Legislative Council

Tuesday, 15 September 1981

The PRESIDENT (the Hon. Clive Griffiths) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS

Questions were taken at this stage.

DOMICILE BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [5.08 p.m.]: I move—

That the Bill be now read a second time.

Over a period of some years, the Standing Committee of Attorneys General has been considering prospective legislation which could be enacted by the States and Commonwealth on a uniform basis relating to various aspects of the law of domicile. The general objective was to secure as great a degree of uniformity as possible in Australia and New Zealand.

Domicile in the legal sense refers to the country in which a person has or is deemed to have his or her permanent abode, as distinct from mere residence which may be temporary. It is important to know where a person is domiciled because it is the law of the country in which a person is domiciled that regulates that person's civil status. For example, the capacity to marry, the validity of a divorce decree, the manner in which his personal property devolves on that person's death, and the validity of his will are determined by the law of the country where such person is domiciled.

At common law the domicile of a person can be determined—

(1) by origin or birth;
(2) by operation of law; or
(3) by choice.

Domicile may be determined, in the first case, by reference to the country in which a person is born. An example of the second case is illustrated by the common law rule that, on marriage, a woman assumes the domicile of her husband and her domicile subsequently changes in conformity with that of her husband. To acquire a domicile by choice, as in the third case, a person must have a definite intention to abandon his or her old domicile, coupled with an intention to establish a permanent residence in a new country or place of domicile.

The Bill now before the House will abolish the common law rule that a married woman has at all times the domicile of her husband and will enable a wife to have an independent domicile. It is clear from what has been said that a domicile in a particular country can be abandoned and a new domicile acquired in another country as a matter of choice. In other words, a person may, if he or she wishes to do so, change from one domicile to another by changing his or her permanent place of abode in appropriate circumstances.

There is a rule of common law that if a person abandons his or her domicile without taking on a new one, that person's original domicile—domicile of origin—is revived. This Bill will abolish that rule so that a domicile of choice cannot be abandoned except by the acquisition of a new domicile of choice. In such circumstances, the domicile of origin will not revive. In other words, it will not be possible, as a matter of law, to abandon a domicile of choice until a new domicile is acquired.

The Bill does not affect the common law rule determining the domicile of a child who is living with his parents; that is, if the child is legitimate, he has the domicile of the father and, if illegitimate, the domicile of the mother. Clause 8 of the Bill contains provisions for determining the domicile of a child who has his principal home with one of his parents in cases where those parents are living apart.

The child will have the domicile of the parent with whom he has his principal home. This applies also to a child who has only one parent. This Bill provides also that the child's domicile will thereafter follow that parent's domicile. For example, where a separated mother acquires a domicile of choice in another country, and her child has his principal home with her, the domicile of the child follows that of the mother.

Clause 8 deals also with the question of the domicile of an adopted child and provides that where a child is adopted by two parents he has the domicile he would have had if he were a child born in wedlock to those parents. If a child is adopted by one parent only, the child assumes the domicile of that parent. Thereafter, the child's domicile will follow that of the adopting parent.

A great deal of consideration was given by the Standing Committee of Attorneys General to the question of the age at which a person should become capable of acquiring an independent domicile. Eighteen years is the age at which a person generally acquires legal capacities under the Western Australian Age of Majority Act 1972, and in other States. Under the

Commonwealth Family Law Act, the age of eighteen is specified as the age at which an unmarried person is capable of acquiring a domicile of choice for the purposes of that Act.

For these reasons, the age of 18 has been adopted as appropriate within Australia. The Bill now before the House provides in clause 7 that an independent domicile cannot be acquired before 18 years of age.

As this Bill deals in part with the domicile of a child who has been adopted, there will of necessity be a relatively minor amendment to the Adoption of Children Act.

This Bill is in a form substantially similar to those introduced in other States. There were one or two optional matters which the standing committee agreed need not be uniform. The Bills may differ in minor respects in relation to those matters.

One optional matter was whether there should be a clause in the Bill providing that where a person had a domicile in a union, but had not obtained a domicile in any one of the countries forming part of that union, the person's domicile should be deemed to be in that country in the union with which the person had the closest connection. This Bill does not contain such a provision. A provision of this nature was criticised in a university law review commentary on the model Domicile Bill.

It is a cardinal principle of private international law that a person cannot have two domiciles, because the whole idea of domicile is to establish a definite system by which certain of the rights and obligations of the person in question are governed. If a person is domiciled in one of the Australian States, then such of the laws of that State and the Federal laws applicable in that State as apply to a person domiciled there apply to that person. Thus, it is considered that a clause concerning domicile in a union would be redundant and confusing.

All States except Queensland and Western Australia have now passed substantially similar legislation. The Commonwealth has still to pass its legislation. It is desirable that this State comply with the resolution of the standing committee, and I therefore commend the Bill to the House.

Debate adjourned, on motion by the Hon. H. W. Olney.

ADOPTION OF CHILDREN AMENDMENT BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [5.15 p.m.]: I move—

That the Bill be now read a second time.

As indicated, this Bill is complementary to the Domicile Bill.

At present the Adoption of Children Act gives a judge the power to make consequential or ancillary orders where an order discharging an adoption order is made. Such consequential orders may include an order relating to the domicile of the child, including the domicile of origin of the child.

Clause 6 of the Domicile Bill abolishes the rule of revival of the domicile of origin and consequently there will be no cause for any such orders to be made by a judge in the future.

This Bill therefore proposes to amend the Adoption of Children Act by deleting the reference to the making of an order in relation to a child's domicile of origin.

The judge still will be able to make provision concerning the child's domicile in the order discharging an adoption, but there will be no reference to "domicile of origin" for the reason above indicated.

The domicile of the child will be determined by any such provision in the discharge order or, if there is no such provision, as if the adoption had not taken place as provided for in clause 8(6) of the Domicile Bill.

The Bill will come into operation on the same date as the principal legislation.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. H. W. Olney.

MENTAL HEALTH BILL

Second Reading

Debate resumed from 9 September.

THE HON. R. J. L. WILLIAMS (Metropolitan) [5.17 p.m.]: I should like to thank the Minister for giving me the opportunity to adjourn the debate last week and speak on the Bill today in view of what was said by the Hon. Robert Hetherington. He made a rather well thought out speech which wriggled around several points and I have had the opportunity to analyse it closely.

Perhaps you, Sir, would bear witness to the fact—as would the Attorney General—that since 1971 no-one in this House has been as concerned

as I about legislation by regulation or, if members want to call it by another name, subordinate legislation.

From time to time I have spoken about this matter in the House. Therefore, it was necessary for me to examine the position to see whether the appointment of a Select Committee to look into mental health, as suggested by the Hon. Robert Hetherington, was a good idea.

If the Hon. Robert Hetherington pursues that matter and a motion is passed in this House, I do not want to have any part of it, because it would mean the rest of my parliamentary career would be spent sitting on a Select Committee, which would become a standing committee, which would constantly observe and adjudicate on mental health practices as they exist.

I cannot speak with the authority of the Hon. Graham MacKinnon and the Hon. Norman Baxter, both of whom have had a deep experience of and an insight into Mental Health Services as such. Previously they were both Ministers responsible for the Health portfolio and they performed a tremendous amount of work in that regard. However, even they underestimated the progress which has been made in the field of mental health.

The Clerk of the House who, earlier in his career, was associated with the Mental Health Services, would be hard pressed to obtain a position in that field today, because I doubt whether he would know where to begin, such has been the expansion in this field of health.

Any member here would be wise to reject the concept of a Select Committee to look into something which is changing continually. I hope to be able to illustrate that at a later stage of the debate.

All members, except the Hon. Robert Hetherington, welcomed the division of the mentally ill from the mentally handicapped.

The Hon. R. Hetherington: Even I welcomed that.

The Hon. R. J. L. WILLIAMS: We should pay tribute to a person who, in the mid 1960s, pressed for such a division and was responsible for the introduction of Pyrton as a place where mentally handicapped people were segregated from the mentally ill. I do not know whether members realise it, but at that time it was possible to be committed to Claremont Hospital at the age of two or three, and that was not 50 years ago. In those days people were committed to Claremont Hospital for a lifetime, because they had some sort of condition unknown to medical science, which could even have been tunnel vision.

If members care to visit some of the after-care homes today, they will find people—I know one such lady who is 72 years of age—who, since the age of two, have never left an institutional environment.

Such conditions have disappeared today because of the variety of services provided, and here I am in agreement with the Hon. Robert Hetherington. The person who pushed for the segregation of the mentally handicapped from the mentally ill at Pyrton was the Hon. Ruby Hutchison. She was deeply involved with this problem and was aware of the anomalies which occurred in the system.

As I have said, I am against legislation by regulation or subordinate legislation; but I cannot see how it can be avoided in a situation where mental illness is subjected to so many new and different approaches in an endeavour to assist people to recover. Incidentally, it might interest the Hon. Howard Olney to know that in 1967 in Holland—I can speak about that time only, but I believe the position is the same today—the head of the mentally handicapped division was a lawyer and not a doctor or psychiatrist. Therefore, it would appear the people involved in this field in Holland have accepted the fact that mentally handicapped people have limited opportunities and capabilities, but they are not mentally ill.

The Hon. Robert Hetherington referred to the "Department of Mental Health Services". Of course, the title of the Bill is the "Mental Health Bill" and does not refer to Mental Health Services as such. However, the Hon. Robert Hetherington referred to the fact that the services provided by the Mental Health Services are strictly limited. In an endeavour to ascertain the exact limitations of the services, I examined the annual report of the Mental Health Services, which comprises 176 pages. The first two pages contain a statement by the director, and the balance of the report comprises supplementary reports relating to the services provided.

On consideration of that document it appears there are two main hospitals, Swanbourne and Graylands. I should like to interpolate here and point out that, to date, the establishment for psychiatrists at Graylands Hospital is four short and there is only one psychiatrist at Swanbourne Hospital. I do not know whether the Hon. Robert Hetherington is aware of that.

It appears from this report that Graylands, Heathcote, and Lemnos Hospitals look after the mentally ill; there are outpatient clinics at Armadale, Bentley, Fremantle, Havelock Street, and Swan; there is a child psychiatry division;

there is a community psychiatric division; there is Selby Clinic; there is a division for the intellectually handicapped; there are psychology, social work, and occupational therapy branches; there is a nursing services and training branch; there is a community development centre; there is an industrial rehabilitation division; there is a creative expression centre; there is a post-graduate centre; there is a pastoral centre; and there is a statistical research unit. I suggest, in the best meaning of the word, that is not a "narrow" set of services. Indeed, it appears to me to be quite all-embracing.

It is essential that we be careful when arriving at definitions. The Hon. Robert Hetherington said the definition of "mental illness" was not very good. He then became involved in one of his little circular arguments and said, "I presume one has mental health if one does not have a mental illness". That is a presumption on the part of the Hon. Robert Hetherington. He went on to argue his presumption and indicated he would like "mental illness" to be redefined.

