I believe, successfully. Some have had failures, and that is unfortunate. We know those around us, and we do not talk about it when it has occurred. Parliament is supposed to represent the electorate that elects us. It is not supposed to be all prima donnas or people who are 100 per cent successful or highly intelligent. It is supposed to represent people from different backgrounds.

One of my concerns with those that I have bumped into in relation to Family and Community Services or welfare officers is that many of them have not even successfully raised their own family, yet they go out and make judgment on others. That is the confounded problem. We should be saying to these people: 'If you cannot successfully raise your own, why the hell should we employ you to try to tell others to try to raise theirs?' We need to look at it, because that is one of the problems we have. And it becomes a self promoting thing to have people making these judgments who could not raise their own family successfully.

I said there will be people with mental instability who will cause problems. I do not know how we tackle that. I employed a good-natured young man, but he had his turn in and out of Glenside; and in the end he spent most of his time there. I received an invitation to his wedding. His partner was an inmate of Glenside with less mental capacity than he had. I went to the wedding because he was one of a big family and I had sympathy for him as a person, not because of his disability but because of the background he had had and the efforts he had made to try and get on top of his problem. I spoke to him and I said, 'Ron, is it your intention to have children?' The answer was 'Yes.' The do-gooders will tell me that they had that right and it is a right that we should allow. They had two children. One has never really walked and cannot walk in the sense of walking and has very little mental capacity and the other one is not much better. They are dependent on the State.

It may sound cruel, but I believe that society has a right to say that, in those circumstances, perhaps people such as those two people should not have children. There may be some people who can point out to me other examples where two people from the same institution have married under those circumstances and have successfully had children with a capacity that is the same as or better than that of anyone here. Maybe someone can tell me that. But in more recent days some of Minda Incorporated's welfare officers and advisers have said to young people, and to their parents in particular, 'Your sibling is now 24 or 25 years old and they should be able to learn about relationships.

A friend of ours who has a sibling who is now much older than that challenged them on this. She wanted her son to have a vasectomy. She was told that she could not do that, that under the laws that apply here it was the right of that person to make up his own mind. She thought, 'Okay, in that case I will fly him out of the country; I am not broke.' So people who have money can get around it; people who do not have the money cannot get around it. I ask people to stop and think about the situation that that person was placed in when she said, 'What happens if that son believes that it is a natural thing to do; to have a relationship somewhere in the park?' It does not have anything to do with this Bill, except that, if a sibling is born in that family and that person does not have the mental stability to control the emotions he has at times of violence and aggression, the child is at risk and the State may have a greater burden.

We as a society do not even provide the carers for the multiple-disabled. There are parents out there with multiple-disabled children who, very often, do not even get respite throughout the year with carers. Some of them do break down and belt their kids or ill-treat them. I do not condone that ill-treatment, but we know they have a multi-disabled child—and I believe that there are some 200 on the immediate list—and yet we do not provide the carers. If that parent ends up cracking psychologically and injures the child then there is a big storm in the press, or somewhere else, about child abuse. The fault of that lies with the Parliament overall and with Governments in particular—and I put that in the plural—not making the right decisions to provide the carers.

In my own electorate, they built the houses on the land that was originally the Blackwood Primary School oval site. The Government sold it. We actually had some homes especially for that purpose. When the houses were finished, there was no money for carers. One can say that, by not providing those carers, we have created the conditions for some people to crack in trying to look after multiple-disabled children but ending up doing damage to the children, which this Children's Protection Bill talks about. Sir, the member for Hayward said to the Minister across the Chamber, speaking through you, that the Minister may give the assurances in the Committee that proper considerations will be given and that commonsense will prevail. However, the Minister of the day cannot guarantee that, and nor can the Minister of tomorrow—the next Minister, whomever that may be—because how the Bill and how things are interpreted depend on the Minister of the day and what this Minister may guarantee has no relevance whatsoever in the end result, over a period of time.

Ministers, like members of Parliament, are nothing more than birds of passage: here today, gone tomorrow. Quite often the departmental officers are there for a long time, and often their attitude prevails more than that of the various Ministers. In recent times, in my own family, a child fell off a washing machine and was concussed. The family decided to see the doctor, who said that to be safe the child should be taken to the Children's Hospital. They took the child to the hospital and were told that there were no problems. The next day a welfare officer or one of the FACS officers called by the home and said, 'We want to have a yarn to you about how you look after your children.' Was it a case of child abuse? When you ask whether that record will be taken off the papers when they find there is nothing wrong, one finds that, no, it stays there for all time, and, with that, one is suspected as being a child abuser. I do not see the logic in that.

We want to encourage people at least to have some parental responsibility in raising children. If those parents had been irresponsible they would not have even taken that child to the doctor, because the child recovered immediately, anyway, and there was no sign of any real damage. But as a sensible precaution they went from to the doctor and then to the Children's Hospital, but then have to face that they are on record for all time. I do not think that is commonsense. To be honest, when we talk about this in the Bill, even volunteers are subject to a fine. If people who have volunteered do not report something that perhaps others might think should have been reported, because the volunteer does not think is serious enough to be reported, that volunteer is liable to a fine. If the department is going to employ volunteers, it is up to the

department to ensure that they are suitable volunteers, and, if they are not, those in the department who allow the person to be a volunteer should be responsible.

When we go that far down the track are we going to encourage dedicated volunteers or are we going to encourage those that want to be prima donnas? I do not believe we will encourage the dedicated carers at all and we need to think about it. I am leaving this place and I will look to the future to see what happens under the next Government about parents perhaps being given a bit more opportunity and encouragement to be parents and being judged as parents, and perhaps being helped rather than hindered by people who themselves may never have raised a family successfully or been in a decent family environment themselves, but who want to make a judgment on others.

I repeat that I would have been very reluctant to have my five children, as I am sure would my wife, if this law had been around in those times, because we have chastised our children. At the age of 17 my daughter wanted to leave home to go flatting. I said, 'When you walk out the door, you are considering yourself an adult. You are welcome to go but, if you want any dresses made or anything done by your mother, please do it yourself. If you have any problems, solve them yourself but, if you are coming in good cheer and happiness and just want to be part of the family, you are welcome any time. Do not bring your troubles home if you believe that at 17 you are an adult.' She came back four days later and said, 'Dad, I understand what you mean and I do not wish to go down that path.'

In this instance we are saying to people, 'You will not have as much control and say over the raising of your children as you had in the past.' More and more, through this legislation, Government officers—and more of them will be employed—will say, 'You should not have let them play in the rose garden; they have prickles in them. You should have put a fence around it.' That is the sort of path we are going down.

I took up the case of the three children at Blackwood with the Minister thinking that the matter was resolved. I will come back to that matter in a grievance debate, where it would more appropriately be debated, if the couple cannot get satisfaction through what is happening at the moment.

The Hon. M.J. EVANS (Minister of Health, Family and Community Services): I thank members on both sides for their contribution to the debate and particularly the Opposition spokesman, the member for Heysen, who indicated his general support for the Bill but with a number of qualifications about matters which he wished to further pursue in Committee. As was observed by the member for Flinders, this will largely be a Committee Bill. Indeed, there are a number of amendments which, although numerically might cover a couple of pages, in fact deal with only a limited number of topics.

I certainly thank the House for its broad support for the principles in the legislation which, as other members have indicated, have come out of the deliberations of the select committee, which involved members on both sides of the House. On the whole it could be said that the Young Offenders and Children's Protection legislation arising out of those select committee hearings is a credit to the parliamentary process.

I would like briefly to touch on a number of matters which have been referred to in the debate. Certainly I do not wish to duplicate the Committee stage of the debate but there are a few issues that need to be raised. In particular, one must always understand this kind of legislation in the context that it involves a problem which cannot simply be solved and resolved forever in all cases. That will never be possible. Legislation does not afford us that kind of control over our society, nor should it. This is a very complex and emotive issue and one which must be dealt with in a sensitive way, and contrary to some of the implications by members such as the member for Hayward, for example, the Department for Family and Community Services and its officers generally behave in a very responsible and effective manner in discharging their duties of child protection.

It is a very complex area, and for anyone to expect officers of the department to go into the community to talk and meet with families and to determine with almost complete certainty the situation in relation to any given child is to expect far too much of them. They are able to go into the community; they are able to work with families; and they are able to provide their specialist expertise in these circumstances. In the overwhelming majority of cases, that results in positive benefit to the family and a safe environment for the child. Certainly, these are complex and difficult issues which are not always capable of black and white resolution—of placing a tick by a case and saying, 'Well, that is one that is resolved.'

These are ongoing matters and, of course, on occasions officers will misunderstand a situation, will misinterpret it, indeed, will get it wrong, but that is not to say that the department on the whole is not able very effectively to discharge its duties, and I believe that we should support it in that work very strongly. It is accountable and, where a problem is observed, it should be brought to light; it should be resolved. Indeed, members of Parliament can do that through this forum or directly with me as the Minister. The reality is that we must support people who undertake this very difficult work on behalf of the community as a whole.

The Opposition members who have taken part in the debate have correctly identified the need to ensure that families are supported. Families are the most vital part of the system. They are the most appropriate forum or venue for children to be nurtured and cared for and I believe that the Parliament, through its legislative process, must support families in that work. Therefore, of course, the Children's Protection Bill is directed towards that end. However, the safety of the child must be a paramount consideration and although one can argue at great length, as I and, I am sure, the member for Heysen have done in discussions with individuals in the community over the past few weeks while this Bill has been before the Parliament, that is the fundamental thrust of the Bill. However you construct the words, that is the objective to which we are all working. The honourable member and I have amendments to put before the Committee which will seek further to clarify that role of best interests and paramountcy, and I would certainly commend my amendment in that regard.

The other aspect which is worth dealing with is advocacy, a matter which has been widely canvassed in the community. The member for Heysen has a number of amendments on file which deal with that issue. Broadly speaking, the community debate on this matter has misapprehended the role of those family care meetings. They are intended to implement what is currently a departmental practice, an appropriate practice, whereby families should be and as often as possible are involved in the resolution of these kinds of matters. This gives that process statutory effect. It must be remembered,

though, that it is not a judicial process; it is not an adversarial process. It is a process which is designed to involve families, not to exclude them. So, it is only appropriate that the departmental officer responsible for the case should be the coordinator for that process, involved in bringing people together and involved in talking through some of these issues that are before the meeting and trying to come to a satisfactory resolution, which could well be different for the individual families.

What is even more appropriate is that family members and those who are close to the family are the people who are deciding the issue. It is about empowering the family and the extended family to deal with these matters as much as that is possible within the context of that family. I have a great concern that, if advocacy is too widely adopted in this course and that if professional advocates become the rule rather than the exception, what we will see is the development of an adversarial system, the development of a quasi-judicial process, which is entirely—

An honourable member interjecting:

The Hon. M.J. EVANS: I said that, if we move down that path, it will take us to a quasi-judicial process, an adversarial process and one which will ultimately result in the disempowerment of families. We saw that in the old juvenile justice system. I say 'old', although it is still before the community at the moment, but that will change once this package of Bills goes through. The reality of the old system was that, because of the presence of the lawyers, because of the presence of the departmental advocates, the child concerned—and the committee agreed with this on a unanimous basis—was largely set aside from the system. I have a great fear that that will occur if we move too much down the adversarial path with children protection.

Where it is necessary, of course, we have recourse to the courts and to the judicial process. That is entirely appropriate and in that setting an entirely different process occurs, and that is entirely right and proper. But in the family context, it is the family that should be involved and it is the family that is emphasised in this Bill.

I believe that that covers by no means all the issues which have been raised but many of the others can be most effectively dealt with in Committee. I felt that there were a couple of issues which should be more broadly canvassed. With those reservations. I thank the House for its general support of the Bill and I commend it to the House at this stage while contemplating the matters which are to be further discussed in Committee.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Objects.'

The Hon. D.C. WOTTON: I move:

> Page 1, lines 16 and 17—Leave out 'a system of care and protection for children who are at risk' and insert 'for the care and protection of children and to do so in a manner'.

I say right at the outset that the Opposition agrees with what the Minister and other members have said in this place—that families are the child's most important care givers; they are the child's most important protectors. However, under subclause (1) the object is to provide a system of care and protection, yet under subclause (2), which governs the administration of the Act, the responsibility of the family and its need for support is highlighted, not the child's right to care and protection.

As just about every member who has spoken in this debate so far has said, there needs to be a balance. While I respect the role of the family, and despite what has been said by members opposite, I probably support the family and the role that the family plays as much as, if not more than, anybody in this place. But we also have to recognise that the right needs to be uppermost in the administration of the Act, particularly in relation to the group of children who will be affected by its terms and those that have already been identified as not being safe. There are those children who fall into that category. There are children who are not safe. I cannot make it any clearer than that. I believe that the objects need to clarify that matter, and that is why I have moved this amendment. I seek the support of the Committee for this amendment.

The Hon. M.J. EVANS: I do not quite understand the point that is made by the honourable member. The objects have to be read along with the principles that follow in the next clause. Clause 3 (1) provides that the object of the Act is to provide a system of care and protection. The Act will not of itself constitute care and protection of children. The Act, like all other Acts of Parliament, will be an enabling piece of legislation. It then sets up a system, it creates an environment, a legal framework, a departmental structure, which actually goes out into the community and provides that care and protection. I suspect a degree of this discussion is about semantics and grammar, but the reality is that the Act is to provide a system of care and protection.

Further on, in subclause (2), the Bill stresses that the primary responsibility for that care and protection lies with the family. It certainly does insist that the purpose of the Act is to provide for that system of care and protection and that it should be done through the family, under subclause (2), so that very much embodies the child's right to care and protection as a fundamental tenet of the legislation. When we look in clause 4, especially in the context of the amendments to that clause, we see that that is further strengthened. It must be seen as a whole. I cannot accept the amendment, because the Bill itself provides nothing more than a system, a framework. The care and protection is provided by the family and, where it is not, it is provided by the State through the agencies of its departments and non-government organisations.

The Hon. D.C. WOTTON: I regret that the Minister is unable to accept this amendment. To some extent I understand what he is saying, but what we are trying to do is to clarify this situation even more. We feel strongly that the amendment does that. I should also say, as the Minister would be aware, that there has been considerable representation on this issue. There is concern in the community that the objects are not strong enough and that they need to be clarified. That is why the amendment is moved in this way. It does not take away from the responsibilities of the family, and that is spelt out, but it recognises clearly that in some cases, however few, the family cannot accept that responsibility and it needs to be spelt out clearly.

Amendment negatived.

The Hon. D.C. WOTTON: Subclause (2) places a high priority on support and assistance for families. Given that this legislation addresses child protection and not the provision of services as such, because that is more the domain of the Community Welfare Act, how will a balance be achieved when the family's need for support is clear but when it is also obvious that the programs needed to assist the family are either not available or will take a prolonged period to bring

about the change necessary to protect the child so that the child remains perhaps unsafe in the family environment?

I questioned earlier why the Minister had not looked at an overall package, recognising—and I think it has been recognised for sometime—that there is a need for some change in the Community Welfare Act as well. I referred to the situation in New Zealand and, after all, this legislation is supposed to reflect what has happened in New Zealand as a result of the introduction of the New Zealand legislation, but it was most appropriate that the New Zealand authorities looked at the overall package. I would like the Minister to explain why that practice was not adopted in this State as well.

The Hon. M.J. EVANS: There are a couple of questions there so, if I miss one, perhaps the honourable member will prompt me. Certainly there is always scope to increase the resources available in an area like this. Whether it is education, health or family and community services, there is always the opportunity to do more if more money is available, but we live in a democracy and there are competing demands on our resources. What is essential is that it is always assumed and it is an underlying requirement that adequate resources are provided to ensure the safety of children. That is absolutely fundamental in this.

One could always argue as to the extent of resources and the amount of additional resources which could be provided in these areas, and more work could always be done with more resources. I do not dispute that in any way. Governments must allocate priorities in this area. Our fundamental requirement is to ensure the safety of children and, beyond that, we add layers of support and service to the extent which the Government is able to provide that through its taxing measures on the community.

The Community Welfare Act to which the honourable member refers will be the subject of a Bill which I understand is before the House tomorrow. That makes a number of amendments to the Community Welfare Act but of a statutory nature only, without major changes to the policies. The Community Welfare act is essentially the legal infrastructure of the department, rather than a major area of policy instrument. I think that most of the policies to which the honourable member would be looking in this area are contained in the Youth Offender Act, which was passed by this Parliament in the last session and in the Children's Protection Act, which we are dealing with tonight. The infrastructure legislation, which sets out maintenance and other matters, plus the legal infrastructure of the department, is also the subject of amendment in this package of Bills which are before the House tomorrow. Certainly, they do not constitute major policy areas; the policy on children's protection and young offenders is dealt with in these two Bills which we have previously dealt with or are looking at now.

The Hon. D.C. WOTTON: I realise what the Minister is saying about the package of legislation. Did the Minister say that he intends giving notice tomorrow?

The Hon. M.J. EVANS: It is on the Notice Paper now.

The Hon. D.C. WOTTON: It is even more puzzling to me. I understand what the Minister is saying about the reasons for the Bills and the difference between the two pieces of legislation, but it seems to me that an opportunity has not been provided for the two Bills to be considered together. I would have thought that there was a reason for the Community Welfare Act amendment to be more a part of the package as well.

The Hon. M.J. EVANS: It is a fundamental part of the package; indeed, I introduced the Community Welfare Act amendment on 9 September. It largely consists of consequential amendments, but they have been before the Parliament for over a month now and are fundamental to this whole package of Bills. I agree with the honourable member, but that is what was done. In fact, the Community Welfare Act (Consequential Provisions) Bill has been before the House since 9 September. I understand it is scheduled for debate tomorrow night and is not following this debate, simply because this debate was expected to last all evening. They are being debated as a package; they are a package, and, indeed, one would be useless without the other. The Community Welfare Act (Consequential Provisions Bill, along with the transitional provisions for the Children's Protection and Young Offenders Act which deal with the splitting up of those two areas, will also be dealt with tomorrow night. I refer here to Bill No. 32.

Mr SUCH: The objects of the Bill are laudable. In relation to prevention, because clearly this Bill deals more with acts which are undesirable and activities affecting children which are undesirable, what is the Minister doing or planning to do about trying to reduce the incidence of child abuse and other activities that impact negatively on young children? For example, in our society today many people do not grow up experiencing young children or babies around them as was the case years ago when there were larger families. There seems to be a lack of counselling facilities and parenting courses for people in the community, and I refer particularly to a lack of facilities and resources to help male parents, whatever is their relationship where children are involved. I am particularly interested to know what the Minister is doing, is likely to do and wants to do about avoiding the sort of situations that this Bill will seek to address.

The Hon. M.J. EVANS: This is a very valid area. Of course, it would be better if we could provide primary health care in the child protection area and prevent some of these cases before they occur. It is a very valid area and indeed a wide range of programs is in place through the health system, through Family and Community Services and also in collaboration with the Federal Government which provide for parenting skills and early intervention processes and which provide also for an early response to those who have questions or issues that come up in their family life. It is difficult to intervene in a family until something occurs that brings that family to your attention.

Obviously we would not be in a position to conduct audits of families, but the reality is that where people seek some assistance in this area there is a varied range of programs through the State and Federal Governments and the health sector, and the non-government sector provides anti-poverty, parenting skills and home-making skills programs, which will help to avoid some of these situations, many of which occur through the economic circumstances of the family or through other situations which are no fault of theirs. It is a perfectly valid and responsible question. The answer to it lies across a range of activities, because these things are not tackled in a single point: they have multiple causes and multiple solutions in a primary prevention sense, and we have to tackle them on that basis. There are a number of initiatives in that area, and I am sure we could discuss them subsequently at length if the honourable member wished.

Mr SUCH: Is the Minister prepared to review the preventive measures that are in operation? I do not expect

him to do it tonight, but in the not too distant future will he look at what does exist in terms of programs and mechanisms for reducing child abuse and other negative activities which impact on children?

The Hon. M.J. EVANS: Yes. In a sense, that process has already been adopted, because the States have agreed with the Commonwealth that they will participate in the development of a national child protection framework which will address some of the issues that the honourable member has raised. Many of these programs have different sources and it is not an easy task to bring them together under a coherent theme, because it is a multi-factorial problem. So, we cannot simply tackle it as a child protection issue; we have to look at economic questions and parenting skills and the like—the whole range of factors that have to be brought together. Inevitably in this prevention area we will deal with a number of disparate programs which on the face of it are quite differently funded and quite differently managed, so it might not be quite so easy to bring that together, as the honourable member seeks to do.

Certainly, there is the most recent initiative agreed to by the Commonwealth and the States together with the other programs which we have and, while we can always do more in these areas and prevention is something that we are focusing on increasingly these days, there is a range of programs in place to address that.

The Hon. JENNIFER CASHMORE: The Minister may recall that in my second reading speech I referred to the objects of the Bill and the desirability of the paramountcy of the child's welfare being incorporated as an object of the Act, stated at the outset. I know I cannot canvass amendments that are yet to be considered, and I note that my colleague the member for Heysen has an amendment to the next clause which is somewhat similar to that of the Minister. Why did the Minister not incorporate as part of the object—even by way of amendment, which he now proposes to do to clause 4—the notion of the welfare of the child being the paramount purpose of this Act? I ask the question because it seems to me to be putting the cart before the horse to identify as an object the provision of a system and the administration of an Act founded on principles.

Unless we state the principles first, the provision of the system and the administration based on a certain set of principles has the foundations resting on the house, rather than the house resting on the foundations. This is not a fine debating point, but I really would like the Minister to say why he has chosen to amend the Bill in the way he has chosen, rather than to amend this clause, which is the objects clause and which seems to me to be the fundamental clause and the one that should state at the outset what the Bill's purpose is.

The Hon. M.J. EVANS: Clauses 3 and 4 both have substantial work to do and are important clauses. I do not know that much turns on their order in the Bill. They are both substantive and important provisions which set the framework for the whole Bill. I cannot advance an overwhelming reason why one should put clause 3 before clause 4 or clause 4 before clause 3. While one can look at fine debating points, as the honourable member said, I do not know that a lot turns on it. It is a matter of how you construct these things. That is how this was constructed. Certainly, I understand her advocacy of the provisions which are the subject of amendment from the member for Heysen and me on clause 4.

It is merely a matter of drafting practice that the objects are stated in this context. One should not read too much into the way in which that is presented. The object is to provide that system of care and protection. That is what the fundamental framework of the Bill is about, and then we go on to discuss in the next clause the principles that are to be observed as the overriding criteria and the way in which one goes about implementing them.

While one can advocate one position or the other, not a lot turns on which way around that is done. I prefer this construction, which presumably is why it is here, and I do not dismiss the honourable member's preference in this matter, but I think this is basically what it comes down to: one's personal view as to how it looks better. Either way those criteria are what ultimately will be legally observed in the Bill and, as the honourable member observed, a number of matters will be debated in clause 4. It is simply a matter of construction and how one chooses to present the order of these things.

Clause passed.

Clause 4—'Principles to be observed in dealing with children.'

The Hon. M.J. EVANS: I move:

Page 1, lines 24 and 25—Leave out subclause (1) and insert subclause as follows:

(1) In any exercise of powers under this Act in relation to a child—

(a) the safety of the child is to be the paramount consideration; and

(b) the powers must always be exercised in the best interests of the child.

The amendment will ensure that, in relation to any exercise of powers under the legislation relating to a child, the safety of the child is the first and paramount consideration, and that the powers must always be exercised in the best interests of the child. Personally, I prefer the construction of 'must always be exercised in the best interests of the child', because I think the paramountcy concept in some ways is a little outdated. When drawing up the new legislation it seemed preferable to incorporate the current terminology in these matters, but I can understand the community debate about the use of the word 'paramount'. While I do not think it would fit well in the context of the earlier construction of the clause, by separating out the first criterion of safety as a paramount consideration and then talking about the way in which the powers must always be exercised in the best interests of the child, one could combine the best principles of both and ensure that what was desired was incorporated into law in the Bill. I know that 'paramount' has a number of supporters in the community and the Committee, and I am happy to incorporate the use of that word in the context of this amendment.

The Hon. D.C. WOTTON: I oppose the Minister's amendment and move:

Page 1, lines 24 and 25—Leave out 'safety' and insert 'welfare' and leave out all words after 'consideration'.

There is no doubt that the wording in the original clause before the amendment was much improved on the wording in the draft Bill, and the Minister's amendment is an improvement on that, so we are getting better all the time. I want to go one step further because I am not sure that dealing with the safety aspect is the way we want to go. People understand what welfare of the child means and the need for the welfare of the child to be paramount.

We have given much thought to this amendment and it seems to us that this is the better way to go. The need for an explicit statement of the paramountcy principle is all the more necessary at this stage because of the lack of any guarantee that the child will have an advocate during the family care

meeting. That will be dealt with later but there is no guarantee and, from what the Minister has said in winding up the second reading debate, it is most unlikely that that will be the case. I am pleased to see in subclause (3) the inclusion which incorporates directly one of the articles of the Convention on the Rights of the Child. How effective this right will be in practice if the child is denied the right to an advocate, I do not know, but that will be dealt with later.

We can only presume that this paragraph is applicable to the administration of the entire Act, including the investigation period that precedes the family care meeting. We believe that it is crucial that a child's view be sought in an environment that is not threatening to the child, and that the welfare of the child is the most important area we need to consider. As I said earlier, it is a difficult situation, because the Minister's amendment is an improvement on what was there and, if the Minister is not prepared to accept the Opposition's amendment at this stage, it may be necessary prior to the debate in another place for us to consider how we might marry those two.

There is a possibility that that could happen. There is the opportunity to bring together in an amendment what both sides of the House are trying achieve, and we could look at that situation in another place. I ask the House to support my amendment.

The Hon. M.J. EVANS: If something is to be paramount it needs to be more closely defined and more specific, because 'paramount' means above all other things, to be set above all other things; clearly, therefore, if something is to be paramount it needs to be fairly well defined as to what it is that is to be made paramount. Clearly, comparing this with the old Act that goes back some distance, in the modern context the ultimate thing to safeguard about a child is his safety. After that, other things cut in alongside it. Most members of this House would first look to the safety of the child and then begin to add in the rest of the things we all know to be so important but which become much less important if safety is not first guaranteed.

That is why I have chosen this amendment to make safety the paramount consideration. Of course, as the member for Heysen has said, these principles bind everyone who deals with this Act: every participant in the process; every participant in the family care meetings; every judicial officer in the Youth Court; and the departmental officers. All are bound by this and must act in accordance with it. It is very important that we first define precisely what we mean to be the paramount situation and, unfortunately, 'welfare' actually covers quite a broad range.

'Welfare' covers quite a lot of activities and considerations including safety but including other things as well. If one is going to define something as 'paramount' one needs to narrow that so that the community knows what is to be made paramount and therefore above all other things, and then the powers must always be exercised in the best interests of the child. Clearly, that follows from the safety criteria and ensures that, whenever a power is exercised in this Act, in every case it must be exercised in the best interests of the child, so that certainly locks in the 'best interests' criteria in every decision that is made by any person who is associated with this Act.