I am sure members will not want me to expand on that argument, which was introduced very cleverly by the Hon. Robert Hetherington. Indeed, he is very precise and definite when dealing with the English language and I have had the pleasure to listen to him both in public and in private. Therefore, I was amazed when I heard his comments in relation to the definition of an intellectually handicapped person, which is as follows—

> "intellectually handicapped person" means a person who has a general intellectual functioning which is significantly below average and concurrently has deficits in his adaptive behaviour, such conditions having become manifest during the developmental period;

That definition comes from the American Psychiatric Association which has spent a great deal of time and energy examining this matter.

The Hon. R. Hetherington: They use language differently from the way in which we use it.

The Hon. R. J. L. WILLIAMS: I wish to turn now to the Hon. Robert Hetherington's interpretation of the word "deficit" and the phrase "deficits in his adaptive behaviour". It was necessary for me to look at a dictionary in this regard, because I do not have the ability of the Hon. Robert Hetherington in this matter.

The Hon. R. Hetherington: I went to one myself.

The Hon. R. J. L. WILLIAMS: The definition of the word "deficit" is as follows—

> the amount by which an actual sum is lower than that expected or required.

It does not refer to a monetary sum. To continue—

> a. an excess of liabilities over assets. b. an excess of expenditures over revenues during a certain period. c. an excess of payments over receipts on the balance of payments.

What surprised me was the fact that, bearing in mind the Hon. Robert Hetherington is a scholar, he failed to refer to the Latin derivation of the word "deficit" which is *deficere* and that means "to be lacking". Therefore, in those terms, it is quite right to use deficit in that way.

The Hon. R. Hetherington: In America, but not in Australia. It is a very clever argument, but I do not take it.

The Hon. R. J. L. WILLIAMS: I know the Hon. Robert Hetherington will not take the argument, but I will give it to him anyway.

Once again, "adaptive behaviour" is a very simple term.

The Hon. R. Hetherington: I did not object to it.

The Hon. R. J. L. WILLIAMS: If that is the case, I will not proceed with that part of the argument. However, "adaptive behaviour" in some cases refers to behaving in an anti-social way. For instance, a person who gulps his food, because he is absolutely terrified someone will steal it from him, could be said to be behaving in an anti-social way. I can remember seeing an exhibition of that sort of behaviour in the "bad old days" of mental health when some of the patients really did grab their food and gulp it. Indeed, in some places, they grabbed their food out of buckets and it was not a very edifying experience to watch this.

I give credit where it is due to the Hon. Robert Hetherington who said no psychosurgery was being carried out in this State. I can say on behalf of the Mental Health Services—

The Hon. R. Hetherington: The director told me that and I believe it.

The Hon. R. J. L. WILLIAMS: —no psychosurgery has been carried out in this State for the past 11 years. That was the figure quoted to me.

The Hon. R. Hetherington: That is right.

The Hon. R. J. L. WILLIAMS: The Hon. Neil McNeill asked for a clearer definition of "psychosurgery". Such a definition appears on page 8 of the Mental Health Act, 1976-1977 of South Australia. It is one of those "trendy"

documents, but at least it contains a definition of "psychosurgery", which is as follows—

> "psychosurgery" means leucotomy, amygdaloidotomy, hypothalamotomy, temporal lobectomy, cingulectomy, electrode implantation in the brain, or any other brain surgery for the relief of mental illness by the elimination or stimulation of apparently normal brain tissues.

It is clear no-one would be expected to pronounce those words correctly or even to spell them readily.

The Hon. R Hetherington: Not a lobotomy anywhere, is there?

The Hon. R. J. L. WILLIAMS: No, but it refers to a leucotomy or temporal lobectomy which are the same thing. I have gone a step further in order to help the Hon. Neil McNeill by looking up these terms so that I may tell him what we actually mean when we discuss these things. A leucotomy is the operation of cutting the white nerve fibres in the frontal lobes of the brain. This operation severs the connections of the frontal cortex with other parts of the nervous system, especially the thalamus and the hypothalamus. The operation is done in psychotic patients who suffer from severe depression or tense obsessional states. It appears to relieve the symptoms, the patient becoming friendly, cheerful, agreeable, relaxed, and interested in what goes on about him.

The Hon. R. Hetherington: Perhaps we should try an operation in the House to become more friendly.

The Hon. R. J. L. WILLIAMS: I take the point. Amygdaloidotomy comes from the Greek word "amygdala", meaning "almond". It is a small globule on the lower surface of the cerebral hemisphere, projecting into the fourth ventrical.

Hypothalamotomy is from "hypothalamus", which is that part of the forebrain situated beneath the thalamus on each side and forming the floor of the third ventrical. The hypothalamus contains collections of nerve cells believed to form the controlling centres of, firstly, the sympathetic and, secondly, the parasympathetic nervous symptoms.

A temporal lobectomy is the same as a leucotomy.

Cingulectomy comes from "cingulum". It is the surgical removal under direct vision of a portion of the cingulate gyrus, usually Brodmann's area 24 and immediately adjacent tissue.

The cingulate gyrus is the convolution that lies immediately above the corpus callosum on the medial aspect of each cerebral hemisphere.

I do not think I need go any further to satisfy the Hon. Neil McNeill, who wanted to know what psychosurgery was. I feel that the House also would want to know these important things.

One of the Hon. Robert Hetherington's objections to the Bill—and other speakers have agreed with him—is the fact that it does not spell things out in detail. What many readers of the Bill conveniently forgot in their arguments is that it is what has been taken out of the previous Act to help form this new Bill that is so important to the Bill itself. If one looks at page 4 of the Mental Health Act of South Australia one finds the heading "Division 2: Objectives". The Hon. Robert Hetherington used the phrase—which I think is delightful—that between this clause and that clause of the Bill—

The Hon. R. Hetherington: Clauses 3 and 99.

The Hon. R. J. L. WILLIAMS: —was the mish-mash.

The DEPUTY CHAIRMAN (The Hon. Tom Knight): Order! There is too much audible gossip going on. I am finding it extremely difficult to hear the speaker. I am sure *Hansard* is also. I would appreciate it if members would be quiet while the Hon. John Williams addresses the House.

The Hon. R. J. L. WILLIAMS: Thank you, Sir. I realise what I have got to say is tedious to some, and I do not blame them for that.

The Hon. R. Hetherington: I am listening, fascinated.

The Hon. R. J. L. WILLIAMS: I listened to the Hon. Robert Hetherington with the same fascination. Being so fascinated has caused me to go into this perhaps a little deeper than I would have done otherwise.

In division 2 of the South Australian Bill, because it was trendy at the time, the objectives are laid down. This is something that members of the medical profession took great exception to—the objectives of the Commission of Mental Health of South Australia. I will not read too many of them. If one goes into detail in cases like this the next thing one knows—as doctors said to me when they read the Hon. Robert Hetherington's speech—is that for a simple operation we will need a manual and a co-doctor working with the doctor as is the case with pilots and co-pilots of an aircraft. The co-doctor will read the instructions: scrub up—five washes with this and five with that—etc.

The Hon. R. Hetherington: They will have an automatic pilot, no doubt.

The Hon. R. J. L. WILLIAMS: I wonder how much this adds to the Act in South Australia.

I will read the objectives. They are as follows—

> In exercising their responsibilities for the care, treatment and protection of those who suffer from mental illness or mental handicap, the Director and the Commission should seek to attain the following objectives:—
>
> (a) to ensure that patients receive the best possible treatment and care;
> (b) to minimise restrictions upon the liberty of patients, and interference with their rights, dignity and self respect, so far as is consistent with the proper protection and care of the patients themselves and with the protection of the public;
> (c) to ameliorate adverse effects of mental illness and mental handicap upon family life;
> (d) to rationalize and co-ordinate services for the mentally ill or mentally handicapped;

It goes on further to say in paragraph (i)—

> (i) to promote informed public opinion on matters of mental health . . .

That would do nothing for the Bill because if doctors and medical practitioners do not, of necessity, do that, they should not be covered by the provision. I think detailing the objectives is an insult to any profession. I am not suggesting for one moment that the Hon. Robert Hetherington had that particular aspect of it in mind.

The Hon. R. Hetherington: As a matter of fact, I have read that and it worried me.

The Hon. R. J. L. WILLIAMS: As I said before, the Hon. Robert Hetherington is an honest man. He does know about the existence of Acts of this nature. I am indebted to him for his interjection indicating that he had read it and might agree that it does precisely nothing for that Act.

At that time in South Australian history, people were beginning to demand that everything be spelled out. I refuted it on the ground that everything cannot be spelled out. It is quite impossible because each situation presented in mental health is different.

I will reserve many of my comments for the Committee stages of this Bill, because the House was somewhat misled by the Hon. Graham MacKinnon who unintentionally said there were 51 amendments. We have not seen those amendments here. He should not have been allowed to make that remark because that happened in another place during the same session. We were presented with a clean Bill. I do know that this Bill had to be in its present form for certain good reasons which were, firstly, it is necessary at this particular time; and, secondly, it is not the be-all and end-all because the professor will be making recommendations that will serve to help us over what could be a difficult period.

The other complaint the Hon. R. Hetherington had was the fact that this was a comparatively new branch of medicine.

The Hon. R. Hetherington: It is not a complaint. It is just a statement of the problem.

The Hon. R. J. L. WILLIAMS: Compare it with perhaps rheumotology or haematology and we find that mental health and psychiatry as such is very old. New branches of medicine constantly are being developed. The advances, of course, are tremendous. If anybody asked me to put a time scale on it, I would go so far as to say that the area of mental health treatment was completely revolutionised in 1954 with the introduction of one or perhaps two drugs. One of them was largactil which came in about 1954 and was for the treatment of psycho-illness. The others are well known to the House, librium and valium.

As the Hon. Winifred Piesse would know, those drugs replaced those terrible things some doctors used to provide by the wheelbarrow full: barbiturates, such as phenobarbitone. If there was something wrong with a person, he was told to go home and take two phenobarbitone and not to talk to anybody—it was unlikely one could talk successfully anyway—and to come back and see the doctor the following week. One could make his own mental inspection and smell the medication because paraldehyde oozes out of the skin. In the days prior to 1954 there were no accepted pharmacies in hospitals. Doctors made their own prescriptions from chloral hydrate and potassium bromide. Hospitals were generally a place which one wanted to avoid. Not many people were attracted to the profession of psychiatry, and that is small wonder.

The scene has changed dramatically and, one would hope, for the better. There will be more changes to come. I think perhaps the greatest shock the Hon. Lyla Elliott ever had in her life was to visit Swanbourne Hospital in the company of two or three of us one day when we were members of a Royal Commission of this House. We did not know what to expect. Certainly we did not expect to see the brightness and cheerfulness that we saw in some of the places. We did know

that certain people were ill, however, when certain doors were opened. I will not expand on that too much. I will just remind the Hon. Lyla Elliott.

The Hon. Lyla Elliott: What about brightness and cheerfulness at Swanbourne? I do not remember that.

The Hon. R. J. L. WILLIAMS: Miss Elliott may remember that when we went into the Guildford wards she remarked how cheerful the curtains were and how it was a change from Swanbourne where the wards were long? Remember Guildford, where Dr Reid took us? Remember Dr Reid? I know this is going back to 1972. Dr Reid showed us around there.

The Hon. Lyla Elliott: I thought it was Dr Blackmore.

The Hon. R. J. L. WILLIAMS: No. Dr Reid took us around. Dr Blackmore was at Heathcote Hospital at that time. We were told about those other areas in the yard in the maximum security area, but it was different then from what we saw of the people with, say, Korsakov's syndrome on the far side. The member objected quite strongly to that block, and rightly so.

It is not very long ago in the history of this State that the qualifications for working at mental institutions were to be quicker, faster, and fitter than the patients.

The Hon. D. K. Dans: What do you mean by "fitter"?

The Hon. R. J. L. WILLIAMS: I am not frightened of saying "sheer brutality", Mr Dans. We substituted therapy for that and it took people like Dr Ellis and his predecessor to clean up that situation. Before that, patients were firmly in bed by 6 o'clock at night and they would not move on any account whatsoever until told to in the morning. The method of cleansing the ward was to put a hose through it. That was the picture that people had of Mental Health Services and it is perhaps because of that they started to worry about the safeguards that had to be built into the system.

When the Hon. R. Hetherington asks for two psychiatrists, he is asking for a great deal, especially at the weekend. Psychiatrists are very scarce, and the records show that Mental Health Services is four psychiatrists short. My guess is that 20 psychiatrists would find adequate work in this State, if not to the point of overwork. One has to be realistic about these things when talking about safeguards. Certainly patients have to be safeguarded and I think the Bill goes a long way towards safeguarding those people who are unfortunate enough to have to spend the time, either voluntarily or as a committed person, in these institutions.

Perhaps if I only gloss over the provisions members will understand this is a Committee Bill and, therefore, at each stage the provisions will be referred to again. I make no apology for doing it this way because I would like it understood that, although we argue in this place, this is one Bill on which the House will surely unite, even if it is only for a better definition or clarification of a point.

We are not talking about rolling stock, grain elevators, sheep or brucellosis. We are talking about human beings and the rights they have and the way they can expect to be treated, given a certain set of circumstances. Perhaps we are gradually winning the war but there are many battles to be fought yet. We will eventually win the war whereby mental illness is not a stigma. No-one in this House has suggested it is, and I would like to make that abundantly clear. I am making a general observation in respect of the questions that have been asked on this matter. I think the Hon. H. W. Olney would know that even today certain forms have to be filled out which require evidence as to whether one's parents have been committed for insanity. This applies particularly in the area of workers' compensation, insurance and other related fields. It is considered to be a stigma to have a relative who has spent any portion of his life in a mental hospital.

The Hon. Win Piesse will remember only too well the stigma that was associated with tuberculosis. It is only now that the community is getting over the hump of the stigma of mental illness. In the early days huge institutions were built, and it was dreadful to see how the patients were treated. I should not say "treated" because day after day they were marched into exercise yards wearing the same drab grey suits and made to walk around in circles with very little care, and if they became fractious they were incarcerated.

I do not think one would find restraining cells in any hospital today; these used to be termed "padded cells". Strait jackets will not be found in hospitals today either, because the advent of drugs has made the treatment of these people easier and better.

I, like other members in this House, am extremely keen to see that the rights of the individual are protected, and I do not quote John Stuart Mill because he is a little too clever for me. I do not call this a Band-aid Bill as it was called in another place. The Bill as it stands is sufficient.

For instance, we have a rearrangement of the Bill; we have a new definition of "intellectually handicapped" and the separation of such people from the mentally ill, which is a significant advance; we have the extension and clarification of grounds for admission as non-voluntary patients; and we have conditions laid down for the discharge of voluntary patients.

I would like to remind Mr Hetherington that it is right that a superintendent of a hospital can say to a patient, "You are discharged because you have refused treatment", and I would like to give an example of this. Time and time again a patient may be picked up from the gutters in Perth, unconscious, suffering from what can be described only as chronic alcoholism. That person is taken to a detoxification centre and after he has been detoxified, as a result of the state he is in, he is transferred to a mental hospital after the correct procedures have been followed. Usually in this State he is transferred to the Graylands Hospital where he is looked after and given medication.

After a very short time he is allowed to leave the hospital in the afternoons. When he returns he is submitted to a search—not a complete search; the attendants smell his breath and then simply pat his pockets. At 5.30 or 6.30 p.m. he is given his tea and at 8.00 p.m. he is roaring drunk. Can anyone understand how that can happen? That is a case of not accepting the treatment in the place he was in. I will not discuss how it is done, but the patient smuggles in a half-pint of sherry and it is concealed on his person in such a way that it avoids detection.

What are we to do with a person like that? Do we say, "That is all right; you made a mistake. We will start the whole course of the treatment again"? Once the rest of the patients see that, they take no notice of their treatment. Consequently we must have some form of discipline.

I know what Mr Hetherington meant to say but I do not think we can deal any more carefully with the right to discharge a patient for refusal of treatment.

We now have a situation where if one thinks a person should be committed on anybody's say so, in private or without anybody knowing about it, one can forget it because if a person so desires he can waive the *in camera* proceedings. Remember that in respect of a referral a doctor cannot just say to a justice of the peace "This person is quite mad. Would you just sign this and he will be committed?" In the days when the Hon. N. Baxter was Minister for Health that was the case; but now this Bill removes even that scintilla of doubt, and the JP who signs the warrant must see the person. It is no longer enough for a person to be committed on the doctor's word, otherwise I think an obvious avenue would be available if one wanted to abuse it.

So there is every protection. Letters to and from patients, as Mr Baxter explained, are to be completely and absolutely uncensored and additional visitors' boards are to be created—there will be several of them—in every division of the Mental Health Services. Most visitors' boards will have to furnish annual reports, and this is a further stringency of the system to ensure things are being done properly.

Now two medical practitioners will be required to be consulted to sign a certificate. The period of a court referral, which used to be the bugbear of the legal profession, no longer is 28 days; it has been reduced to seven days. So the person's case is reviewed after seven days, and in some cases that is still a long time. The two psychiatrists are allowed for in the new Bill and are necessary when we have a person whose medical evidence is such that it is doubtful whether he should stand trial.

The Hon. R. Hetherington: It takes two to get a patient out and one to send him back.

The Hon. R. J. L. WILLIAMS: That is right. If one thinks that is done in isolation and that is the practice of psychiatry one is wrong because that sort of thing is just not done. A psychiatrist is like a doctor who has specialised in psychology. He has continued his studies and obtained a Psch. MD to enable him to practice in that area.

I was going to bring in the Royal College of Australia and New Zealand Psychiatrists examination papers for Mr Hetherington to look at because he knows the Freudians and the behaviourists and the rest of them whom I will not mention are not listed. A psychiatrist is expected to have an all-round approach and not join any type of psychiatric school. I think Mr Hetherington was drawing the long bow a little, which he admitted.

The Hon. R. Hetherington: That is not so; they vary their emphasis, as you know quite well.

The Hon. R. J. L. WILLIAMS: The rest of the Bill in all honesty is a Committee Bill, and I do not wish to expand or expound on it any further at this time.

I ask the House to give this Bill its support in the knowledge that in the very near future a committee headed by one of our greatest professional psychiatrists will bring down another set of recommendations. I ask members to reject

in totality the concept of a Select Committee to consider the problem of mental health.

Sitting suspended from 6.01 to 7.30 p.m.

Commonwealth Parliamentary Association: Regional Representative

THE PRESIDENT (the Hon. Clive Griffiths): Before we commence I would like to draw the attention of members to the fact that we have the Hon. W. Baxter, MLC, with us. He is the regional representative for the Commonwealth Parliamentary Association and is visiting Western Australia, as some members would be aware, to speak to us at the annual general meeting of the CPA. Mr Baxter is the representative for the Australasian and Pacific Region of the CPA. We are very pleased to see him come along to see how our Legislative Council operates. Mr Baxter is a member of the Victorian upper House.

Debate Resumed

THE HON. H. W. OLNEY (South Metropolitan) [7.32 p.m.]: I do not intend to make a major contribution to this debate and I am hopeful my contribution will not be taken back to Victoria as an example of how this Legislative Council works. However, I do wish to make a few comments, because this Bill does deal with a matter of very great importance to individuals.

I cannot help but agree with Mr Williams' comments when he pointed out that we were not dealing with sheep, wheat, or grain levies and all those other very important things which our country members seem to delight in debating at length.

We are dealing with a law that affects a very special group of people in a very important way. It affects people who, in one way or another, have been unable to conform to the recognised standards or norms of the community. It affects them in some cases by depriving them of their liberty, albeit for their own benefit. But it is a law that affects the personal liberty of some subjects of the Queen and as such it is entitled to and demands considerable scrutiny.

I do not propose to try to upstage my colleague, the Hon. Bob Hetherington, who put a lot of work into preparing the speech he gave last week. Nor am I able or would I wish to match the experience of Mr Graham MacKinnon, Mr Norm Baxter, and Mr John Williams, all of whom have a great experience in the field of mental health.

I have had a little experience in the field as a stipendiary magistrate whose task it was at times to exercise some of the functions of the Mental Health Act presently in force. I can assure the House it is a difficult and unpleasant task for a magistrate to make an order which has the effect of depriving a person of his liberty, in circumstances which are usually surrounded by events of some traumatic nature which have led to the particular matter coming before the magistrate.

It is not in a partisan, party-political way but rather as an expression of genuine regret that I point out that having compared the second reading speech of the Minister for Lands in this place with the second reading speech of the Minister for Health elsewhere, I am amazed to find those speeches are virtually indentical. This means that in bringing the Bill to the House the Government has not seen fit to explain to members why some 51 amendments had to be made to a Bill in the lower House, amendments to a Bill which was introduced here with an identical second reading speech.

This is not a different Bill but it is a significantly different Bill. In 51 different aspects it is different from the Bill introduced in another place by the Minister for Health. Yet not one mention was made of that or of why it was thought necessary to make those amendments. It is with some feeling that I express my disappointment that the Government has not been prepared to spell out the changes that were thought to be neccessary and has left it to members, if they are interested, to fossick through the records of the Parliament to find out why the changes were made and the effect they might have.

To a large extent this Bill is a re-enactment of the provisions of the existing law, with some significant but not major changes. There has been a rearrangement of the Act. While that might be commendable, it is certainly not an overriding factor that, by itself, justifies the introduction of a new law. We do have the advantage of marginal notes to indicate the corresponding section in the now to be repealed Act. This does help to check the clauses of the Bill against the sections of the Act.

I ask the Government to consider the proposition of whether in this type of situation, it would not be possible to append to the second reading speech—it need not be read out and could simply be incorporated into *Hansard*—a memorandum or statement indicating the corresponding sections of the repealed Act so that members could have ready access to the existing law without spending hours and hours thumbing through the Act and generally getting themselves into quite a muddle?

I know this is done on occasions in other places. I recently read the South Australian debates on that State's Aboriginal land rights legislation. Following the second reading speech, the Minister had incorporated into the record detailed notes and the particular clauses involved. I am not sure whether that practice is adopted here at all, but it is one that could be adopted with a Bill of this type which by no stretch of the imagination could be said to raise party political issues and where no-one wants to make political gain. We are all interested in seeing the object of the Act, the welfare of a certain section of the Western Australian community, is achieved. We all wish to see those interests safeguarded.