With due respect to the member for Heysen, the amendment that I have placed before the Committee defines precisely what it is that is to be made paramount (and safety is clearly the most important consideration) and then ensures that 'best interests', which is the broader term, must always be taken into account in every decision by every person involved. That is why I commend this version of the amendment to the House.

The Hon. JENNIFER CASHMORE: It is very pleasing that there is such goodwill between the two Parties in this debate and, as a result of that approach, we may well come to the conclusion that the member for Heysen recommends, which is a marriage of these two amendments. I do not approach this debate in any kind of Party spirit at all and am prepared to say here and now that I think that subclause 1(b) of the amendment is ideal and I support it. 'The powers must always be exercised in the best interests of the child' is a definitive statement and one that I fully support, and one that I think should be seen in the Bill.

However, I much prefer the word 'welfare' to the word 'safety' when we are referring to what is to be the paramount consideration in the interests of the child. We do not want to be too esoteric in our arguments, but if we look at the Australian Concise Oxford definition of 'safety' it is defined as 'being safe, freedom from danger or risks'. In brackets it describes 'safety in numbers' and 'cannot do it with safety'. To me the word 'safety' has a very strong physical connotation. It is quite possible for a child to be safe but very unhappy; I do not think anyone would dispute that possibility.

We tend to think of 'safety' in the physical sense, but I do not believe that 'safety' covers the emotional aspects of a child's wellbeing. At the same time we should look at the definition of 'welfare' which, for my purposes, is not ideal. It is defined as 'a satisfactory state', and then goes on to say 'health and prosperity'. We are interested in the child's health and not concerned about prosperity, although we are concerned about the satisfactory state. To me the word 'welfare' covers that wide range of factors that we are concerned about in the interests of the child.

They cover the physical, emotional, intellectual and spiritual aspects of the child's wellbeing and development. Therefore, it seems to me that subclause 1(b) of the Minister's amendment, that 'the powers must always be exercised in the best interests of the child', should remain, but that the member for Heysen's amendment, which states 'in any exercise of powers under this Act in relation to a child, the welfare of the child is to be the paramount consideration', should be altered to extract that word 'welfare' and substitute 'safety', and then I think we have a very satisfactory subclause 1(a) and (b) amending clause 4.

I realise that it is unlikely that we can reach that ideal state tonight, but I hope that the member for Heysen, my other colleagues and the Minister of Health, Family and Community Services will consider the merits of the argument I have put and possibly in another place come to a conclusion that is, in my opinion, in the best interests of the child.

Mrs KOTZ: I wish to express similar opinions to those the member for Coles has just stated very well. I have a similar degree of concern with the use of the word 'safety'. I am very pleased that the Bill includes the words 'paramount consideration' and I realise that the Minister, in considering the words 'paramount consideration', is in effect attempting to make a very strong statement where the welfare of children is concerned. I do not believe, as the member for Coles does, that the word 'safety' in this context actually makes the statement that I believe the Minister himself intends to make. I do not believe that 'welfare' is a word of the past. I believe it is a word that is far more all encompassing than the word 'safety', which in my mind also draws qualifications that look more to the physical nature rather than the encompassing

mental and emotional or psychological effects that the word 'welfare' bring to mind.

I do not necessarily want to bring a gender bias into this debate, and whether it is the fact that the member for Coles and myself are of the same gender I am not too sure but we certainly have a strong opinion on the word 'safety'. If we consider the word 'safety' in the context of this Bill, I could perhaps suggest that the interpretation could well be aligned to a situation where a family home has a very large spiral staircase which, in all occurrences, could present an area of danger for a child and therefore could be classed, in these circumstances, as not being safe for the child. Similarly, with a parental home that may have a backyard pool, this could also be interpreted as not being safe for a child, but, in effect, it need not have any effect on the child's welfare. So I am afraid that the word 'safety' in this particular section does not make a strong enough statement. We are talking about the area of neglect or abuse and, in that context, 'safety' in my mind does not fit. In effect, 'welfare' does cover that whole section and looks at both the areas that we are concerned about and that is not only the physical aspect of the care and protection of a child but also the emotional or psychological effect. For these reasons I support the member for Heysen's amendments.

I was interested to hear what the member for Coles had to say in regard to paragraph (b), in talking about the best interests of the child. If, in effect, that is the best compromise that we can come to then I would certainly support that. But I also have my own concerns about the use of the term 'best interests', because in the Minister's own words he talks about a 'broader aspect'. Again, I think that leaves that area open to legal interpretation which could, in effect, lead to a certain amount of litigation. I do not think that necessarily we need to have a provision such as this in the Bill which could cause that particular type of problem somewhere down the track.

The Hon. M.J. EVANS: I think we are perhaps getting a little bogged down over this one area, although I know it is important.

The Hon. D.C. Wotton interjecting:

The Hon. M.J. EVANS: I quite agree with the honourable member. Unfortunately, only one thing can be paramount. The moment you make everything paramount you have defeated the purpose of making something paramount because everything is then of first consideration, and that defeats the purpose of singling something out to make it paramount. To some extent that is self-defeating. Clearly, one has to limit that to some extent. I think where the honourable member and I would differ is that she is comparing 'welfare' with 'safety'. I would invite her to contrast 'welfare' with 'best interests'. I think that the welfare concept is 'old language'. I do not mean that in a pejorative sense; I am not opposed to the use of the old words in that context. But I simply prefer the construction 'best interests' because I think it is a broader definition than merely the use of the word 'welfare' which has connotations of food, clothing and shelter, whereas 'best interests' has connotations which include those but also includes education, maturity and development as a person and their broader health care and so on.

The Hon. Jennifer Cashmore: Their well-being.

The Hon. M.J. EVANS: I think 'well-being' and 'best interests' have more similarity than 'welfare'. But I quite like 'best interests', I must admit, which is why it is in the Bill.

The Hon. Jennifer Cashmore interjecting:

The Hon. M.J. EVANS: Yes. I think where the member for Newland and I would differ is that she contrasts 'welfare' with 'safety': I agree that 'welfare' certainly is a broader concept than 'safety', but it is a narrower concept in my view than 'best interests', and I think that is where it ought to be slotted into this process, in fact, in paragraph (b), not in paragraph (a). Unfortunately we defeat our own objective if we make everything paramount.

Amendment to amendment negatived; amendment carried.

The Hon. M.J. EVANS: I move:

Page 2, line 8—Leave out 'do not contravene' and insert 'are consistent with'.

The Hon. D.C. Wotton interjecting:

The Hon. M.J. EVANS: I certainly acknowledge and thank the member for Heysen for his support for this amendment.

The Hon. D.C. WOTTON: The Opposition supports the amendment. I am pleased that it has been picked up by the Minister. It was only late in the day that this concern was brought to my attention. It was seen by people who made representations to me that it was almost a cultural veto and that the original wording in the clause was not appropriate.

Amendment carried.

Mr ATKINSON: I move:

Page 2, line 7—After 'ethnic' insert ', religious'.

The reason I want to add the word 'religious' to this paragraph is that, if children are removed from a family under this Act and they are placed in foster care, I would like the department to consider the family's religion when placing the child in foster care. I accept that there are certain religions which are such a small minority that it would be hard to find foster parents from that religion—let us say they are exclusively Brethren or, say, Mormons—but with the larger Christian denominations and some other religions, such as the Buddhists, I think the department should be encouraged to make an effort to place children with foster parents of the same religion.

The Hon. M.J. EVANS: I support the amendment. I think it is on the understanding, of course, that, while one can seek to do these things and to be consistent with them, there will be circumstances where one cannot be consistent with everything. But certainly the objective is to try to move in that direction and to try to balance the child's need for safety, care and protection with the desire to preserve and enhance those characteristics—racial, ethnic cultural and religious—which go to make up the personality of the child.

The Hon. D.C. WOTTON: The Opposition supports the amendment.

Amendment carried.

Mr ATKINSON: I move:

Page 2, line 9—Before 'cultural' insert 'religious or'.

Amendment carried.

The Hon. D.C. WOTTON: I move:

Page 2, line 11—Leave out 'should' and insert 'must'.

This is a simple amendment. The representation I have received (and indeed I feel strongly the same way) is that this needs to be strengthened and 'must' is the appropriate way to provide that strength.

The Hon. JENNIFER CASHMORE: I support the amendment. The word 'should' implies a degree of obligation; the word 'must' is a requirement. It seems to me that respect for the person, which should be at the heart of all our law making, should start with children. The opinions of the child, if the child is old enough to form and express an opinion, must be sought and given serious consideration as

to the nature of the ongoing care and protection. As far as I am concerned, it does not matter whether the child is two years old—two year olds are capable of forming and expressing an opinion, however simple it might be—eight years old or 12 years old, the feelings of that child must be taken into account. That child is a person; that child has rights; those rights ought to be respected; and that child must be consulted. The law should state quite clearly that that is the case.

The Hon. M.J. EVANS: As members might realise, I am trying to find a way to assist them in this matter. It is not always as easy as it might appear. The difficulty that I have is that, while the objective the honourable member proposes is perfectly acceptable, and I certainly agree with the concept that he puts forward, the difficulty is that in some cases, because of illness of the child or unavailability for one reason or another, it may not be practical and feasible to obtain the view of the child. If we make a legal condition that it must be done and then we cannot fulfil that for some reason, the whole process could crash legally at that point.

That is my difficulty. While supporting the process that the honourable member and the member for Coles suggest, I do not want to see a legal process, which might actually be very desirable for the child, fall down because of some physical constraint that this must be done but it cannot be done and therefore the legal process is stymied. I have sought constructions such as 'where practical', and so on but, of course, that clashes with 'must', because if it is 'must' then the practicality is irrelevant. While I understand and support the concept behind what the honourable member suggests, I am afraid the legal practicality of it could well work against the interests of a child in circumstances where it is not practical for one reason or another, and that is not always easy to totally foresee.

However, if in the interim between now and debate in another place members can find a construction which allows for that degree of certainty but in fact does not block the process, I am happy to consider it. Of course 'should' is a very strong word in this context. I would put to members that, making allowance for the difficulties which may be incurred practically and legally in this matter, 'should' is about as strong as we can get without actually being counterproductive to the objectives which we all support.

The Hon. D.C. WOTTON: I say quite simply that we will take on board what the Minister has said. I still feel strongly—and I understand the reasons that the Minister has outlined to the Committee—that the word should be 'must', but we will have the opportunity, as the Minister has indicated, between now and the debate in another place to reconsider it, and that is exactly what we will do.

Amendment negatived.

The Hon. H. ALLISON: I ask this question not in a spirit of any animosity or anything like that towards the officers of the department or towards the Minister for that matter—and I acknowledge that dealing with allegations of abuse, whether they be sexual, cruelty or whatever, is extremely difficult (that is unquestionable, and I would not have the Minister's job or that of his officers in that regard)—but over the past two decades that I have been in Parliament a number of issues have been presented before me.

It is a matter of history now that the former Minister, Ron Payne, listened to appeals that I made when children had been taken from their homes in Mount Gambier, placed in the Minister's care and then were reported to me by the police as being almost vagrants; they were neglected. The person who was in charge of the children had let the Minister down and the youngsters were on the streets at 2, 3 and 4 o'clock in the morning and were in greater moral danger than if they were living with their parents. Ron Payne came to Mount Gambier and handled the matter with great expedition, closed the then shelter (which has since been reopened and is now working admirably) and restored the children to their parents. That is an example where the Minister's staff could let him down and where there were certainly errors.

Far more recently than that I was in the United Kingdom when the Cumberland Shire Council case was being considered and when Madam Butler-Schloss, the justice who handled the case, brought down her verdict in which she was absolutely scathing of an Adelaide trained doctor who diagnosed almost 120 children, no small number, as being sexually abused. She, in the company of another doctor, who was her Yorkshire mentor, and the staff of the health authority in the Cumberland Shire Council, and supported to some extent by the local government authorities, had removed those children from their families despite—and this is relevant to the last clause that we were trying to amend—strong denials by the vast majority of the children that any impropriety, either of cruelty or sexual abuse, had taken place. She removed them from their families and the result was devastating. The fathers were stigmatised permanently and in many cases families broke up.

The children were kept away from their homes for as long as two years and ultimately Justice Butler-Schloss ordered that at least 100 of those 120 children be returned immediately and that the cases against the parents were simply not proved. You would think that at least the Brits would have learnt from that but subsequently, within the past couple of years, because of allegations of witchcraft in either the Faroe, Shetland or Orkney Islands to the north of Scotland, similar cases have occurred where children were descended upon by welfare officers and removed from their homes on the strength of an allegation. Once again, families were devastated, cases were not proved and children subsequently were returned.

The problem extended to the city of Birmingham in the past two years, and there are other cases where diagnoses have been made and proved wrong. The end result has been that the authorities in the United Kingdom are now subject to massive litigation from the children and their parents, and it extends to the doctors who made the diagnosis using an antiquated First World War and Second World War reflex anal dilation technique which was used to diagnose homosexuality in the Armed Forces between the wars, a technique which was discarded even before the cases involving the Adelaide trained doctor—and I will not name the lady, but I have named her in the House before; this is not a new issue as far as I am concerned.

Mr Atkinson: Why keep us in suspense?

The Hon. H. ALLISON: Well, all right, it is Dr Marietta Higgs, and she was an Adelaide trained doctor. It is not really relevant; it is public, as it was publicised across the length and breadth of newspapers the world wide. The real issue is that litigation is in train against her and her colleague, the health authorities and the local government, and no doubt this will carry on for years to come. It is a great tragedy, and others will follow.