It is easy enough, as has already been done, to make some criticism of particular aspects of the Bill. I do not envy any draftsman the task of drafting a Bill relating to mental health. Mr Hetherington quite rightly said that the definition of "mental illness" was circular. The definition is not a definition at all except to the extent it excludes any intellectual handicap. So mental illness can be everything but an intellectual handicap. That is a step in the right direction. It is disappointing, particularly in this International Year of Disabled Persons, that there is no really positive and spectacular step taken to recognise the position of handicapped people, and particularly intellectually handicapped people; but perhaps that is another issue, as we are dealing specifically with the Mental Health Act.

However, if we look at the definition of "mental illness", the Bill defines it as a psychiatric or other illness or condition. If we take psychiatric or other illness together the Bill is saying "any illness"; so the use of the word "psychiatric" really is of no significance. But not only is it any illness but also any condition. I am not sure what a condition is; but whatever it is, it is something that substantially impairs mental health.

I took the opportunity of seeing exactly what mental health might be thought be be, because this is the really critical point of the legislation. A psychiatrist's understanding of what is mental health is absolutely crucial to a determination of whether a person is suffering a mental illness.

A look at a dictionary will show that health is "soundness of body or condition of body". If we follow through the definition of "mental" we find it means "of the mind" and that really gets us down to "mind" being opposite to bodily or material things. So we have a condition of the opposite of soundness of body. It really is a nonsense term if we take it apart like that, because the two terms are quite in conflict with each other.

The Hon. R. Hetherington: You are confusing the Minister.

The Hon. H. W. OLNEY: I am probably confusing myself also. Nevertheless, I am trying to highlight the fact that mental health is not a thing that we lay mortals can readily understand by going to a reference work. We must leave it in the hands of those who know best; that is, the psychiatrists. They will know whether there is a deviation from normal mental health so they will know when a person is suffering from a mental illness. Perhaps that is something which is unavoidable, but nevertheless it is something which concerns me because of the possibility—it is not an unreal possibility—that fashions in psychiatry will change as they change in all other sciences, whether they be empirical sciences or social sciences.

However, it is generally accepted in this State and similar western communities, and no doubt in other communities of a different type of civilisation, that there is a need to have legislation relating to what is understood to be mental illness. There is a need to have some law which enables a community through its law enforcement authorities, at an appropriate time, to take the law into its own hands and to deprive a person of his liberty for the good of the community, particularly for the immediate protection of the community or the immediate protection of the individual himself.

My experience as a magistrate in the northern region of this State some many years ago convinces me that it is necessary to have some law to enable the power of the authorities—the total authority of the State—to be brought to bear arbitrarily to deprive individuals of their liberties in appropriate cases.

A number of other specific parts of the Bill indeed do not commend themselves to me at all. I join with Mr Hetherington in his views, but I will not go into detail. I agree with his comment on the term "non-voluntary patient". It seems to be the dressing-up of something. It is a bit of "jargonese" to call someone a "non-voluntary patient" when in fact that person would be a compulsory patient or an involuntary patient.

The Hon. R. Hetherington: They don't like to use plain terms.

The Hon. H. W. OLNEY: That is correct. I am not sure that term could not be expressed in simpler language so that we could understand the intent of the legislation. The term is not one generally used, whereas the terms "compulsory" or "involuntary" are terms in general use.

If one refers to the definitions clause, clause 3(1), one will find that the terms "non-voluntary patient", "voluntary patient", and "security patient" are defined as having the meanings assigned to them under clause 27(a) or (b), depending on which term is referred to. That seems to me to be a rather odd way of using a definition section of legislation. It says that a particular term has a meaning which is assigned to it in another part of the legislation, some 18 pages further on.

I refer generally to clause 25 and, in particular, subclause (2). The clause states—

> 25. (1) Except as provided by this Act, a person shall not detain, or assume the custody of, a person who is suffering from a mental illness.
>
> (2) Nothing in this Act affects the operation of—
>
> (a) section 54 of the Prisons Act 1903;
> (b) section 19(6a) or 662 of The Criminal Code; or
> (c) any Act authorizing the detention or custody of a person for some reason other than mental illness.

The clause does not tell us very much about safeguards. My reading of all clauses in the legislation gave me the impression that the Bill involves one looking here and there simply to determine what the clauses really say later on in the Bill, or looking in some other Statute so that one can understand precisely what the legislation intends. I am not trying to say it is a simple matter to draft legislation in simple terms; it is the hardest thing in the world to draft legislation in simple terms, but in a very important matter like this some extra effort could have been made.

Mr Williams commented earlier tonight that for some 10 years he has claimed to be a leading exponent of the dangers of delegated legislation. I have no doubt he is correct. In my short term here I have been known to make similar comments. Indeed on many occasions I have spoken of the need to express legislation in understandable terms; but I do not think this legislation has been prepared in a way that presents its subject matter in a manner most suited to ready understanding. Really, that gets me to the point of making some comparison between the speeches made earlier in regard to this Bill. Mr Hetherington and Mr MacKinnon spoke on this legislation at some length last Wednesday, and they expressed some reservations as to certain aspects of it. There was not very much difference between their remarks.

If one takes the trouble to refer to clause 27 to determine exactly what is a "non-voluntary patient", a "voluntary patient", or a "security patient", of course, one cannot find the definition in that clause. One finds only a reference to other parts of the legislation. The clause states—

> 27. For the purposes of this Act, a person may be received into an approved hospital pursuant to Division 1 of Part VI but no person is admitted to an approved hospital as a patient except—
>
> (a) by a psychiatrist acting under section 30 (2) or (4)—
>
> (i) following a request under section 46 or 47 relating to that person . . .
> (ii) following a request under section 48 or an order under section 49, 50 or 51 relating to that person . . .

Therefore I suggest the legislation defies ordinary comprehension by a layman, a person in the street who might want to know what a voluntary or non-voluntary patient is within the meaning of the legislation. Whilst I have said many times it is easy to criticise draftsmanship, I do think some greater effort could be made in this important legislation affecting civil liberties to the extent of authorising the deprivation of liberty. Some effort could be made to enable the Statute to be understood by a layman, to be understood by a reasonably intelligent person.

Similarly, I refer to the proposed part V which refers to safeguards. All of us support the inclusion of safeguards, and such a part of the legislation is crucial. Indeed, one would hope that any person unfortunate enough to be brought within the ambit of the legislation as a patient, particularly as a non-voluntary patient, ought to have some opportunity of knowing what safeguards would be applied.

Mr Hetherington's conclusion was that the Bill ought to be opposed and its subject matter considered by a Select Committee of this Parliament. Mr MacKinnon's attitude was that the Bill ought not be opposed and, I presume, he does not support the attitude that the matter should go before a Select Committee. Mr MacKinnon based his argument on the point that the Bill does not make much difference to the existing laws. I suggest the comments made by both gentlemen are justification for this House to support the proposition that there ought to be closer consideration of this proposed new law to see whether something more could be done, not only to clarify its understanding and to present it in a way that is readily understood, but also to see

whether in fact all the issues that ought to be covered are covered.

We in this House appear to have considerable understanding of and experience with this subject and can, I suggest, make a contribution to consideration of the legislation. I refer to the second reading speech of the Minister wherein he said that in the period since the Bill was produced submissions on its contents were received from officers, apparently of his department, and officers of various disciplines within Mental Health Services. In fact, the Minister referred to submissions from a number of interested organisations and individuals, and he told us that the submissions were given careful consideration. In regard to this legislation all members would have had the same experience as I have had over a number of months. I have been inundated with material on this subject from various groups and individuals. We know that the Minister after having introduced the Bill, which is supposed to be the end result of exhaustive research and submissions, was still able to find room to make something like 51 further amendments. One wonders whether all the amendments that ought to have been made have been made.

I commend any Government which seeks the views of individuals and groups within the community when framing its legislation and, particularly, legislation like the Bill before us. However, I am concerned—I express my concern here and make no apology for expressing it in the way I will—for the way in which the 51 amendments—a large number—were generated in the other place.

I express some feeling for the Minister. Although he was opposed quite vigorously in the other House by the member for Melville, I do feel that a couple of events which occurred were unfortunate. One of them was that at a late stage the Law Society of Western Australia wrote a letter dated 6 August 1981 to the Minister for Health. It expressed in general terms a number of reservations and indicated that a subcommittee of the society was considering the provisions of the Bill and would be submitting a report by, I think, 12 August. The Law Society submitted that consideration of the legislation be delayed with a view to redrafting it completely. Copies of that letter sent to the Minister were sent to all members of Parliament who are lawyers. Presumably that means it was sent to five Opposition members and two Ministers. It was delivered in such a way that some Opposition members received it before the Minister for Health because it was delivered at a time when the Assembly was sitting and the Council was not.

The Minister was put at a considerable disadvantage; he did not know the contents of the letter. I was one of those who received a copy of it, and after receiving it I wrote to the president of the society and thanked him for sending me a copy. I said that, in due course, I would be happy to see a copy of the subcommittee report which was being prepared because I regarded such a report as a matter of considerable importance. I was amazed to receive later a reply from the president saying that the society thought it would be inappropriate for a copy of the report to be made available to members of a political party not in government because the society had discussed with the Minister matters relating to the report. The president stated—

> . . . we had achieved what we set out to do.

The president goes on to indicate the society's view in regard to making available reports on proposed legislation. He states—

> In general terms, it is my view that any Law Society report on proposed legislation should first be submitted to the Minister responsible for the Bill in question. If the Minister is prepared to accede to representations made by the Society (although not necessarily all of them), it seems to me that we have achieved our result.
>
> If on the other hand, as sometimes happens, the Minister accepts none of our submissions and the Bill proceeds through Parliament, it is my view that we should make available copies of our report to the members of other political parties.
>
> There is a "half way house" which is sometimes used, and that is to circulate to the legal practioner members of Parliament copies of submissions made by the Society. That was done in an abbreviated form in the letter that you received in relation to the Mental Health Bill 1981.

I suggest it is completely unsatisfactory for a body of high standing in the community, such as the Law Society, which is given ready access to Ministers of the Crown to advise and comment on legislation, to adopt the attitude that its reports and views are confidential to a Minister unless the body cannot get what it wants. The society feels that if it cannot get what it wants it will turn to the Opposition to try to get what it wants.

The Hon. D. J. Wordsworth: Do you agree about the half-way house?

The Hon. H. W. OLNEY: No, I do not. I believe that if the Law Society has something to say, as a responsible objective body, it should say

it publicly. Ultimately in this case we did know the contents of the report because the Minister for Health made the report available. Had he not done that, we would not have known what the Law Society was saying to the Minister. The Minister was able to stand up in the Parliament and say that the Bill, in its revised form, had the approval of the Law Society but members of the Law Society who are not privy to the information put before the board do not know what the society has said.

I say this, not in criticism of the Government, but in criticism of the Law Society. If the Law Society wishes to retain its role as an objective, non-political organisation, a body whose opinions on matters of civil liberties and law reform ought to command attention, it ought not to talk to Ministers in private. If it has anything to say on matters which are of concern to the community, its comments should be made in public.

I suggest this should be a rule for anyone who wants to contribute to the law-making process—unless some partisan, party-political mileage is to be made from doing so. In those circumstances, it would be fair enough for the matter to be kept confidential. We do not expect the Confederation of Western Australian Industry to tell us every comment it makes to the Minister for Labour and Industry. However, where a non-partisan interest rather than the welfare of the community is involved, I would like to see the suggestions of responsible bodies made public so that they can be assessed by all concerned and not simply by the Minister.

I wish to make a general comment about Mr MacKinnon's remarks the other night concerning the legislation banning the practice of scientology. I believe there is some relationship between that type of legislation and the Bill before us. As I have indicated, the current understanding of what psychiatrists regard as mental illness in many ways will affect the operation of this law.

Of course fashions change from time to time. At one stage it was thought necessary in this State to outlaw the practice of scientology. While I do not know enough about scientology to comment on that, from what little I know—from the Press reports of the time and subsequently—I feel unease that a Government should have ever moved in that particular way.

Many years ago a Government attempted to ban a political party—the Communist Party. I am in no way, and I have never been, a supporter of that party but I have always believed that Governments in free western democracies ought not legislate against political, religious, or philosophical beliefs. From time to time we have heard a great deal about the use of apparently similar mental health laws in Eastern Bloc countries as a means of getting rid of people whom the authorities do not like or who are causing trouble in one way or another. I hope that never happens here.

The Bill we are discussing concerns a subject which is of a fairly serious nature, but I hope I can be pardoned for being a little less serious just for a moment. The day may well come when psychiatrists, or an individual psychiatrist, may consider that a person who takes a vow of poverty, chastity, and obedience, must be completely mad and, therefore, deserves to be locked away. One would not want that to happen, but if it did happen, it may have an effect on one of the major religious practices.

The Hon. R. G. Pike: You would be drawing a long bow there.

The Hon. R. Hetherington: Not all that long—a little crossbow perhaps.

The Hon. H. W. OLNEY: Nevertheless, some people may feel that a person who goes out in the street singing hymns and playing musical instruments is not just eccentric, but that his mental capacity is in doubt and he should receive some sort of treatment under the provisions of this legislation. I cannot quote John Stuart Mill as the Hon. Robert Hetherington, the Hon. R. G. Pike, and others seem able to do; I do not really understand anything he ever wrote. However, I can and will quote a person whose philosophy is a little closer to my own, and that is A. P. Herbert who had the distinction of being both a barrister and a member of Parliament.

The Hon. D. K. Dans: Good God! There aren't more of them, are there?

The Hon. H. W. OLNEY: Perhaps this qualifies him as a person of whom we should take some notice. Indeed, Sir Alan Herbert was a member of the mother of the Parliaments. I am a member of what is shortly to become the "Parliament of mothers" when the Labor Party's 30 per cent rule became effective.

I would like to refer to the famous case of Rex *v.* Haddock about which Sir Alan Herbert wrote.

The Hon. R. G. Pike: Not a fishy story, is it?

The Hon. H. W. OLNEY: We saw a series about Mr Haddock on television a few years ago. He jumped off the Hammersmith Bridge on the afternoon of 18 August 1922 during the Hammersmith Regatta. He was charged with all sorts of offences because it was thought that anyone who did such a thing must be guilty of

something. A number of charges were laid against him under a variety of Statutes. In his defence he had an answer to each of the whole series of charges, but then he made the general statement that, apart from anything else, it was a free country. The mythical Lord Light, the Lord Chief Justice who dealt with the matter, had this to say—

> And with that observation the appellant's case takes on at once an entirely new aspect. If I may use an expression which I have used many times before in this Court, it is like the thirteenth stroke of a crazy clock, which not only is itself discredited but casts a shade of doubt over all previous assertions. For it would be idle to deny that a man capable of that remark would be capable of the grossest forms of licence and disorder. It cannot be too clearly understood that this is *not* a free country, and it will be an evil day for the legal profession when it is. The citizens of London must realize that there is almost nothing they are allowed to do. *Prima facie* all actions are illegal, if not by Act of Parliament, by Order in Council; and if not by Order in Council, by Departmental or Police Regulations, or By-laws. They may not eat where they like, drink where they like, walk where they like, drive where they like, sing where they like, or sleep where they like. And least of all may they do unusual actions 'for fun'. People must not do things for fun. We are not here for fun. There is no reference to fun in any Act of Parliament. If anything is said in this Court to encourage a belief that Englishmen are entitled to jump off bridges for their own amusement the next thing to go will be the Constitution.

Of course that was a light-hearted and fairly radical view, but it sums up my feelings about this sort of legislation because so much of it is purely a reflection of current attitudes to a particular type of conduct. We must scrutinise such law carefully, not only when we are passing it in the Parliament, but also during its continued operation. We must scrutinise it from day to day to ensure that it is not being abused and not being used in an oppressive manner, or used in a manner whereby individuals can take personal advantage of it simply by convincing somebody that there is a lack of mental health present in a relative or some other person.

It is the absence of objective standards that worries me. I will support Mr Hetherington's foreshadowed motion to establish a Select Committee to study the matter further.

Finally, I would like to raise with the House, without comment, the situation of the people working within the mental health system. I am not talking about the medical practitioners, but rather I am referring to the troops on the ground—people such as psychiatric nurses who must deal with mentally ill patients. I am concerned that we do not appear to have made adequate provision for such people who must, on occasion, exercise fairly substantial degrees of force, even to the extent of assault, in order to fulfil their functions with respect to patients who are displaying aggressive tendencies.

We ought to look very closely at the extent to which a psychiatric nurse can defend himself from assault, the extent to which he can use force to perform his duties. This is particularly so with the psychiatric nurses who must deal with the very small but significant group of people who are criminally insane. These are important considerations for the protection not only of the patient but also of the individual whose job in life it is to deal with such patients. Many such matters could be looked at usefully by a Select Committee to the advantage of the whole legislation.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [8.13 p.m.]: I thank members for their contributions to this debate. This House has handled the measure truly as a House of Review; we have had a wide-ranging debate on the various aspects of the legislation.

As is its right, the Opposition has made a very critical assessment of the Bill. I believe much of its criticism was based upon ill-founded fears.

The Hon. R. Hetherington: What about Germany in 1933?

The Hon. D. J. WORDSWORTH: Two previous Ministers for Health have contributed to the debate. The Hon. G. C. MacKinnon wishes that the legislation had gone further, and the Hon. N. E. Baxter feels that it covers most of the problems.

Seldom do we have the opportunity of hearing two ex-Ministers speaking critically of legislation. No-one can be in a better position to be critical than those who had to work under the legislation for some time. Both those men have done so; and it is good that they should be able to present to the House an unbiased examination of the changes which the Bill is introducing.

We heard also from the Hon. John Williams, who undoubtedly has carried out a very thorough examination of the subject. It was evident from his speech tonight that he had spent a considerable time on what might be one of his

favourite subjects. Certainly he dealt not only with the Bill, but with the various debates on the topic.

Like most members, I was somewhat relieved that psychosurgery has not been carried out in this State for 11 years. I did not so much doubt the ability of the surgeons, but rather the ability of parliamentarians to pronounce the various words in the description of the operations involved.

The major criticism of the Bill appears to be that it does not go far enough. Yet the House has not had presented to it evidence of how far the Bill should go, or what its deficiencies are. If one is to be critical, perhaps one should be constructive. However, it is difficult to present an alternative.

In his speech, Mr Olney pointed out that while parts of the Bill contained descriptions he did not like, nevertheless he realised that the person who constructs a Bill of this nature is in a very difficult position. In particular, Mr Olney criticised a definition which, to be complete, would have to refer to various clauses. As a general principle, while that might be a bad thing, in this case one could do nothing else because of the very detailed definition that evolved finally.

When listening to Mr Williams, one could not help but be amazed at the changes in practices and treatment of the mentally ill that have occurred under the 1962 Act. Obviously vast changes in treatment have taken place during that time. All of those changes have taken place under the old legislation.

Nobody in this Chamber contests that the practices in our mental health institutions are of world standard. No-one was critical of the manner in which they are carried out. Yet, the Act has been criticised as an outdated Act. In fact, the further criticism is that the Bill is not going far enough.

However, the Act did not appear to be an obstacle to good practices; but now the Act is being upgraded by these amendments. We are cutting out some of the unnecessary sections. When one realises that censorship and psychosurgery have not taken place for 11 years, and yet they are still written in the Act, one realises that the Act allowed these changes to take place.

Mr Howard Olney was saying that the field of mental health is a science which is hard to describe in precise words.

The Hon. R. Hetherington: I think a cross between a science and an art.

The Hon. D. J. WORDSWORTH: It is that. The difficulty we have as legislators is in defining the practices and still allowing modernisation to take place as new practices become accepted. That is one of the reasons there are so many provisions for regulations.

We have said already that a committee is being set up under the chairmanship of Professor Saint. It might have been argued that the Bill should have been delayed until the committee had reported. However, we have taken the correct steps. We have an acceptable Bill before us and we can always amend it, if need be.

The Hon. R. Hetherington: Do you intend to amend it?

The Hon. D. J. WORDSWORTH: If need be. We will have to await the report.

The Hon. R. Hetherington: I would be happier if you were going to.

The Hon. D. J. WORDSWORTH: When the committee reports, the Bill will be an Act. It might still be suitable, with changes in regulations.

The Bill ensures the protection of the individual, whether he be a voluntary patient or otherwise. It centres on ensuring the liberties of people, which are of great importance.

Mr Olney asked for more reference to the debate in another place. He said that the second reading speech had not been changed. I assure Mr Olney that the second reading speech had been changed to take account of the various amendments made in another place. At least two such amendments were dealt with in the second reading speech.

This House, as a House on its own, should not be unduly concerned about a Bill in another place. We have a clean Bill before us, and we should debate that as a House. In fact, Standing Order No. 84 provides—

> No Member shall allude to any debate of the current Session in the Assembly, or to any measure impending therein.

That would indicate that we should not be debating what happened in another place. We should not be debating why changes were made. We in this House have a Bill before us, and we should debate it as it stands. That is the right way in which to do it.

I was rather interested in Mr Olney's reference to the Law Society and the actions it precipitated. Like him, I do not believe the Law Society acted creditably when the Bill was debated in another place.

The Bill has been described as a Committee Bill. That is quite correct. It is quite a long Bill, and it is quite detailed.

I commend the Bill to the House, and to further debate in Committee.

Question put and passed.

Bill read a second time.

Reference to Select Committee

THE HON. R. HETHERINGTON (East Metropolitan) [8.23 p.m.]: I move—

> That the Bill be referred to a Select Committee.

I agree with the Minister and with the Hon. John Williams that this is a Committee Bill. It is a Select Committee Bill. It is not a Bill which I consider I could amend usefully in any detailed way in Committee, even if I thought the Government would allow me to do so. There are many matters in the Bill which are quite technical; and some things I have considered and wondered what we should do about them.