The reason I raise this matter is that over the past few years I have referred to the child sexual abuse report of the present Government, published in October 1986, and I have previously asked about clause 10.1 at page 117, a framework

for the provision of services. It relates directly to this clause 4(c), 'not withdrawing the child unnecessarily from the child's familiar environment or neighbourhood; and' and so on. The first two paragraphs of this clause on page 117 state:

> In developing a framework for the provision of services of sexually abused children and their families, the task force recognised that the assistance provided by generalist workers—

and I emphasise 'generalist workers'—

> in the health and welfare section would need to be complemented by a more specialised response from particular agencies and professionals.

I underline the words 'generalist', 'complemented' and 'professionals'. In paragraph (2) it states:

> Generalist health and welfare workers, police, teachers and other workers in regular contact with children, have always and will continue to be placed in positions where they come into contact with victims of child sexual abuse, their families and offenders. It is therefore important to equip and support all workers so that they may respond more appropriately and quickly.

Over the years I have asked a succession of Ministers whether this continuing emphasis will be on generalist workers as the main troops in the field, with a great emphasis, really, on their lack of skill but their good intentions, when in fact the same report and the earlier preliminary report emphasised that there was an absolute dearth the world over of people adequately trained in the proper diagnosis of sexual abuse of and cruelty to children. When you refer to the fact that it was a doctor who wrongly diagnosed the 120 youngsters in the Cumberland Shire Council—it was not a generalist worker but a doctor who, admittedly, had the wrong techniques—and when you use the South Australian recommendation that the main troops will be the generalist workers complemented by specialists, it really is a frightening picture that this may happen in South Australia. I doubt whether it would happen, but it might, with the resulting devastation of families and with the resulting possibility of the potential for litigation.

So I ask the Minister, with the best of intentions—and it is as much to protect the Minister, the Government and the workers as anything—what sort of training is in train for these people who have an absolutely critical role to play in proper diagnosis and how many of the workers in the field currently are adequately trained? Or do we look at the other side of the coin? I attended a meeting in Mount Gambier not so long ago and awarded some sort of certificate to people whom I regarded as being absolute amateurs and intruders in the field. They were simply local people who were vitally involved in child and adult sexual abuse. I gave them certificates, but the advice I gave to them on that evening was, 'Whatever you do, do not take too much upon yourself. Help out in the difficult situation, help and console the abused, but whatever you do seek advice from the trained professionals in the field', and this is within the Minister's department. I did not even refer them to the police or anyone else. I said, 'Go to the Minister's department and look for that professional advice.'

It is frightening that we have this report which refers to generalist services complemented by a handful of professionals. So I am looking for a reassurance from the Minister that there will be a greater emphasis upon the proper training of his staff and that the emphasis will not be on the generalist workers, who will be counselled to report and then take advice at the earliest opportunity rather than assume responsibilities themselves.

The Hon. M.J. EVANS: I think the member for Mount Gambier should bear in mind that that report was written quite a long time ago; seven years is a very long time in the child protection and child abuse area. So much has changed since then that I think perhaps he needs to update himself in relation to current practice. It might be desirable for him to visit the regional FACS headquarters at Mount Gambier and perhaps see in a practical sense what is occurring on a day-to-day basis in this area. Following the reorganisation of the department a couple of years ago, we have now developed specialist intake teams who diagnose the problem on an initial contact basis, do some follow up work, and are then able to refer that to senior practitioners who are available to respond in the particular areas of concern.

Also, since that report was written, the health services at the Adelaide Children's Hospital and the Flinders Medical Centre have developed significant children's protection areas of work, and their involvement is also substantial now. It is an expanding area and adds significantly to the resources which were available and the practice methods which were undertaken when that report was written some seven years ago. Quite a lot has changed since then, I believe for the better, and I am sure most members would agree. I am more than happy for the honourable member to visit some of these facilities so he can see first-hand how those changes have taken place and what benefits have occurred on a practical day-to-day basis in treatment and diagnosis.

The Hon. H. ALLISON: I did refer to this during my earlier comments, but it is always the misdiagnoses, the apparent errors made by departmental officers, that receive publicity within the popular press. Has the Minister statistics to give the public reassurance as to how many youngsters have been removed from their homes within the past year or two against the number who were later acknowledged to be wrongly diagnosed? Has the department made a mistake in an alarming proportion or an insignificant number of cases?

The Hon. M.J. EVANS: I will take that question on notice; statistics can be provided to the honourable member.

Clause as amended passed.

Clause 5—'Provisions relating to dealing with Aboriginal or Torres Strait Islander children.'

Mrs KOTZ: I refer to two areas that appear to be contradictory. Clause 5(1) provides:

> No decision or order may be made under this Act as to where or with whom an Aboriginal or Torres Strait Islander child will reside unless consultation has first been had with a recognised Aboriginal organisation, or a recognised Torres Strait Islander organisation, as the case may require.

My concern lies with clause 5(2)(b), dealing with the instance 'where there has been no such consultation', referring to Aboriginal traditions and cultural values, etc., once again looking at that area of keeping cultural values relevant within the Aboriginal or Torres Strait Islander community. My concern is with the wording 'where there has been no such consultation': does this mean that a person or a court need not then comply with clause 5(1), which appears to state very clearly that no decision or order may be made under this Act as to where a child may reside, etc., unless that consultation has taken place?

The Hon. M.J. EVANS: Clause 5(1) deals particularly with residence—where the child will reside—whereas subclause (2) covers much broader requirements, and indeed it is possible that there will be circumstances where it is not practicable to have the necessary consultation about an area in the child's development about which you are concerned. Particularly in relation to residence under subclause (1), yes, that must occur, but under subclause (2) we are talking about a much wider range of things. Clearly, the consultation would

be desirable and appropriate, but there may be circumstances where it is not practicable or possible, so that is the distinction that is to be made between those two provisions.

Clause passed.

Clause 6—'Interpretation.'

The Hon. D.C. WOTTON: I move:

Page 3, line 25—Leave out 'significant'.

This is an important amendment. The definition or the interpretation of 'abuse or neglect' has caused considerable concern and continues to cause considerable concern in the community. The definition of 'abuse or neglect' is vague and effectively creates a tautology. 'Abuse' is defined as meaning abuse, and we believe that the definition of a child in need of care set out in the Victorian and New Zealand legislation is much clearer and creates a much more workable guideline for social workers, family members, lawyers, judges, and so on.

I presume that the Minister will have received the same representation as I have received in an attempt to have either the Victorian or the New Zealand definition introduced into this legislation. The Opposition has determined that it is not appropriate that that should happen at this stage, because I believe that with something as important as this, as I said during my second reading contribution, it should be the responsibility of the Government of the day to determine these matters.

If we look at what is provided there, we find that 'abuse or neglect' in relation to a child means physical or emotional abuse of the child or neglect of the child to the extent that the child has suffered or is likely to suffer significant physical or psychological injury. The Opposition believes that it is most inappropriate that the word 'significant' appears there. Surely, if we are talking about abuse or neglect, the child will have suffered abuse or neglect if they have suffered physical or psychological injury. Surely it is not appropriate to provide 'significant'. How do you define significant? How will the department define what is significant? Who will define what is significant? There are requests that the Opposition amend this clause totally, as I have suggested, using either the Victorian or the New Zealand example. We have determined at this stage that it is not appropriate that we should do that, but surely the Minister should recognise that the word 'significant' is totally inappropriate and, unless he can say how he will define what 'significant' is, who will define it or why it should be there, I believe it is totally appropriate that that word be removed.

My next amendment will provide that after 'injury' we should add 'detrimental to the child's well-being'. So, it would provide that 'abuse or neglect' in relation to a child means physical or emotional abuse or neglect of the child to the extent that the child has suffered or is likely to suffer physical or psychological injury detrimental to the child's well-being. We believe that is very clear, and I would hope that the Minister and the Committee would support this amendment.

The Hon. M.J. EVANS: I move:

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

Motion carried.

The Hon. M.J. EVANS: The member for Heysen correctly said that this is indeed a difficult area. I suspect that finding an appropriate definition has taxed the minds of Parliaments around the world and in every jurisdiction there is a different definition, and from time to time every jurisdiction amends its definition. There is no perfect definition, as I am sure he would agree. Throughout the New Zealand legislation, the definition is littered with the word 'serious', for example. That is a substitute for 'significant'.

A court determination has been made that 'significant' means 'of consequence'. While that could almost be a circular definition, it still provides a better understanding of the terminology. Clearly, we are interested in matters that are of consequence, which is the definition of 'significant'. One could just as easily have picked up the New Zealand use of 'serious' or have returned to our own definition which requires some consequence to flow from the actual abuse. I understand the honourable member's interest in the matter and certainly this word is much like any other. One has to impart the requirement that something should flow from the abuse, that there should be some consequence, that there should be something that we can act upon, and we should also keep in mind that this jurisdiction is based on mandatory notification.

Therefore, the two need to be seen together in a context of the way in which the provisions in the definition clause will work with the mandatory notification clause later in the Bill. Having said that, I realise that one can argue the point endlessly, but I believe all of the jurisdictions make some qualification that requires that there be a consequence, that it be a matter that is serious, that there be a significant outcome, or words to that effect, and that is what we have picked up here.

Mrs KOTZ: I am distressed to hear the Minister's comments, because I do not believe that including a qualifying word such as 'significant' in this provision has been thought out. We are talking of the abuse and neglect of children, which is a specific area. Physical or psychological injury, as it relates to abuse or neglect, in itself determines the nature of the injury that has taken place, and to insert a qualifying word such as 'significant', which then determines that there is a further consequence of some higher sort, completely defeats the purpose of what we are dealing with in the Bill as to the care and protection of children.

To provide the qualification of 'significant' is almost diminishing in the eyes of any jury or court the aspect of physical or psychological injury resulting from abuse or neglect. Any physical or emotional injury resulting from either abuse or neglect is going to be significant in itself. By including such a qualification we are giving a court or defence lawyers the opportunity to deny that a grave incident has taken place involving abuse and neglect which has shown up in those two areas of injury, both psychological and emotional. For those reasons I argue strongly that this qualification diminishes the very area we are trying to protect in this Bill, that is, the care and protection of the child.

I believe that once the Bill is passed the next interpretation that will take place will be in a court or by bureaucrats in a department. More importantly, the definitions and interpretations will be made in a court and, if that qualification is left in the Bill, we will be asking the court to look for far greater injury than that caused by the neglect or abuse of a child.

The Hon. M.J. EVANS: Certainly, the honourable member holds her views strongly and I can understand why that would be the case. No member of this Parliament would want to see a situation where something we regard as abuse actually falls outside the definition but, notwithstanding that it is very easy for us to sit here and reach agreement to which I am sure we would all readily come, it then becomes a

difficult question to define in law precisely where that point is.

All the jurisdictions use some sort of qualification, whether it be 'serious', 'significant' or 'development is in jeopardy'. There is always some sort of qualification word or phrase that makes it clear that there must be a consequence which flows from it. Otherwise, the definitions just become circular. The honourable member must also take into account the mandatory notification climate in which we operate. Between the two, all of these cases can be appropriately dealt with. I do not think it is appropriate to remove the word 'significant', which is defined by the courts to mean 'of consequence'; otherwise any contact or almost brushing against will constitute an injury. That is clearly at the absurd level.

There has to be some point at which this cuts in. Although that is a hard thing to do, in the context of family life and circumstances one has to reach a point at which the State intervenes and this is the definition which we are trying to come to here. No definition will be perfect. Every definition in every jurisdiction is different and they will change from time to time. The reality is that we simply have to find a form of words which will not include every event which occurs to a child every day. Even chastising a child might constitute a psychological injury if we remove the words 'of consequence'.

For a moment, they might feel confused or rejected, and then they immediately come back into the environment of the family. But I am sure everyone in the family context knows of situations where a child is told off or where some minor situation occurs which, if all the qualifications are removed, then constitutes abuse which has to be the subject of intervention by the State. We have to give some credence to the family environment and not intervene to a point that is beyond reasonable requirements. While all of us want to ensure that, as we have said now and earlier in the Bill, the safety of the child is of paramount consideration.

Mrs KOTZ: I am somewhat disappointed in the Minister's response to my concerns. We have been conducting our consideration of the Bill harmoniously until this point but for the Minister to say that this clause could involve minor situations or minor injuries, where brushing against could then be regarded as abuse and neglect, is absolute nonsense.

We are looking at an interpretation provision in the Bill. The clause talks about abuse or neglect, and this has been defined. It is not an area where minor injury can take place, where some brushing against a child could constitute some form of injury that becomes a criminal offence. We are talking about the area of abuse and neglect. We are considering an area where injury is of much greater consequence than it is in other circumstances. This situation has been defined in the interpretation provision, paragraph (b) referring to:

> . . . physical or emotional abuse of the child, or neglect of the child, to the extent that. . .

That is what abuse and neglect mean. It identifies that it is physical and emotional abuse of the child or neglect of the child. Even to consider that we are talking about any other form of injury than that which constitutes abuse or neglect is absolute nonsense. Therefore, that is why I contend at this stage that we are talking about an injury that is of an import greater than any normal injury that may occur by a child falling over completely unaided, not knocked over by an adult but some minor injury; we are not talking about that type of injury at all but about injury that comes through abuse and neglect. So, under those circumstances I have great objection to the qualification that a court or a department that is seeking to protect a child has first to look beyond what would be the normal outcomes of physical or emotional abuse or injury that has occurred under the area of abuse and neglect.

If I need to convince the Minister any more than that, I ask him again to consider that, regardless of what our intent is in this place with regard to this Bill, once it leaves here and has to be interpreted in the general community, in the courts or by the department, the words that we have here will be those that will be fought over for interpretation. If we leave in the word 'significant', which gives a qualification to a degree of injury that is unacceptable under the area of abuse and neglect, we are asking the courts to look for an even greater degree of injury than that which we have already explained.