We do want inquiry; we do want examination; we do want evidence; and we do want to learn what parameters should be put on the Bill to limit it and to guide the regulations made under it. For these reasons, this is a proper Bill to be referred to a Select Committee.

I agree with 50 per cent, or perhaps 70 per cent, of the arguments used by the two honourable gentlemen—the Hon. John Williams and the Hon. Graham MacKinnon. I agree that those arguments lead to the conclusion that this Bill should be referred to a Select Committee. I am sorry the Hon. John Williams argued that we should not have a Select Committee. I do not know if he will repeat his arguments. However, he seemed to misunderstand something I had said, and perhaps I should point out to him that in clause 4 of the Bill there is reference to the department known as "Mental Health Services"—

The PRESIDENT: Order!

Point of Order

The Hon. G. C. MacKINNON: I rise on a point of order.

The PRESIDENT: You can raise the point of order when I finish saying what I was about to say.

I called "Order!" because the honourable member was referring to the contents of the Bill. The Bill has been debated. We are now debating whether it ought to be referred to a Select Committee. He ought not be endeavouring to discuss the contents of the Bill, but merely putting an argument as to why it should be referred to a Select Committee.

I call the Hon. Graham MacKinnon on his point of order.

The Hon. G. C. MacKINNON: That is precisely what I was rising to ask you about. I had the idea in my memory that one should just move the motion for the Select Committee, and there could be little other debate. I thought the comments made had to be very sparse. I was going to ask your advice on the matter.

The PRESIDENT: The situation is that members can debate whether the Bill should be referred to a Select Committee, as long as they confine their remarks to that.

Debate (on motion) Resumed

The Hon. R. HETHERINGTON: I am afraid I have no memory of such a Standing Order to guide me. I thank you for your ruling, Sir.

The debate in the House has brought out the complexities of the topic and the complexities of the whole question of mental health. I am unsure about many of the technicalities. We need to examine this Bill in detail, and we need to obtain expert advice from psychiatrists and from a whole range of people who can inform us on the contents of the Bill so that we might be in a better position to make a judgment.

I am not in a position to make a judgment. I would like to be in a better position to make that judgment. It is desirable that, in respect of a Bill such as this on a subject as complex as this, members should listen to the experts and find out how much laymen can understand in order to learn the parameters of the Bill.

For these reasons, which I would like to develop—I realise, Mr President, that I have a lot to learn—I ask that the House vote that this Bill be referred to a Select Committee for the edification of the members of the Committee. It would make for a better Bill in the long run.

Question put and a division taken with the following result—

Ayes 7

Hon. J. M. Brown	Hon. R. T. Leeson
Hon. D. K. Dans	Hon. H. W. Olney
Hon. Lyla Elliott	Hon. F. E. McKenzie
Hon. R. Hetherington	*(Teller)*

Noes 20

Hon. N. E. Baxter	Hon. Neil Oliver
Hon. V. J. Ferry	Hon. P. G. Pendal
Hon. H. W. Gayfer	Hon. W. M. Piesse
Hon. Tom Knight	Hon. R. G. Pike
Hon. P. H. Lockyer	Hon. I. G. Pratt
Hon. G. E. Masters	Hon. P. H. Wells
Hon. Tom McNeil	Hon. R. J. L. Williams
Hon. Neil McNeill	Hon. W. R. Withers
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. Margaret McAleer *(Teller)*

Pairs

Ayes	Noes
Hon. J. M. Berinson	Hon. A. A. Lewis
Hon. Peter Dowding	Hon. G. C. MacKinnon

Question thus negatived.

Motion defeated.

In Committee

The Chairman of Committees (the Hon. V. J. Ferry) in the Chair; the Hon. D. J. Wordsworth (Minister for Lands) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Interpretation—

The Hon. R. HETHERINGTON: Despite the learning and erudition of the Hon. John Williams, I still find the definition of an "intellectually handicapped person" inadequate. It is all very well for the honourable gentleman to refer to American practice in English and to the original Latin; but the word "deficits" in this context is still not standard English in Australia. When our draftsmen take words from American Acts, it would be a good idea if they translated them from American-English into Australian-English. I will not quarrel unduly about this, although no doubt the clause would stand up in a court of law. There is an unfortunate tendency to depart from standard English in some of our legislation today. Clearly some people would argue this is because of the deficiencies of the education system or, indeed, perhaps they would say it is a result of the "deficits" of the system. However, it is a pity to Americanise our English any more than is absolutely necessary.

Whether or not I have used a circular argument in response to a circular statement, it is my opinion the definition of "mental illness" means little when it says "'mental illness' means a psychiatric or other illness or condition that substantially impairs mental health . . ." It follows that mental health is not mental illness; therefore, one can go round and round with this argument. I do not know whether the Hon. Bob Pike wants to give his colleague behind him a lecture in tautology, but he probably does not need it.

It is not easy to obtain specific definitions, but we should try to do so. Some of the provisions the professionals would like to insert in the legislation appear to me to be incomprehensible. If we examined the matter further, it is possible I would be brought to the realisation that this is the best we can do. However, it is unfortunate if we have to rely only on the goodwill of the experts. I do not deny the goodwill of the experts, but I deny they are infallible and I assert definitions of mental illness vary from person to person.

The Hon. Graham MacKinnon referred to Professor Thomas Szasz and I was interested to note that his name appears on the letterhead of the Citizens' Committee on Human Rights Incorporated which is sponsored by the Church of Scientology. I know Professor Szasz' view of psychiatric illness or insanity—if I may use an old-fashioned term—varies from the views of many other psychiatrists. It is clear we are on very difficult ground and we do not want to arrive at a situation where words mean anything, depending on the person interpreting them.

I have been accused already of being unduly fearful. When members on this side of the House try to write civil rights into Bills, we are always accused of being unduly fearful. Of course, we do not want legislation which restricts professionals unduly.

I take the point of the Hon. John Williams that too much can be written into a definition, and he quoted examples which I would not be prepared to accept because they were too detailed. We need to find some kind of *modus vivendi*. If the Government is not prepared to do that, we will not get anywhere.

Had I been told authoritatively by the Minister it was the intention of the Government that this Bill be a stop-gap measure and it would be amended when the Saint committee submitted its report, I would be much happier. However, it appears the Bill contains vague, circular definitions with no guarantee the findings of the Saint committee will be used to change the regulations.

The Hon. D. J. Wordsworth: How long do you think it will take the Saint committee to make its report?

The Hon. R. HETHERINGTON: I do not know. Perhaps the Minister can tell me.

The Hon. D. J. Wordsworth: You are speaking authoritatively as if you are aware of these things.

The Hon. R. HETHERINGTON: I am not speaking authoritatively at all. I am pointing out to the Minister that, had he said with authority this was a temporary, stop-gap Bill to improve

some of the worst features of the present Act and it was intended to have another look at the legislation upon submission of the report of the Saint committee, I would feel much happier and perhaps I would not have opposed the Bill as vehemently as I have. However, the Minister has not said that, nor I venture to predict will he. I am aware one cannot refer in this place to debates which have taken place in the Legislative Assembly, but I have examined statements made by the Minister for Health in many other places and they have not given me any confidence it is the intention of the Minister to rewrite the legislation after the Government has received the report of the Saint committee. If the Minister will give me that firm assurance, I will rejoice and we will look forward to some better legislation.

The Hon. D. J. WORDSWORTH: I am amazed at the tunnel vision of members opposite when handling this legislation. It is fair to say the Saint committee will take six to 12 months to examine this matter. Does the Hon. Robert Hetherington feel that is fair?

The Hon. R. Hetherington: That seems fair enough.

The Hon. D. J. WORDSWORTH: Here we have the Opposition in complete disarray while it reorganises its leadership and it does not even have the confidence to believe it will win the next election.

Every Government has the right to amend legislation. Members opposite ought to be thinking confidently about winning the next election after which they would have a chance to amend the Act. Regardless of which party is in Government when the Saint committee submits its report, it may amend the legislation.

The Hon. R. J. L. WILLIAMS: Nothing would give me greater pleasure than to see the Hon. Robert Hetherington happy and rejoicing; but it is obvious the Minister cannot give any assurances in this regard.

However, I should like to give the Hon. Robert Hetherington an assurance. If Professor Saint's committee submits recommendations which are worthy of inclusion in the legislation—and I am sure some of the recommendations will be, because it is an all-embracing committee—I shall join forces with the Hon. Robert Hetherington to ensure the Minister introduces amendments to the Act as quickly as possible following adequate discussion of the report in the community and elsewhere.

The Hon. R. HETHERINGTON: I wish I could have received the same sort of reply from the Minister. I point out the ALP shadow Minister for Health (Mr Barry Hodge) has stated publicly already that, when the Labor Party is in Government, it will amend the legislation. I do not have to add to that, because it is known.

I would have hoped there would be better legislation than that which we are criticising. The kind of statements made by the Minister, the sort of cheap, electioneering gimmickry is to be deplored, because I had hoped, and I still hope that we might get some sort of bi-partisan approach to the whole business of mental health. I believe that underneath in fact there is a great deal of bi-partisan approach.

Point of Order

The Hon. N. E. BAXTER: I raise a point of order in relation to Standing Order No. 88 which says, "No member shall digress from the subject matter of the question". We are on clause 3 of the Bill. It is the interpretation, and we are having a general second reading debate. I think you ought to rule, Mr Chairman, whether this is in order.

The CHAIRMAN: I thank the honourable member for his comments. I was just contemplating clause 3. I would request the speakers to this clause to confine their remarks to it.

The Hon. Lyla Elliott: I hope that applies to the Minister also.

Committee Resumed

The Hon. R. HETHERINGTON: I was trying to make the point that on this very long clause dealing with definitions—it is quite vital to the Bill and a basic requirement of it, if I may say so—I had hoped that we could reach some kind of bi-partisan approach to mental health and definitions. I will not dwell on that. I merely want to proceed to page 5 of the Bill to the definition which talks about a "relative".

I am glad to see that the Government saw fit to introduce this definition rather than another one into this place, because it is reasonably full. I thought I had found a flaw in it earlier in the day, but I found in fact it was not there. The only thing that does concern me still—and I will mention it again in passing—is that I would like to see "spouse" defined as a common law spouse as well as a legal spouse. I think that is important. If I may make a passing reference, later the Bill talks in various places about "any person" and about "friends".

In relation to a *de facto* spouse, which is the "in" term—I do wish we still had the old term, common law spouse or common law husband or wife because it was more descriptive—I do think

it is a pity that we cannot incorporate that. However, I am not going to beat the Government over the head with this. I just mention it and hope that some notice will be taken of it.

Clause put and passed.

Clauses 4 to 7 put and passed.

Clause 8: Annual report—

The Hon. R. HETHERINGTON: As I have said when speaking on other Bills, it concerns me that there appears in clause 8 the provision, "The Director shall, as soon as is reasonably practicable, after the end of every year, furnish to the Minister a report in writing of the administration of the Department". There are two things I do not like in this. The first is that it does not say what kind of a year it is. I am not sure when the year ends. Is it a calendar year or a financial year?

Also I do not like the term "as soon as is reasonably practicable". Let us assume for the sake of the argument—I do not know whether this is the intention of the Bill; no doubt the Minister will tell me—that the end of the year is 31 December and "as soon as is reasonably practicable" is 12 months later. Then if it is an election year it will be tabled in the House the following May, which is an unduly long time. If I remember correctly, the South Australian legislation that the Hon. John Williams was flourishing says that, "the director will report on 30 December", or perhaps it is 30 June. In other words, the end of the year is stated. It is either 31 December or 30 June—I do not remember which it is—and then he has to report before the expiration of six months.

It seems to me that six months is sufficient time to make a report. I know there are problems and difficulties in writing reports. I know things go wrong, and one of the things that I learned when I was on another Select Committee in Canberra is that there are a great number of departments that find "as soon as is reasonably practicable" inordinately long. Therefore, I think this should be more specific.

I would like to know from the Minister when the end of every year is and when "as soon as is reasonably practicable" is. I just do not agree with that at all. It means that the report can be far too late. I would argue that six months after the end of the year is long enough for any report to be lodged. I hope the Minister will think about doing something about it.

The Hon. R. J. L. WILLIAMS: If I might be of help to the Hon. Robert Hetherington, when we were framing the Alcohol and Drug Authority legislation one of the questions we came upon was: What is a year? We were told that for administrative purposes a year was always considered to be the financial year. That was my interpretation of it. It is extremely frustrating—I am not disagreeing with the Hon. R. Hetherington—to have to prepare a report when perhaps, for instance, the Auditor General's certificate to the accounts that are attached to that report is not available. This is what happens in some cases and it causes a delay in the report being tabled. I am not saying that is so in every case.

Finally, if I may quote the relevant section of the South Australian Act, section 8 says—

> The director shall before the 31st day of December in each year submit to the Commission and the Minister a report on the administration of this Act during the twelve months ending on the preceding 30th day of June.

That is the relevant section that we were talking about.

The Hon. R Hetherington: Thank you.

The Hon. R. J. L. WILLIAMS: It is unfortunate that we have to put up with the term "as soon as is reasonably practicable". Sometimes due to pressure of work in a department it is not reasonably practicable to do something straight away.

The Hon. R. HETHERINGTON: I take the Hon. John William's point. It seems to me that it would be possible to work out a maximum time beyond which it would be unreasonable to delay. Even if it were eight months, I would be prepared to accept that. The other thing is that if the year usually ends on 30 June, it does not as far as the Education Department is concerned. It might not be a bad idea if we wrote into Bills or legislation when the year should end for a particular report, because one of the problems is that the Budget hits us in September. The financial year ends in June. Perhaps it would be better if the time, for the report was 31 December. I have no hard and fast notion here. I would just like something more definite, not only in this legislation, but in a whole range of other legislation that the Government brings down.

The Hon. D. J. WORDSWORTH: I believe the member is perhaps raising a subject he has raised before. They are very similar arguments and I agree with him. Some uniformity would be an advantage. I might point out that clause 8 takes the place of part VI in the Act. The description is exactly the same. In this manner at least we do not end up by changing over half way through the year and having a report for six months or a period missed altogether.

Clause put and passed.

Clauses 9 to 27 put and passed.

Clause 28: Criteria for admission to approved hospitals—

The Hon. R. HETHERINGTON: I will not detain the Committee long on this clause because I have already mentioned this in the second reading speech. It seemed to be a fairly specious argument of the Hon. John Williams, with a nice throw away line, when he listed a great number of things in another Act and said, "We call it welfare". Perhaps we call it welfare. We call a whole range of things welfare. I am not very happy with the general term "welfare".

What is one person's notion of welfare is not necessarily another person's notion of it. I would like something more definite than this. Certainly, if a Labor Government reviews the legislation I will see that we do something more definite than this. "Welfare" is a very vague term. I have had definitions of my own welfare hurled at me. A person whom I knew and liked very much but whose friendship did not go on much after this occasion—it was a long time ago when I was 28; it is indeed a long time ago—said to me that she thought four years at the University of Adelaide had ruined me and had not been conducive to my welfare. That was her opinion, but I felt fine. I understand physical harm; but "welfare" in the proper sense, I would like to see hedged around with some kind of objectivity.

I take Mr Williams' point that we cannot make it completely objective. I think again we should be seeking parameters within which this objectivity will no doubt operate. I would accordingly like to discuss this in a Select Committee. As I am moved to do this, I might just have to refer it back, of course, to the Government and its bevy of public servants who might, in their wisdom, be able to think up something better. I have not had enough time—because I have been working on other things—to go into definitions and this Bill in any great depth, unlike my colleague in another place.

I would look for something more precise. If somebody yesterday asked me that question I would have said "physical welfare", but today, I would not because I do not think it is adequate. I have done a little more reading and I am not convinced that that is the right answer. I would like to see something a bit better. I know how Mr Williams defines welfare, but he is not one of the X-number of dedicated public servants, psychiatrists and other people who must interpret the Act in their own way. He knows that as well as I do. That is why I am seeking greater precision of definition and at least some parameters within which people can work.

The Hon. D. J. WORDSWORTH: The reason for clause 28 is to set out the criteria for admission to a hospital of a non-voluntary patient in the interest of his welfare. I believe this description is one which most could put a meaning to, though perhaps it is a little wide. This is the expression that has been used and has been understood generally. As the Opposition is unable to suggest a better term, the clause will stand as it is.

Clause put and passed.

Clause 29: Criteria for discharge of patients—

The Hon. R. HETHERINGTON: This clause states that a person shall not remain a voluntary patient if, in the opinion of the superintendent or the director, he—as listed under paragraphs (a), (b), and (c)—refuses to accept the treatment prescribed for him. I do hope Mr Williams will not give an example again because I listened very carefully, during the second reading stage, when he gave a clear case of someone who should be asked to leave a hospital.

However, we must consider a whole range of matters because there is some fear in the community about some treatments. I do not believe the Hon. Graham MacKinnon allayed my fears by the use of his argument *ad hominem* during his second reading speech when he referred to the fact that many of the fears have been taken up by scientologists. I know that. I would expect people who are attempting to embarrass the Government to take up real fears—the fears are present.

Unless there is a little hedging, the clause reads that unless some specified treatment is accepted, a patient will be discharged rather than offered another treatment. I think this is something which should be looked at and Government members should give the matter some thought.

After the fairly cavalier treatment my colleague received elsewhere I will not attempt to put forward any amendments. I will just point out deficiencies in the hope that the Government in its wisdom over the next 12 or 18 months may do something about the matter before Mr Hodge can get on with the job himself. I believe this matter could be defined or stated more precisely.

If this is done, people will not think they will be threatened with discharge if they are voluntary patients and will not accept electroconvulsive treatment. People do have a fear and, whether or not this is justified, I do know that if I were admitted to a psychiatric hospital I would leave instructions with my wife that she should not

consent to electroconvulsive treatment. I still do not wish that treatment, whether or not my wish is irrational. I suppose I would leave the hospital; I do not know. I use these words very advisedly because I am talking about what many people feel could happen or indeed claim has happened to them.

We are trying to reach the stage where—as Mr Williams said—people do not think there is anything to be afraid of in going to a psychiatric hospital. Then people would be admitted to hospital for a mental or physical illness. I note the comment made by Mr MacKinnon when he said one may be admitted for both illnesses. One may have a physical illness which is psychosomatic and which is to be cured by a psychiatrist or one may have a mental illness which is to be cured by drugs or surgery. By surgery I mean non-psychosurgery. I still think we need to be a little more precise.

The Hon. D. J. WORDSWORTH: This clause states that if a person who is a voluntary patient refuses to accept the treatment advocated for him, the hospital has the right to discharge him.

Whilst Mr Hetherington has some cause for argument I believe that if a doctor has to be responsible for his patient it is understandable that he should expect the treatment he recommends to be accepted. After all, if one refuses treatment one may be endangering other patients. The clause states that the patient can be requested to leave the hospital. That does not mean the patient cannot go to another hospital where the treatment prescribed is to his liking. That is the alternative which is offered.

The Hon. R. HETHERINGTON: It is a basic attitude and criticism of mine that members of the medical profession as a whole—not my own surgeon whom I trust tremendously—have a tendency to play God with people and say, "You will have this treatment and no other" and not discuss the matter. I would hope that a psychiatrist would not do that, though some no doubt do.

I have a series of statutory declarations which were sent to me on this matter. I will not flourish them in this Chamber but they gave me some cause for concern. I do not wish to make accusations but it seems to me that we need to be very careful when writing safeguards.

When a new Pope is elected and when he is preparing for his installation a clergyman burns flax in front of him and says, "Remember, Holy Father, that life is brief". We need to remind the members of the medical profession that they are human and fallible and may sometimes prescribe the wrong treatment. Just because a patient objects to a certain treatment that should not mean he should be discharged from the hospital. If a psychiatrist in one of our psychiatric hospitals said that a patient should have a certain treatment and it was not acceptable to that patient I would hope the matter would be discussed. Sometimes it is a good idea to write some reminders into the legislation. That is the reason that we should have further inquiry and discussion on this matter.

The Hon. R. J. L. WILLIAMS: Perhaps we are losing sight of one fact: The patient is a voluntary one. Indeed, Mr Hetherington has stated precisely what happens when a voluntary patient admits himself for hospitalisation. Firstly, the doctors attempt to ensure that appropriate care and treatment is administered properly and consistently with the treatment held to be correct by a substantial proportion of their profession.

If the patient objects to that treatment—perhaps it may be some form of medication—it has been my observation that discussion is held with the patient as to what he should do.

In the instance of pain killing drugs, if a person is not receptive to that particular mode of treatment another drug is administered to calm the patient in order that the original drug can take effect. However, if a patient objects and says that he does not want that—and I can only speak from past experience—the matter is discussed fully with the patient. If the patient has a rigid objection to the treatment, it does not mean he will be discharged automatically.

I wish to refer to an example about which Mr Baxter informed me by letter. This did not concern a patient in a mental hospital, it concerned a patient who had presented himself voluntarily for treatment and then refused to proceed with the treatment which the psychiatrist and doctor had prescribed. This case involved a therapy situation. It did not mean the patient could be discharged because he would not accept the treatment, but he was discharged because he proceeded to disrupt the group.

People who are in a certain state of mind, do not react as a normal person might react. I ask Mr Hetherington to accept that example rather than the other I gave him.

In essence, this is what this clause is all about. It could be taken as read that doctors have a commitment to the patient, anyway.

The Hon. N. E. BAXTER: There is little difference between what is proposed here, and what happens to post-operative patients in

ordinary hospitals. Often, post-operative patients undergo treatment such as physiotherapy. A lot of physiotherapy treatment is quite rough; physiotherapists are not the most gentle people in the world; they are not meant to be. People can suffer quite a bit of pain with physiotherapy, and some people may become a little frightened, and refuse such treatment. In such cases, the post-operative patient would be discharged from the hospital; there would be nothing further which could be done for him. Similarly, in this case, if a patient is not prepared to accept further treatment, he might just as well be discharged from hospital.