There will not be a judge, a magistrate or a lawyer who will take time out to read the second reading speeches or the Committee hearings of this Parliament to find out the intent of the Act. I can say it no more clearly than that. If this word 'significant' is left in, I believe we have fallen down in the very area that this Bill is all about, that is, the protection of children, because we are asking for a far greater degree of injury to be seen before anything will be done.

The Hon. JENNIFER CASHMORE: The member for Newland has expressed the opinions of the Opposition (as has the member for Heysen) with considerable conviction, if not passion, and there is not a great deal that can be added. However, I too feel strongly about this matter and therefore want to add my support to the member for Heysen's amendment to remove the word 'significant'. It is undeniable that the Minister is correct when he says there must be a qualification placed on the nature of the injury, otherwise a minor injury could be justified as constituting damage to the child.

However, the member for Heysen's subsequent amendment serves as qualification, because it refers to the injury being detrimental to the child's wellbeing. But what we need to bear in mind when debating this matter of the removal of 'significant' is that we are talking about physical or emotional abuse. The key word is 'abuse'. The abuse is occurring: how bad do we want it to be? Does a parent have to belt a child until he or she bleeds before we call it significant? How bad does it have to be before a child is regarded as having been abused?

By the insertion of the word 'significant' I believe that the Minister has indicated a degree of abuse that to me has horrendous implications. I should have said that the words 'the physical or emotional abuse of the child to the extent that the child has suffered or is likely to suffer physical or psychological injury detrimental to the child's wellbeing' are a very fair assessment of protection for those who have children in their care, but what we are trying to achieve is the paramount protection of the child. Everyone I know who has read this Bill has tripped up on that word 'significant': everyone I know who is qualified in the field of child-care and protection.

I know that doctors, paediatricians and child-care workers are all concerned about it. I have never claimed to call myself a legislator in the sense that I would regard the Minister as a legislator, with a very quick grasp of the significance of words in the Bill, but I believe that I have a fair understanding of the English language, and when I come across a word in a Bill that seems to me grossly in contravention of the purpose of the Bill then I am bound to say that that word should not be there.

I believe that the word 'significant' should not be there, and I urge the Minister to reconsider his stand on this matter and to accept this amendment and the one that is consequential upon it, which puts in the qualification that is reasonable but which removes all semblance of cruelty, because quite frankly I think this is a recipe for cruelty; that you have to inflict 'significant' abuse on a child before the law will take any action. I just cannot countenance that and I do not think the House should.

The Hon. M.J. EVANS: To some extent I think that where members opposite (who have made some very strong speeches on this matter, which I understand and accept) and I would part company is that we are defining here what 'abuse' means. Members opposite who have discussed this matter have added their existing mental definition of 'abuse' on top of the definition that appears here. They have combined the two. What Parliament is doing in this clause is defining what 'abuse' means. It does not mean what we normally say it means plus this; it simply means this. This is what it is: no more and no less.

We all use 'abuse' in a very strong sense of the language. We say that someone has abused something or we are abusing them, and that has a certain connotation. But in this situation the Act says that abuse or neglect means something. That is all it means: no more and no less. All our existing personal mental definitions of abuse must be set aside. Parliament, for the purposes of this Act (and it often does such things) is defining what 'abuse' means. It does not mean anything else than what you see here, so it is not a case of abuse and then a bit more abuse to make it significant. This is what abuse means full stop, from beginning to end. Parliament is defining the meaning of 'abuse' here.

I know that we all have a personal definition of 'abuse' which, if you add it on, then starts to make it look as if you really have to have them on the ground and bleeding before it constitutes abuse. But that is not the case. It simply says that the injury must have a consequence, so we must set aside that sort of prejudice we have about the use of the word 'abuse', because we have to have some word in this, and Parliament (as it often does) is simply saying 'We know what the English language definition of "abuse" is but this is a handy word; we want to use it and we want to use it in this way, and we say for our purposes in this Act it means this. It does not mean what we normally mean plus that, it just means this.'

So, I understand where members are coming from in this regard, but we have to set aside our prejudice about that word and look strictly at the definition. There is no more to it than what you see before you. You may choose to use words as in New Zealand, which is normally an area that members would agree has a very generous approach in this regard and is one that would certainly not be insensitive to children in that context. They constantly use the word 'serious', for example, right through their definition. But they are saying explicitly what the words 'abuse' and 'neglect' mean and they use the qualification 'serious'.

Our courts have defined 'significant' to mean 'of consequence'. That is the whole point of this: that is all it means in this context, and you have to set aside the prejudice we all carry that goes along with this word, the intellectual baggage that goes along with the word, and compare what is done in New Zealand with the use of the word 'serious'. We are using the word 'significant'. We could have picked up 'serious', but it is just a matter of how you do it. Our courts have already defined 'significant' in this context. Even with the member for Heysen's definition 'detrimental to the child's wellbeing', we would then have to define 'detrimental'. 'Detrimental' means more than just a casual contact. 'Detrimental' means something of consequence, therefore something significant. At the end of the day, how ever you construct your definition you have to include that qualifier in there. Honourable members opposite have chosen 'detrimental'; New Zealand has chosen 'serious'; I have chosen 'significant'. But at the end of the day that qualification is in there.

Mrs KOTZ: I have been most interested to hear the Minister's answer to the last series of objections that the Opposition has had to this particular section. Again, I can only say that the Minister's opinion may indeed be relevant to himself, but, unfortunately, having attempted to listen and apply the relevance that he was attempting to put to this Committee, I can still only reject that relevance. Under the section we are defining 'physical and psychological abuse of the child'. When he attempts to bring the definition down to the physical and psychological, which then requires the qualification of 'significant', what we are actually defining in this section is the word 'injury'. I ask the Minister to consider each of the areas within the section, and again I say we are talking about abuse and neglect.

The Opposition contends that 'abuse and neglect' means the sexual abuse of a child. We do not have to explain that. We know exactly what we mean by the sexual abuse of a child. It also means the physical or emotional abuse of the child or neglect of the child to the extent that the injury was caused in those areas, and that means injuries in a physical or emotional sense. It still comes down to the interpretations that will be made. My opinion is obviously quite different from the Minister's, but I do not believe he has picked up the relevant section of what is being defined, and in this section we know we are talking about psychological abuse. We know that we are talking about physical abuse but the Minister has not recognised that we are talking about the degree of injury.

It is the defining of injury that we are talking about in this instance and the word 'significant' only has relevance in the area of increasing the aspect of injury that a court requires to look at before a child is considered to have been affected by those areas of abuse or neglect injury. The Minister can stand here and he can talk to me about how many other jurisdictions apply the word 'serious' or apply any other form of qualification, but I say to the Minister that I do not believe that throughout the world at this particular point in time there are any given legislative experts in this specific area. Very few people have been able to control the area of child abuse or determine Acts of Parliament that become the laws which actually outline any epitome of expertise in this area.

I would far prefer to look at what we have here in our own State in our own time and with our own feelings and with our own judgments about what is going to happen here and now. I do not believe it adds to the debate to talk about other jurisdictions and what they do because I do not believe that we have seen any evidence elsewhere that demonstrates a child protection Act that is superior to what we may be able to achieve at this time. I think it is significant to point out again to the Minister—and I use the word particularly as a pun on our presentation at this time—that it is indeed the word 'injury' that we are defining when we qualify with the word 'significant'.

The Hon. M.J. EVANS: I think I should point out that, under the honourable member for Newlands' requirements,

all parental discipline which takes the form of any kind of slap would be abuse.

Mrs Kotz: Nonsense. We are defining this word.

The Hon. M.J. EVANS: I am sorry, but if you follow this through—and I assume this is not a consequence the honourable member or the Opposition generally would wish here—the consequence of this would be that any parental discipline which involved any kind of corporal punishment would result in intervention by the State.

Mrs Kotz interjecting:

The CHAIRMAN: Order! There will be no mention of Parliamentary Counsel. This Bill is in the hands of the Committee and the Committee can do what it likes with it. It can change any of the words. It can amend anything that is in front of it. It is in the hands of the Committee.

The Hon. M.J. EVANS: If the member for Newland follows the consequences of this through carefully, she will have to come to that conclusion and I am afraid—

Members interjecting:

The Hon. M.J. EVANS: I am sorry, but she will, because it is perfectly correct. In that context that is my advice. You may choose to accept or reject that advice. The hard reality of these words is that, if you follow that through or if you do what is suggested by the member for Newland, that is where we will be, and I do not think that that is a consequence that you would chose to promote. But I am afraid it is a consequence of removing that word and I think that you need to consider that very carefully.

The Hon. JENNIFER CASHMORE: The member for Newland made an excellent point when she pointed out that sexual abuse of the child is not defined. We all know what it means or we presume we do, and we presume the courts do and yet, to that extent, the member for Newland has completely demolished the Minister's argument that it is necessary to define abuse and that that is the purpose of this clause. I do not deny that it is necessary to define physical and emotional abuse because the degree of abuse will determine a whole range of consequences inherent in this Bill, whether, for example, the child will be taken into care and a range of other matters. Therefore, we are talking about matters of degree; we are agreeing on that. The word 'significant' according to the Minister indicates a consequence which can be measured and must be measured by the courts because, as he rightly points out, many parents at some stage will chastise their children, but not many parents worthy of the name who are interested in their children's welfare will chastise their children to the extent that they inflict physical or psychological injury. When that injury, in the eyes of the law has to be significant, which will be subjective—

The Hon. M.J. Evans interjecting:

The Hon. JENNIFER CASHMORE: I have looked up 'injury'; I have had the dictionary here several times. I can only say that in moving this amendment all the matters that the Minister has raised were very carefully considered by my colleagues. I can assure you that there was quite a debate within the Liberal Party and the majority of our colleagues acknowledge the fact that the word 'significant' applied a degree of abuse which is beyond that which we consider acceptable before the law is brought into effect. We therefore chose to qualify the definition by inserting the word 'detrimental to the child's well-being' which, to my mind, is a far more appropriate definition of physical and emotional abuse than the one the Minister has selected. I should say that if ordinary citizens, whose reaction is generally to be trusted and valued in my opinion when they look at the law, even though not all of them can interpret it accurately, saw this definition they would think that it is pretty rough stuff and I do too.

Mr BRINDAL: I was open-minded on the Minister's comments and was almost persuaded by the force of his arguments in saying that what he was attempting to do was to defined the word 'abuse' in terms of this legislation. But I have not heard the Minister answer the proposition that both the member for Newland and the member for Coles have just put that, if it is necessary within the Bill to define 'abuse' or 'neglect' in physical terms, why it is not necessary, by the very argument that the Minister puts up, to define for the purposes of this Bill what constitutes sexual abuse. I heard the Minister's arguments about 'significant' in terms of physical injury and all the rest of it, but I put to the Minister that there is a whole permeation to anybody's sexuality as well and, if you are not going to define 'sexual abuse', you run into the very problems the Minister is claiming to overcome in this.

The Hon. M.J. EVANS: I understand that point and I suspect that to some extent we will not take all this very much further. It has been a fairly full and frank debate, but there is very little area for dispute or doubt in the context of sexual abuse.

An honourable member interjecting:

The Hon. M.J. EVANS: Nothing is absolutely true I am sure, but in the physical and emotional area these things are much harder to define, because on a day-to-day basis there are events which could be construed in that context unless there are qualifications to them. In my view that is not the case with sexual abuse: that is in quite a different category. I put to the Opposition that, by even the use of the word 'detrimental' later on, you are qualifying that situation. You are inserting a requirement for a measurement. You are inserting a need to define something. For something to be detrimental, it must be of consequence. If it is of consequence, it is significant and we are back where we started.

Just as I said earlier that I prefer certain words because I prefer certain words, I do not take it from the member for Heysen that he may not also have a preference for those constructions; that is perfectly valid. But I put to him that, the moment he qualifies this phrase with the use of 'detrimental', that in itself leads us straight back to 'significant' because to be detrimental there must be a consequence and if there is a consequence it is significant, according to the courts. So we are right back where we started. While you might be able to dress it up in a way which looks a little less significant, the reality is that you are right back where you started.

The Hon. D.C. WOTTON: Recognising the lack of time in that we are now at clause 6 and we have some 56 clauses to deal with in the next 1½ hours, it is not possible for us to proceed with the debate in regard to this amendment, but I would like to take the opportunity of commending the member for Coles and the member for Newland for the arguments they have put forward in support of this amendment. We do believe that it is a very important amendment, and in saying that I reflect the amount and the strength of the representation that I have received on this matter. I ask all members of the Committee to support the amendment.

The Committee divided on the amendment:

AYES (19

Allison, H.	Armitage, M. H.
Arnold, P. B.	Baker, D. S.
Baker, S. J.	Becker, H.
Blacker, P. D.	Brindal, M. K.

AYES (cont.)

Brown, D. C.	Cashmore, J. L.
Evans, S. G.	Gunn, G. M.
Kotz, D. C.	Meier, E. J.

AYES (cont.

Olsen, J. W.	Oswald, J. K. G.
Such, R. B.	Venning, I. H.
Wotton, D. C. (teller)	

NOES (21)

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

PAIRS

Ingerson, G. A.	Gregory, R. J.
Lewis, I. P.	Lenehan, S. M.

Majority of 2 for the Noes.

Amendment thus negatived.

The Hon. M.J. EVANS: I move:

Page 3, line 30—After 'police station' insert 'or any other member of the police force designated as an authorised police officer by the Commissioner of Police for the purposes of this Act'.

This amendment will ensure that the Commissioner has the opportunity to designate particular officers who are appropriately trained and qualified in this area. That will assist in the discharge of the functions under the Act.

The Hon. D.C. WOTTON: The Opposition supports the amendment.

Amendment carried.

The Hon. D.C. WOTTON: I move:

Page 3, line 31—Leave out 'an employee in the department' and insert 'a member of the staff of the State Courts Administration Council'.

This is a very important amendment. The Opposition believes that care and protection coordinators should not be employees of the Department for Family and Community Services. Family care meetings aim to secure a child's care and protection. An independent care and protection coordinator can better assist this process, we believe, by providing a better balance or power relationship between the family and the State. Consequently, by reducing the 'them against us' scenario, with which we are all very familiar, family empowerment is enhanced and better outcomes for the child are more likely, and that is what we should be about. Potential barriers between the family and the Department for Family and Community Services in any ongoing support or supervision relationship should also be reduced.

We also believe that an independent coordinator will ensure a high degree of accountability for all parties concerned and for the review process. It will also provide an additional and independent assessment before any case proceeds to court for a care and protection order. We have said on a number of occasions in this debate this evening that we believe we need independent care and protection coordinators. We have also stressed the necessity to have care and protection coordinators appropriately trained to ensure a very high degree of diversity, skill and knowledge in areas ranging from communication and negotiation to child development and child protection.

The Opposition is not moving this amendment to have a slight at the officers of the Department for Family and Community Services. Personally, I can say that I have been most impressed with the officers who carry out their responsibilities in that department. That is not what this is all about. I am also concerned that there is no criteria set out for the selection of care and protection coordinators. Given the enormous power they will have, they should be selected on the basis of their suitability, training and experience. Again, if we look at the New Zealand legislation, we see that it specifically refers to the hiring of care and protection coordinators and sets out the criteria under which they are to be selected. Representations that I have received would suggest that such criteria should be determined in this legislation as well. That has not occurred at this time and may be considered at a later stage in another place. The Opposition feels very strongly about this amendment and I seek the support of the Committee in ensuring that the most important position of coordinator is independent.

The Hon. M.J. EVANS: I agree that this is a most important amendment, but I have to say that I do not accept it. It would destroy the very basis of the family care meetings, which are one of the centrepiece initiatives of this kind of legislation. The reality is that family care meetings are part of the normal practice of the department as it presently discharges its duties. It would be quite irresponsible to proceed in an investigation of these kinds of matters or in the resolution of these kinds of situations without involving the family. Therefore, it is a normal part of the process.

Because of the importance of that, and because of the emphasis on the family in this legislation, it was felt desirable and appropriate that that structure for family care meetings should be incorporated within the statute itself. That is a good way to ensure the involvement of the family and the extended family and those who are involved, 'significant others' as they might be called, in the life of the child.

We should not overlook the fact that this is part of the existing practice of the department and an appropriate role for a departmental officer to undertake. It is vital that these proceedings do not become quasi-judicial proceedings, and that they do not become adversarial proceedings. If they were to become so, I would want them removed from the provisions, because that would be totally defeating the intention, which is to empower the family and to ensure the normal social work practices which the department quite properly undertakes must, by requirement of the statute, involve the family in this process. They should not exclude the family by empowering the coordinator and the advocates who will subsequently be proposed in relation to this matter progressively to take over these proceedings and turn them into quasi-judicial and adversarial proceedings. That would defeat the very purpose of this important initiative in the Bill.

The department would then, in its normal practice, have to institute some sort of pre-family care meeting at which it would renew its previous practice of being part of the process. That, after all, is the very reason for the existence of the Department for Family and Community Services, the very reason for the existence of its officers—to go out and work with families in resolving their problems. If we need a quasi-judicial structure to impose orders and conditions and to set out judicially binding instructions, we have recourse to the Youth Court in care and protection proceedings later in the Bill. This is an important pre-step; we are simply incorporating into statute what is otherwise and should be a desirable and normal practice of the department.

If one is to contemplate a public official who comes with an aura clothed in power and authority, it would be an official of the courts. While the community certainly regards public servants in general and officers of the Department for Family and Community Services as having a certain Government authority, a certain statutory role to play, certainly that is true of the courts in an absolute sense. The public are used to obeying instructions of the courts. All orders of the court have judicial consequence. That has never been true of the decisions of Family and Community Services officers. They do not have judicial authority; they do not come clothed in that kind of power.

If one is looking for a way to overwhelm the public, to overwhelm the average member of a family in this context, one would invest this power in an officer of the court, who would arrive with all the authority of the court and all the previous intellectual history that the courts carry with them. Quite properly, the courts have an important, authority role to discharge—a power role to discharge in our society. That is not what family care meetings are about. Unfortunately, it is necessary for the judicial proceedings later on in the Youth Court, but certainly it is not necessary and indeed counter-productive at this stage where we are talking about a family care meeting. It is for all those reasons that I reject this amendment as a test case, I am sure, for other provisions which will flow from it, because I think it attacks the very heart of the proposals before us.

The Hon. JENNIFER CASHMORE: I am sure that the Opposition is sympathetic in all respects, I suggest, to the role and function that the Minister foresees and to the importance the Minister places on the role and function of the care and protection coordinator. However, there is another perspective that ought to be considered in addition to the one that the Minister has put. It is true that there is no thought on anyone's part in this Committee of inspiring an adversarial atmosphere or even of creating a framework in which such a thing could possibly occur. So the Opposition wants to make quite clear that that is not part of its approach. However, if one looks through the Bill at the functions and responsibilities of the care and protection coordinator, one sees that, in terms of safeguarding the rights of children and of families, there is almost a degree of judicial impartiality and detachment required of the person who fulfils this role.

The Minister said that officers of the courts carry with them an aura of power and authority. That is true, and to some extent that goes with the court dress, which we would not foresee in these circumstances. However, officers of the courts also inspire confidence in the impartiality of the judgments they will bring to bear on issues that are before them. It seems to us that the role of the care and protection coordinator is such that a high degree of impartiality, of objectivity, of detachment as well as of compassion and competence will be required of these people. It seems to us that not only do the families and children involved in these family care meetings need to have that confidence, but so does society itself—so does the wider community—and we believe that that confidence is more likely to be found if the care and protection coordinator is someone employed by the Youth Court and answerable to the court.

We on this side certainly have confidence in those officers of the court and one cannot compare the nature of their approach to their roles with those of the senior courts—the Supreme Court or the local and district courts. It is a quite different approach but, nevertheless, an approach rooted in a judicial detachment, impartiality and objectivity. That is what we see as being the primary requirement for the care and protection coordinators, and that is why I support the amendment.

The Committee divided on the amendment:

AYES (19)

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

NOES (21)

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

PAIRS

Ingerson, G. A.	Gregory, R. J.
Lewis, I. P.	Lenehan, S. M.

Majority of 2 for the Noes.

Amendment thus negatived.

The Hon. D.C. WOTTON: I move:

Page 5—

Line 12—After 'absence' insert '; or'.

After line 12—Insert new paragraph as follows:

(e) the child is under 15 years of age and is of no fixed address.

This amendment will provide legislative recognition to one of the most difficult care and protection issues in contemporary society. This is certainly the advice that I have received. It will obviate the need for the exercise of statutory interpretation where the care and protection of homeless children and young people are involved. It is an amendment that has been very strongly supported by the Youth Affairs Council of South Australia, and I would suggest that, if anybody has anything to do with homeless children and children at risk, it is that organisation. Recognising the lack of time available to deal with the remainder of the Bill, I simply ask for the Committee's support for this amendment.

The Hon. M.J. EVANS: While I understand the nature of the representations which the honourable member has received on this matter, I would draw attention to the fact that at risk is at risk, wherever the child might be—whether they are at home, not at home or living in a homeless situation they are at risk. If they are at risk they qualify, regardless of their domestic location. In addition to that, one of the qualifications which make a child at risk (and this is in the preceding paragraph) is that the guardians of the child are unable to maintain the child or to exercise adequate supervision and control over the child, which would certainly be the case if the child were homeless. Therefore, I think that the extra definition is unnecessary. While I oppose it not only on the grounds of its redundancy in that sense, I would also be concerned about it because it introduces another specific

element which constitutes a definition of abuse and neglect and in need of care.

In that context what we are seeking to do is provide empowering definitions across the board and we are not seeking to isolate every individual case and circumstance where a child might be at risk. Once you go down that path you run the risk of omitting things that will cause concern later and be counterproductive for children. It is much better to have that general definition, which I am quite confident covers that sort of situation, without heading down the path of seeking to enumerate every individual and particular circumstance where we might believe a child is at risk and thereby miss something or wrongly define something.

The Hon. D.C. WOTTON: As I said earlier, considerable concern exists about the definition of 'at risk' or the use of the words 'at risk'. As to what was indicated previously, it has been strongly put to us that we should consider either the Victorian or New Zealand definition in this regard. Two clear options were put to the Opposition to consider. One was to redefine 'at risk' as 'in need of care and protection', which has been referred to earlier. To emphasise the preventive dimension of the definition a provision should be added as spelt out in the definition. As I said, the advice and representation we have received has been widespread but has come particularly from the Youth Affairs Council. I am only repeating myself in saying that that organisation is well aware of the concerns of the young people about whom we are talking, that is, young people under the age of 15 of no fixed address. It is important that that group should be recognised under the legislation.

Amendments negatived.

The Hon. D.C. WOTTON: Subclause (2)(d) deems a child to be at risk if the child has been persistently absent from school without satisfactory explanation. The only permanent role the court can play, as I understand it, is to make an order under clause 37. The Education Department is not a party to the proceedings and it is not apparent why truancy is now equated with abuse. It has been submitted that this does not seem appropriate and I seek clarification of this matter from the Minister.

The Hon. M.J. EVANS: This flows from the recommendations of the Juvenile Justice Select Committee which believed it was desirable that truancy should be considered as one of the matters capable of being dealt with by a family care meeting so that the whole of the extended family could be involved in trying to resolve why a child was persistently absent from school. I agree to some extent that the abuse and neglect issue does not seem to tie in but, in order to bring it within the system, this is the way the committee felt we could deal with it. Truancy often has a deeper social or family problem behind it, which the family care meeting might be able to deal with effectively and an Education Department officer could be invited by the coordinator as a person who contributes to the proceedings.

Mrs KOTZ: Subclause (2) provides:

> For the purposes of this Act, a child is at risk if—
> . . .
> (c) the guardians of the child—
> (i) are unable to maintain the child, or are unable to exercise adequate supervision and control over the child;

What is meant by the words 'to maintain' and 'to exercise adequate supervision'? Again, I suggest that this area could easily invite legal debate because of the interpretation that could be broadened considerably when it comes to trying to specify what is actually meant by the guardians of the child maintaining the child or exercising adequate supervision or control.

Paragraph (c)(ii) talks about the guardians of the child 'unwilling to maintain the child or unwilling to exercise adequate supervision or control over the child'. In this context, what does 'unwilling' mean? Other than 'unwilling' meaning the non-provision of support, maintenance and providing responsible jurisdiction, does 'unwilling to maintain the child' mean refusing to provide accommodation, food, clothing and education? If that is what is meant, is it not a rather unwieldy way of saying that these are parents who are neglecting their child, and does not subclause (2)(a) already cover this principle by stating:

> . . . a child is at risk if—

If 'unwilling' means the parents are financially able but refuse responsibility, which then constitutes neglect, it would make an interesting question whether these parents should be deemed as non-custodial parents and an order should be issued against them to pay moneys to the State in order to subsidise support for the child who would almost certainly become a ward of the State.

The Hon. M.J. EVANS: These provisions have been in the legislation for some time now and their definition is well settled. 'Unable to maintain' means unable to provide the normal standard that one would expect in that context of food, shelter, clothing, school and all those things children need. 'Unwilling' is an inability, refusal or lack of determination to provide those things and that is something used from time to time. 'Neglect' has a stronger meaning involving a deliberate decision to neglect when one could provide. Some distinction can be drawn there. I do not disagree with the honourable member that one could find points at which these would perhaps overlap, but I do not see what would turn on that.

It is important to have that kind of definition in the Bill because parents sometimes can come forward and say, 'We are unable to maintain this child' because of this or some other family circumstance. It would not actually constitute deliberate neglect: they would if they could.

Mrs KOTZ: I am still confused about 'unwilling'. It is just not a matter of being unable to provide in some circumstances or other for the well-being and care of a child: it is a refusal to maintain the child. If a person is unwilling, they are refusing.

The Hon. M.J. Evans: Yes.

Mrs KOTZ: Why are we not saying 'refusing' to maintain the child? There is a difficulty with 'unwilling to maintain'. As I said, if a person is unwilling, obviously we have a parent who is neglecting their child. They are refusing to provide, not because they cannot provide but they could be financially able but are refusing to maintain the child. That is a different connotation from the suggestion that someone is unwilling when in fact they are to all intents and purposes possibly able to look after the child but in this context have refused to do so.

The Hon. M.J. EVANS: I do not disagree that 'unwilling' constitutes 'refuse'; that is true. One simply uses the word because it is a common word that has been used and tried in the courts before. I suppose it is in the context of 'things are the way they are because they were the way they were', and 'unwilling' is used in this context for that reason. One could substitute 'refusal' to provide: it would mean the same thing in that context, I agree with the honourable member.

Mrs Kotz: It's just unwieldy.

The Hon. M.J. EVANS: It has a long history in the previous Act and a long history before the courts, and the phrase has simply been picked up as one that has been there and done that. I agree that one could have picked it up and changed it to 'refusal', but I do not know that it would actually add anything to the clause. The distinction with 'neglect', though, is quite real, because the definition of 'neglect', if we go back a page—and we have spent some time on that section previously—talks about injury and development being in jeopardy.

It is actually a slightly different connotation from unwilling or refusing to maintain the child. It is not actually in the context of an injury; it is probably in the context of some family situation that does not make that possible. I think it does differ from deliberate neglect, where you are looking at an actual injury to the child.

Clause as amended passed.

Clause 7—'General functions of the Minister.'

The Hon. M.J. EVANS: I move:

Page 6 lines 4 and 5—Leave out 'has the following general functions in relation to the care and protection of the children of the community:' and insert 'must seek to further the objects of this Act and, to that end, should endeavour—'.

This amendment that is circulated to the Committee has the effect (and certainly it is the intention that it should have the effect) of strengthening the functions of the Minister. It was put to me that it was desirable that that should be made a little stronger and the best way of doing that is to say 'must seek to further the objects of this Act and, to that end, should endeavour', and then flow into the other items. Fundamentally, Ministers will take whatever degree of enthusiastic participation in these processes they believe is appropriate in the case, but by the wording in the Act one can convey a greater sense of importance to the matters, and I believe it would be appropriate to strengthen that general provision of the functions of the Minister in that way.

Clearly, the Minister's functions have to be read in the context of the objects and the principles of the Bill, and one should not see this clause in isolation. One must look back to clauses 3 and 4 and read those as well, in order to look at the impact of the whole of the Minister's functions.

Amendment carried.

The Hon. D.C. WOTTON: I move:

Page 6—
Line 9—Leave out 'services and'.
After line 10—Insert new paragraph as follows:
(ba) to provide, or assist in the provision of, services for dealing with the problem of child abuse and neglect and for the care and protection of children;.

It has been put to me that this clause should be amended so that the Minister will provide strategies for dealing with the problem of child abuse and neglect, and it was determined that the most appropriate way was to split the clause and to deal with it in this way. In other words, what it seeks to do is firm up this provision.

The Hon. M.J. EVANS: I am happy to accept those amendments.

Amendments carried; clause as amended passed.

Clauses 8 and 9 passed.

Clause 10—'Notification of abuse or neglect.'

The Hon. D.C. WOTTON: I move:

Page 9, after line 21—Insert new paragraph as follows:
(da) a member of the clergy;.

When we are looking at the persons who must notify the department of a suspicion as soon as practicable after he or she forms the suspicion, we are talking about members of the Police Force, a probation officer, a social worker and an approved family day care provider, and I believe that it is appropriate that a member of the clergy should also be included. It has been put to me that there is some concern as to whether a member of the clergy, particularly a member of the Catholic faith, may have some form of protection as a result of material provided during confession.

I understand that there is no protection under South Australian legislation in those cases and that if a member of the clergy of any faith was provided with this information it would be his or her right to pass on that information. I believe that if we are talking about social workers, probation officers, teachers or approved family day care providers we should include a member of the clergy.

The Hon. M.J. EVANS: I think that first, as a matter of principle, one should keep a list of mandated notifiers as limited as possible. One must balance the prudence of having enough people on the list that you get appropriate coverage but not having so many professions in the list that it begins to outweigh the practicalities of the matter. I must admit that, not having received any representations in this area to include the clergy, not having had the chance to discuss it with them (and the member for Heysen has not indicated any particular consultation with religious orders or organisations) I would be reluctant to accept it at this point.

Certainly, in the future this area can be canvassed and, if the amendment is not successful within the Parliament, one will certainly undertake to canvass this area with the clergy in the future to see just how that would work. The honourable member has identified some difficulties in that area, given the nature of the religious calling, and I think they need to be further pursued before one imposes that on the profession. In these other cases, of course, it has been a matter of longstanding practice and has been discussed with the professional organisations, and it would be desirable in the case of the churches to do that as well. In the absence of prior consultation I would be reluctant to accept the amendment at this stage.

Amendment negatived; clause passed.

Clause 11 passed.

Clause 12—'Confidentiality of notification of abuse or neglect.'

The Hon. D.C. WOTTON: I have received representations regarding this matter. A consequence of this clause is to prevent the guardians from knowing about or providing evidence to explain the original basis for an allegation. Whilst confidentiality may be justified in the early stages of investigation it has been put to me that it should not be justified during the court process. It is a basic human right to know and to have the ability to confront and challenge the source of an allegation. This is, of course, a very sensitive area and a very controversial one which needs to be addressed. The proposal before us reverses the burden of proof but, until the evidence is known, how can anyone be expected to guess whether or not it may be critical or, for that matter, relevant to the best interests of the child? That is what this Bill is all about.

This provision negates the capacity of parents to defend themselves against unfounded malicious allegations. The welfare of children and the proper functioning of the community as a whole require the particulars of the original notification to be disclosed in proper court proceedings in all cases, with the possible exception of those cases where to do so is to endanger the welfare of the child concerned. On the other hand, to prevent the court from inquiring into the circumstances surrounding the allegation of abuse is to deny

the court essential information. A court sitting to determine the welfare of the child should be aware of the circumstances of the original allegation, in order to place the subsequent investigation in context, so that any vindictive reporting, any incorrect or overzealous assumptions or incorrect diagnosis, can be ascertained, examined and corrected. Children who are not at risk need to be protected from those who would abuse the system.

I would suggest that the withholding of such relevant facts from a court may work against the best interests of the child. It has been put to me by those in the legal professional that there are sufficient protections for those officers acting in good faith in the legislation and that this clause is not appropriate. The Committee would be aware that the Opposition has not moved to bring an amendment to the Committee at this stage but rather to question the Minister, because I would like to know whether the Minister has received similar representations and, if he has, why he has not acted in this regard. I give notice that, depending on the reply that is received from the Minister, the Opposition may take this matter further in another place.

The Hon. M.J. EVANS: I have received similar, and no doubt identical, representations to those that the honourable member has received. I think it is important to note that, in a sense, the original notifier is not the accuser before the court in the traditional sense. By the time it gets to court the matter must have gone through extensive investigation and reporting by other professionals involved. The original notifier may draw it to the attention of the department, but the issue would then be referred for investigation and report by further professional officers who would then, if there was evidence of abuse, take the matter further, and they would be the people who actually file the complaint before the court. They would, of course, be known to the court. They would be examinable by the court. Their opinions would be tested in court and any professional conclusions they had reached could be the subject of cross-examination and other expert witnesses. To some extent by that point the original notifier is almost irrelevant. The number of notifications in that context would decline significantly if they were to be the subject of public release and I think that the Parliament is here balancing the need to ensure that people are able to make those notifications against any other public policy considerations which may apply. Given that in fact a whole new process begins once that notification is made, I do not think it is necessary for the protection of the people involved.

The Hon. D.C. WOTTON: Does the Minister not believe that sufficient protection is provided in the legislation in other parts of the Bill that is before the Committee? That has certainly been put to me by legal officers, and I believe that that is the case. I believe that sufficient protection is already there in the Bill.

The Hon. M.J. EVANS: Of course, as I read the legislation, the court can grant leave to bring forward the name of the notifier under certain extreme circumstances. In effect, the court is the master of its own destiny in that context and I think that is an important point to note in this regard. The court can make that judgment; it is an independent judicial authority. It is not only a question of protecting the notifier in a strict legal sense, but also the mere bringing forward in the public way of the name of someone who must necessarily have contact with the person in order to have made the observations in the first place could inhibit people coming forward with information. What is relevant here is that it is not their original notification which is being tested in the court; it is the subsequent expert investigation which is tested in the court and that is fully open and available. The original notification, to some extent, becomes irrelevant by the time it is before the court because that is not the item which is subject to judicial proceedings.

Clause passed.

Clauses 13 and 14 passed.

Clause 15—'Interpretation.'

The Hon. M.J. EVANS: I move:

Page 11, line 28—Leave out 'its' and insert 'his or her'.

This is a technical amendment. I think it is self-explanatory.

Amendment carried.

The Hon. D.C. WOTTON: I refer to the power to remove children from dangerous situations and, again, I wish only to raise a question at this stage. A personal concern I have—and not one that all of my colleagues share—is whether in fact the police powers are too broad under these circumstances. As I say, it is only a personal attitude. One of the major problems I find with this section is the open-ended nature of the term 'serious danger'. I would have thought that at some point this would require judicial interpretation, and there is a strong belief that operational police should refer to a commissioned officer to determine the reasonableness and legal compliance of such action. Again, it is not the intention of the Opposition to raise this in the way of an amendment, but rather to raise this matter generally and I understand that this matter may be raised again in another place by one of my colleagues.

The Hon. M.J. EVANS: Unfortunately, there will be situations where it is necessary that someone—and it is desirable that it be the police in this instance—has the power to remove a child who is in great danger. I think the expression 'serious danger' will no doubt one day be judicially determined, as all words in Acts can be. But it does have a very strong connotation about it. Serious danger is a fairly serious thing, and obviously police officers are responsible and trained members of the community who are trusted with this type of work. In addition, the Commissioner of Police has assured us that he will incorporate in the general orders of the police a requirement that police officers refer back to a commissioned officer, where that is practical without endangering the child, to ensure that the decision is taken at the most appropriate level, and that would be incorporated within the internal operational orders of the police. I think it will include sufficient safeguards to ensure that, while the power is a necessary emergency one, it is only used in circumstances that are particularly serious. I think that any police officer who abused this power would soon find himself under disciplinary proceedings within the proceedings of the police.

Clause as amended passed.

Clauses 16 and 17 passed.

Clause 18—'Investigations.'

The Hon. M.J. EVANS: I move:

Page 12, after line 31—Insert new paragraph as follows:

(ba) seize any item that the officer believes on reasonable grounds may afford evidence relevant to the investigation.

This amendment provides a necessary additional power to ensure that the officers have all the legislative authority to take any item which may consequently be necessary as evidence. I believe it simply flows from the requirements which are already there and ensures that adequate authority exists to gather evidence for subsequent proceedings.

The Hon. D.C. WOTTON: I support the amendment.

Amendment carried.

The Hon. M.J. EVANS: I move:

Page 13, line 2—Leave out 'justice' and insert 'magistrate'.

The member for Heysen has a similar amendment on file. I think that the Opposition and the Government agree that it is appropriate, in response to the representations I am sure we have both received, to lift the level of judicial officer who is required to make this determination from justice to magistrate. There are a number of consequential provisions which will flow subsequently from this and we might take this as a test case.

The Hon. D.C. WOTTON: The Opposition supports this amendment and consequential amendments.

Amendment carried.

The Hon. M.J. EVANS: I move:

Page 13, line 6—Leave out 'an employee' and insert 'such other members of the police force or employees'.

This amendment adds officers of the Police Force as well as employees of the department into this category, which is an appropriate technical amendment where it would have been possible, under some circumstances, to assume that only one police officer was able to attend. This will ensure that such other members of the Police Force or employees are able to attend. It is really a drafting correction which ensures that adequate police are able to attend on the scene out of an abundance of caution.

Amendment carried.

The Hon. M.J. EVANS: I move:

Page 13, line 7—After 'this section' insert 'as may be necessary or desirable in the circumstances'.

This is much the same kind of technical addition to the drafting.

Amendment carried.

The Hon. M.J. EVANS: I move:

Page 13—
- Line 18—Leave out 'justice' and insert 'magistrate'.
- Line 25—Leave out 'justice' (twice occurring) and insert, in each case, 'magistrate'.
- Line 28—Leave out 'justice' and insert 'magistrate'.
- Line 30—Leave out 'justice' and insert 'magistrate'.
- Line 31—Leave out 'justice' and insert 'magistrate'.
- Line 32—Leave out 'justice's' and insert 'magistrate's'.

Page 14—
- Line 1—Leave out 'justice' and insert 'magistrate'.
- Line 4—Leave out 'justice' and insert 'magistrate'.
- Line 5—Leave out 'justice' and insert 'magistrate'.
- Line 7—Leave out 'justice' and insert 'magistrate'.
- Line 8—Leave out 'justice' and insert 'magistrate'.

Amendments carried; clause as amended passed.

Clauses 19 to 27 passed.

Clause 28—'Convening a family care meeting.'

The Hon. D.C. WOTTON: I move:

Page 18, line 18—Leave out 'Chief Executive Officer' and insert 'Senior Judge of the court'.

Amendment negatived.

The Hon. D.C. WOTTON: I move:

Page 18, after line 19—Insert new subsection as follows:

(1a) The coordinator must arrange for a suitable person to act as advocate for the child at the meeting, unless satisfied that the child has made an independent decision to waive his or her right to be so represented.

We have spent a considerable amount of time on this matter during the stages of the Bill. The Opposition believes strongly that the child should be granted an advocate. The Minister argued earlier that he did not want this to become a legal bun fight. The Opposition has left it open as to who the advocate might be. We did consider involving the Children's Interest Bureau but, as I said earlier, I am aware of the move that the Minister has made in regard to draft legislation. While I personally do not support that draft legislation, I recognise that the Minister has taken that matter into account. He has also referred to the fact that he would not want it to be bogged down with bureaucracy. I can understand that too. I would not want that to happen either.

I would suggest that it is appropriate for the child to be able to determine who should be an advocate, and that is a matter that we wish to address further in another place. We do not believe that a child's right to express his or her views and to be heard in all matters affecting the child can be protected if the presence of an advocate is optional. Clause 29(e), which allows the child to state that they wish to be supported by an adult, cannot be an effective protection for children who are too young to appreciate that they have this ability or who because of the abuse they have suffered are not capable of making a reasonable decision. I am sure that that would be the case on a number of occasions.

If a child has been abused by a parent or parents, how will that child stand up for his or her own rights? How will he or she explain how he or she feels? How will he or she explain the danger that that child might be in unless that child has an independent advocate? This is a matter on which we could spend a considerable amount of time. Regrettably, I believe it is probably futile because of the comments that the Minister has made already. I can assure the Committee that this is a matter that will be taken very seriously and debated further in another place.

The Hon. JENNIFER CASHMORE: I support the amendment. In many ways it is a pivotal clause for the Opposition, because it expresses our profound belief that an independent advocate is needed to ensure that the child's welfare is paramount. It is the same debate that we had on clauses 3 and 4 when we were expressing our views about the objects and purpose of this Bill. This amendment gives practical effect to the fine rhetoric expressed in those early clauses about the paramountcy of the child's welfare. It is no use saying those things unless there are mechanisms in place to ensure that they occur.

I can only agree with the member for Heysen that an independent advocate is essential if the child's interests are to be protected. I was extremely impressed at the meeting to which I referred earlier, held at the Children's Hospital, at the number of professional people in medicine, early childhood education and development, and social welfare who expressed strong opinions on these matters. Some of those people I have known and respected since I was Minister of Health more than a decade ago. They have worked in this field, they have reputations in this field and they are absolutely convinced that this is a necessary addition to this Bill; I agree with them.

As the member for Heysen said, the independent advocate need not be a legal practitioner. In fact, I would prefer it not to be, and I would suggest that the most appropriate person is someone who has a thorough understanding of child development and child psychology. This is an extremely specialised field, one that is critically important if we are to get inside the child's heart and mind to protect the child. It is just not possible at the family care meetings for the people who are nominated in clause 29 to do the whole job unless there is an independent advocate who can speak for children who cannot speak for themselves. We feel very strongly about this, and we know that we are expressing the opinions of professionals who are respected throughout the State, who have fine reputations, who have records of commitment, who

have no axe to grind, and who have absolutely nothing by way of a goal other than the protection of children.

These men and women have been working in the field for years. I believe their opinions are to be respected. Irrespective of their opinions, it is my instinctive feeling—and I do not claim to be a specialist in this area—that children need someone who can represent their interests, and that someone is not always a parent, nor is it always the guardian or another family member. The provision is not mandatory in so far as the child can opt to do without an advocate but, particularly in the case of infants, I think the advocate is absolutely essential, and I urge the Minister to support the amendment.

The Hon. M.J. EVANS: We have gone through a number of these matters, as members opposite have recognised, so I will not repeat all those arguments. It is certainly the case that the Bill does not prevent advocates. Some of the debate that has occurred in the past outside this place has been conducted almost on the assumption that the Bill is opposed to advocacy. Well, of course, it is not. As members recognise, the coordinator plays an important role in determining who attends that meeting and what advocacy for the child is appropriate. Clause 30 (e) provides:

> a person nominated, if the coordinator thinks it is in the interests of the child to do so, by the coordinator to act as advocate for the child;

So, there is a specific provision to ensure that, where it is desirable in the interests of the child, an advocate should attend on behalf of the child. As members have said, that advocate could be selected from a wide range of potential people.

However, it is also very important that we avoid the adversarial proceedings we referred to earlier and that, where it is possible for the family to pick up that advocacy role for the child, a member of the extended family perhaps or some other member of the immediate family, that is a desirable thing to do if that is possible in the circumstances and in the best interests of the child. I also remind members that no judicial consequences flow from these family care meetings. They are not judicial or quasi-judicial proceedings. Therefore, this is a situation that is different from what members may contemplate otherwise.

Also, I invite members to look back at the original principles of the Bill which we have amended to even further strengthen them and which require everyone who is involved in this process and who is exercising any kind of power in relation to it to ensure that they always act in the best interests of the child, and that is a prescription that applies right across the system—to everyone, from the coordinator, to an advocate who may attend, and to all the people present at this meeting and acting in this context. We should not assume that the advocate is the only person acting in the interests of the child. That would be a quite wrong assumption to make.

Indeed, the whole purpose of this is to make sure that the family itself acts in the best interests of the child. That is the very basis of this proposal. Everyone present should be acting in that context. On occasions it will not be possible or practical for that to occur; therefore the coordinator can select another person to act as an advocate for the child. That probably summarises the extensive arguments that we could have on this issue from my perspective. For that reason, I oppose the amendment but certainly I do not oppose advocacy. That is an entirely different thing. Provided it is done in the right context and by the right people, it is highly desirable. My opposition to this amendment is simply to the compulsory aspect of the proceedings, which assumes that these proceedings are more than they really are.

Mrs KOTZ: I support the amendment, which provides that the coordinator must arrange for a suitable person to act as advocate. The Minister has pointed out that clause 30(e) allows this to happen, but that is only if the coordinator thinks that it is in the interests of the child to do so. The similarity between what has been set up through these family care meetings and the family group conferencing that has been set up under the juvenile justice system through the new Act is in effect one of the aspects we are looking at in altering the two areas of what was one joint Bill, which has now become two Bills—the Children's Protection Bill and the juvenile justice legislation.

In the area of family group conferencing, we look at bringing a juvenile offender into a family group to face family and victim, but one of the reasons why we do that is to make the offender feel some guilt and humiliation for their act. The concept of family care meetings is quite obviously set up to make the victim, in this case the child in need of care and protection, feel not guilt and humiliation but protected. Unless the child is represented at a family care meeting by an advocate in a manner that gives protection from what in some instances could well be intimidation and feelings of humiliation and guilt, I doubt very much whether that meeting will be anything different from the family group conferencing procedure under the juvenile justice system.

The systems are similar, but intents are quite different, and it is on those grounds that I support the member for Heysen in his call for an advocate to represent the child. It is not a matter of whether a member who is a departmental employee decides that for whatever reasons an advocate may or may not be necessary. In fact, the child should be given full protection by having someone who can speak on their behalf during the course of these meetings.

The Hon. M.J. EVANS: They do have people who can speak for them, and that is the whole purpose of having the family and the extended family there. Where that does not produce someone who speaks for the child, the coordinator would ensure that an advocate was present. While I agree that there is a superficial similarity between the family care meetings provided in this Bill and the family group conferences of the juvenile justice proposals, that is where the similarity ends, because in the juvenile justice system those family group conferences have a *quasi*-judicial role; they actually hand out penalties and constitute almost a judicial proceeding—a totally different context from this, where absolutely no order, consequence, penalty or punishment flows.

These are discussion groups about resolving a family problem, and that is a totally different thing from *quasi*-judicial proceedings, when offences are involved and where people are almost charged and penalties and punishments flow from them. I must admit that that is a completely different context, but it should not be thought that these meetings will occur without someone to speak for the child; after all, that is the whole purpose of empowering the family and, where that does not occur adequately, of course the coordinator would refer back to the need for an advocate.

The Committee divided on the amendment:

AYES (19)

Allison, H.	Armitage, M. H.
Arnold, P. B.	Baker, D. S.
Baker, S. J.	Becker, H.
Blacker, P. D.	Brindal, M. K.

AYES (cont.)

Cashmore, J. L.	Evans, S. G.
Gunn, G. M.	Kotz, D. C.
Lewis, I. P.	Meier, E. J.
Olsen, J. W.	Oswald, J. K. G.
Such, R. B.	Venning, I. H.
Wotton, D. C. (teller)	

NOES (21)

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

PAIRS

Brown, D. C.	Lenehan, S. M.
Ingerson, G. A.	Quirke, J. A.

Majority of 2 for the Noes.

Amendment thus negatived; clause passed.

Clause 29—'Invited participants.'

The Hon. JENNIFER CASHMORE: The Minister has said that there is nothing to stop an advocate being present and that the care and protection coordinator will be the judge of whether or not that advocate should be present. If I were the parent of a child who was the subject of one of these care and protection meetings, irrespective of the level of blame that may be attributed to me, I would want some right to have a friend, an adviser or a counsellor with me, and I would not want anybody else to say whether I can or cannot. This clause provides that the care and protection coordinator issues the written invitations, and that the people who are present, other than the child and guardians of the child, are there on the basis of the opinion of the coordinator as to whether or not they should be there. Other members of the child's family, other people who have had close association with the child and any other adult person (who obviously will be the advocate) are there on the basis of the opinion of the coordinator. If I am a parent and want my sister, brother, best friend or priest there, why should I be denied that right? It seems to me quite unreasonable.

As I said earlier when I was calling for an employee of the court to fulfil the role of coordinator, this person has enormous power over the rights of individuals, and it seems to me that the rights of individuals are being denied when neither parents nor children can express an opinion about whom they want to be there and when the only person who has the right to make a judgment is the coordinator. That it seems to me to be very wrong, and I urge the Minister to reconsider the enormous power that is given to the coordinator. In giving that power we are depriving the involved people of exercising any choice in a matter that could see them separated from their own children. That seems to me to be wrong.

The Hon. M.J. EVANS: Briefly, I do not agree that they have enormous power, because they do not have any power to determine a matter.

The Hon. Jennifer Cashmore interjecting:

The Hon. M.J. EVANS: They have great responsibilities but they do not have power in the judicial sense. They have no power to remove a child from a family. That power rests in others and it does not occur through this kind of process in a judicial way. I am prepared to examine the provision in the light of the representations made to us so that a person might possibly be admitted unless they are excluded, rather than the other way around. That might be an option. I will examine the matter before the Bill gets to another place, but I do not accept the notion that these people have great powers, because powers are exercised by courts, Directors-General or sometimes even by Ministers.

The Hon. JENNIFER CASHMORE: In clause 27, dealing with the 'purpose of family care meetings', the purpose is to make informed decisions as to the arrangements for best securing the care and protection of the child. If that is not power, I do not know what is. I consider that to be power as well as responsibility. I raise this because I want the Minister to reconsider the position.

The Hon. M.J. EVANS: The family makes that decision.

Clause passed.

Clauses 30 to 48 passed.

Clause 49—'Powers of Minister in relation to children under the Minister's care and protection.'

The Hon. M.J. EVANS: I move:

Page 27, line 24—After 'may,' insert 'for the purposes of enforcing any order of the Youth Court,'.

The Hon. D.C. WOTTON: The amendment is supported.

Amendment carried; clause as amended passed.

Clause 50—'Review of circumstances of child under long term guardianship of Minister.'

The Hon. D.C. WOTTON: I move:

Page 27, after line 34—Insert new subclause as follows:

(4) The Minister must cause a copy of the panel's report on the review to be given to—
(a) the child; and
(b) unless the Minister is of the opinion that to do so would be likely to endanger the child—each of the child's guardians and any other person who was a party to the proceedings in which the order for guardianship was made.

The amendment is self-explanatory and I seek the Committee's support for it.

The Hon. M.J. EVANS: I understand the purpose and I am not opposed to the philosophy behind the amendment. I would like to examine the wording in paragraph (b), which I think is a little restrictive. There might be circumstances under which it does not endanger the child and it is not desirable. I undertake to review the amendment before the Bill reaches another place. At this stage I do not support the amendment, but I am sympathetic to the requirements of it and, at this stage, I will have another look at it.

Amendment negatived; clause passed.

Clauses 50 to 52 passed.

New clause 52a—'Children's Protection Advisory Panel.'

The Hon. D.C. WOTTON: I move:

Page 30, after line 2—Insert new clause as follows:

52a(1) The Minister must establish a panel to be called the 'Children's Protection Advisory Panel'.
(2) The panel is to consist of not less than three or more than five persons who have expertise in the field of child welfare.
(3) The Minister cannot appoint more than one Public Service employee to the panel.
(4) The functions of the panel are—
(a) to monitor and keep under constant review the operation and administration of this Act;
(b) to report to the Minister, on the panel's own initiative or at the request of the Minister, on any matter relating to the operation or administration of this Act; and
(c) to make such recommendations to the Minister as the panel thinks fit for the amendment of this Act or for the making of administrative changes.

The amendment sets out the number of people who should be on the panel, and the functions of the panel are to monitor and keep under constant review the operation and administration of the Act, etc. In the second reading debate I made a commitment that a Liberal Government on coming to office would ensure that this legislation was reviewed. We believe it is appropriate that such a review mechanism be established by way of an advisory panel and, because of the lack of time, I now seek the support of the Committee for the amendment.

The Hon. M.J. EVANS: The Child Protection and Advisory Council already exists and at this time we do not need another panel. I will look at the amendment, but at this stage I would prefer the existing arrangement. To keep incorporating these matters in legislation adds to structures, bureaucracy, committees and councils on which Oppositions often comment.

New clause negatived.

The Hon. D.C. WOTTON: I have a general question of the Minister.

The CHAIRMAN: Order! It has to relate to a clause and I do not have a clause before the Chair.

Clauses 53 to 56 passed.

New clause 56a—'Hindering a person in execution of duty.'

The Hon. M.J. EVANS: I move:

Page 30, after clause 56—Insert new clause as follows:

56a. A person who hinders or obstructs the Chief Executive Officer, an authorised police officer or any other person in the execution, performance or discharge of a power, function or duty under this Act is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

The amendment simply adds to the provisions of the Bill. It is not a policy matter but simply a normal offence provision to ensure people do not hinder officers in the work they perform.

New clause inserted.

Clause 57 passed.

Clause 58—'Regulations.'

The Hon. D.C. WOTTON: I regret that the Opposition will not have a chance to participate in the third reading because time has run out and the guillotine will be applied. Will the State Council on Child Protection continue?

The Hon. M.J. EVANS: Yes, it is continuing, but there is no guillotine.

Clause passed.

Title.

Mrs KOTZ: I have already spoken to the Minister about altering the title to the 'Children and Young Persons Protection Act'. The Minister knows my reasons and I ask him to consider them before the Bill leaves the Chamber.

Debate adjourned.

ADJOURNMENT

At 12 midnight the House adjourned until Wednesday 13 October at 2 p.m.