The Hon. R. HETHERINGTON: I believe there is a little difference between a patient who is not co-operating after surgery and a patient with mental illness. By very definition, a psychiatric patient is one who is not necessarily rational. He should not—I hope the Minister will not accuse me of saying he would—be thrown out of the institution. What I am saying is that it should be written into the Bill that he should not be discharged simply because he disagrees with some part of his treatment.

I hope there is no real need at present for such a safeguard to be included in the legislation. However, I always believe we should introduce safeguards at a time when they are not needed, because that is the best time to discuss them calmly and objectively. Quite often in the past, when we have argued from what is happening to what may happen, we have been proved to be wrong.

Clause put and passed.

Clauses 30 and 31 put and passed.

Clause 32: Offence of ill-treatment—

The Hon. R. HETHERINGTON: I misled myself here by a marginal note I placed on the Bill to the effect that there are adequate common law definitions to handle the matter. I have not checked with my colleagues but I presume that is the case.

Clause put and passed.

Clauses 33 to 47 put and passed.

Clause 48: Reception into hospital at request of two medical practitioners—

The Hon. R. HETHERINGTON: I notice this is a departure from the present Act and I believe it to be an improvement in that two medical practitioners are provided for. In other words, I am saying something kind about the Government; it has done something somewhere else of which I approve. I wish only that there were more of it.

Clause put and passed.

Clauses 49 to 52 put and passed.

Clause 53: Persons found unfit to stand trial may be admitted—

The Hon. R. HETHERINGTON: Despite the alleged lack of psychiatrists—I believe there is such a lack in this State—the Government has seen fit to include in the Bill a clause which provides for a person being committed to stand trial for any offence to be examined by two psychiatrists and, if he is found to be suffering from mental illness to the extent that he ought not stand trial, the Chief Secretary may direct that he be admitted as a patient to an approved hospital. However, only one psychiatrist need certify that he is fit to be discharged. In other words, it is easier for him to return to face the charges than it is to be admitted to the institution in the first place.

In my opinion, if we need two psychiatrists to get that person into hospital and not stand trial, we need two psychiatrists to put him back in court again. Mr Williams shakes his head; I will resume my seat and let him reply.

The Hon. R. J. L. WILLIAMS: I think I will get some help here from the Hon. Howard Olney, who is the learned gentleman in this area. What may happen is that prosecution would provide evidence from a psychiatrist relating to the state of mind of the defendant. Likewise, a defendant can produce a psychiatrist to give evidence as to his state of mind. Surely it is a question of the court, or the jury having two opinions to consider. If it is the opinion of the court or the jury that one opinion should prevail, a verdict is brought down. That is being fair to the person who is standing trial. I believe evidence would have to be presented to the court to show that the person was unfit to plead. We will have done our very best for that person.

However, during his stay in a mental institution he will be subjected to a lot of treatment by physicians and his case will be reviewed from time to time. When the people who care for him come to a consensus of opinion that he has recovered his normal state of mind, the superintendent—we could even include the word "superintendent" here because he must be a psychiatrist—can recommend his discharge. That is the reason I see for this provision; consequently, no doubt could be placed upon its interpretation.

The Hon. D. J. WORDSWORTH: I am sure the Hon. Howard Olney would not charge for that information; the State pays him a very handsome retainer for these sorts of situations.

The Hon. H. W. Olney: I get into trouble even appearing for unions, never mind members.

The Hon. D. J. WORDSWORTH: I believe this is covered by the fact that in such cases two physicians must make an examination before anyone is allowed to appear before a court.

Clause put and passed.

Clauses 54 to 67 put and passed.

Clause 68: Automatic discharge of non-voluntary patients after 28 days—

The Hon. R. HETHERINGTON: I refer members to the wording of subclause (2). All this provides is that a patient has an opportunity of appearing before the superintendent and, I presume, of being heard. I would like to find out what kind of hearing he could expect. Some formal hearing definitely should be allowed for; perhaps a patient should have the opportunity of being heard in the presence of a friend or legal representative; I am not sure about this. Again, this is one of those things I would have liked to discuss at another time and in greater detail, with evidence before me. I wonder whether the Minister can satisfy me in this respect and if not, whether he will examine the matter with a view to doing something at another time.

The Hon. D. J. WORDSWORTH: I will definitely recommend that the matter be considered. I have an idea that before discharge, a patient has the right of a written report, anyway. Perhaps that covers the matter.

Clause put and passed.

Clauses 69 to 76 put and passed.

Clause 77: Reporting incapacity of patients—

The Hon. R. HETHERINGTON: Clause 77 provides that on the say so of a psychiatrist a patient may be declared incapable of managing his affairs and other people may be given authority to do everything for him, whether or not he likes it. If this were to happen to me, it would not matter very much because I do not own a great deal of property. However, that situation does not apply to everybody.

It would seem to me that before a person is declared incapable of managing his own affairs and his affairs are placed in the charge of a manager, at least two psychiatrists should examine the person. I suppose I am hitting my head against the brick wall known as the Minister for Lands. I simply put that to the Committee.

Clause put and passed.

Clauses 78 to 81 put and passed.

Clause 82: Powers conferrable on managers—

The Hon. R. HETHERINGTON: I do not wish to fight this clause. I simply put before the Minister for the consideration of the Government the fact that this clause will authorise the person managing the estate of an incapable person to do anything. I simply wonder whether there is some way we can include a provision which would prevent the manager doing things to which the person would be known specifically to object if he were sane and to which it is known he would strongly object once he became capable again.

I do not know if there is any way of introducing this kind of safeguard; probably there is not. I presume managers are normally very careful about this sort of thing, but it does seem to me that some safeguards are needed. It may be that the incapable person will become capable again, and he may find that things have been done of which he strongly disapproves. It may be that his property is used in a way that it is known he would disapprove of, although the manager thinks it is more equitable. I do not know if I am worrying unnecessarily, but I do wish to register my concern.

The Hon. D. J. WORDSWORTH: I am not in a position to answer the member, but this is the normal sort of trustee clause. I think the court decides who shall be a manager of an estate. One can only presume the court will use its good sense and appoint someone with a good reputation. The clause is fairly comprehensive.

Clause put and passed.

Clauses 83 to 86 put and passed.

Clause 87: Accounts and payment of corporate trustees—

The Hon. R. HETHERINGTON: Subclause (2) refers to any person, being one of the next-of-kin, a spouse, or a creditor. It seems to me that we should consider legislation which allows for the registration of next-of-kin, as this would allow us to alter the definition and overcome the problem of *de facto* spouses. This would be useful not only in respect of heterosexual unions but also in respect of homosexual unions. At a meeting of homosexuals which I addressed, it was agreed this would be a very useful thing from their point of view.

As it stands, homosexuals whether male or female have no legal rights. It quite often means that when one of them goes into a psychiatric or other hospital the legal next-of-kin moves in and the preferred partner has no rights at all.

I merely thought I would mention this matter and run it up the mast, so to speak, to see if it flutters as far as the Government is concerned.

Clause put and passed.

Clauses 88 to 98 put and passed.

Clause 99: Regulations—

The Hon. R. HETHERINGTON: This clause represents one of my fundamental objections to the Bill. I know the Hon. John Williams made great play about reading out a whole list of things that might have been put in the Bill and asked if we wanted all those things contained in it, which of course we do not. However, we do want more detail in the Bill than we have now. I refer in particular to subclause (2) (f) dealing with power to make regulations in respect of the circumstances under which any specified treatment or class of treatment may be given or administered under this Act, and the authority or consents to be obtained before the giving or administering of any specified treatment or class of treatment.

This is one area where the critics of the psychiatric profession claim that psychiatrists are far too fond of administering certain drugs or giving electroconvulsive therapy. Mr Williams read out the definition in the South Australian Act which gave the forms of psychosurgery in the body of that Act and listed where special consents have to be given. He made two points: That this was unusual detail and that the forms of psychosurgery are far more detailed than would have been listed 20 years ago. Next year they might be even more detailed and I still think it would be desirable if some reference were made to psychosurgery. Again, this is a subject which is too complex for a layman like me to consider without help.

The whole question of treatment should not be left to regulations. The question of the inadequacy of the definition and the question of specified treatments, which must have consents, being included in regulations are two of the worst aspects of this Bill. I protest very strongly about this.

I hope that if the Saint committee reports next year the Government will go to work amending the Bill to carry out some of the recommendations. Certainly if it does not, I take the Minister's point that we will do so the following year.

The Hon. D. J. WORDSWORTH: The Minister for Health has made it quite plain that if the Saint committee makes recommendations in this regard and the Government agrees with them, a new division will be introduced in respect of compulsory treatment. In the meantime the Minister felt it should be spelt out exactly in the regulations what has been given as instructions to members of the Mental Health Services.

The Hon. N. E. BAXTER: There is a safeguard in this clause in relation to treatment and the class of treatment. Let us imagine that the Parliament is not sitting and a great advance is made in mental disability treatment which it is wanted to use to help a patient. Action can be taken by way of regulation to allow for this.

If we had to wait to amend the Act a patient might have to wait a couple of months till the Parliament sat again and passed the necessary amendments. As it stands, a regulation can be made to provide for this new treatment. So this is a safeguard available, particularly when Parliament is not sitting. Something can be done immediately rather than waiting for Parliament to come out of recess.

The Hon. R. HETHERINGTON: The Hon. Norm Baxter has given me comfort in a matter I did not mention. Of course I do not want everything that would go into regulations to be written into the main body of the Bill. That would be impossible and impracticable. We should consider including a definition of "psychosurgery" and some other categories of treatment without making it impossible to give a patient some new treatment until Parliament sat again and passed the necessary legislation. That would be the height of futility. I hope the Minister did not think I was suggesting that. I hope he would not think I was entirely foolish.

Clause put and passed.

Clauses 100 to 102 put and passed.

First and second schedules put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

ACTS AMENDMENT (MENTAL HEALTH) BILL

In Committtee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

ADJOURNMENT OF THE HOUSE

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [9.44 p.m.]: I move—

That the House do now adjourn.

Members of Parliament: Security of Offices

THE HON. P. H. WELLS (North Metropolitan) [9.45 p.m.]: I draw to the attention of the House a matter which concerns me and should be the concern of every member. I refer to the

inadequate degree of security of parliamentary offices.

Since the House last sat the police came to me at my office and advised me that juveniles had had access to my office. In fact, these juveniles had keys to the office. I am not talking about hardened criminals, I am talking about juveniles, who have had access to the office provided to me by the Government. The locks are not old ones, installed two, five, or 10 years ago, but ones installed just four months ago. Without my knowledge these juveniles have had access to all parts of my office, and I believe that type of lack of security is not adequate for the office of a member of Parliament.

At times we deal on a most confidential basis with members of the community, Ministers, companies and a whole range of other groups. Information provided to us is often provided on the basis that it not be made public, but if certain people have access to our offices and the information they contain, as it appears people have had access to my office, it is possible our work will be inhibited.

I have been told by a locksmith that a special seven pin lock is available. It has a key which cannot be copied easily, and certainly not by any of the ordinary key cutting shops in the community. It has been recommended that such locks be installed at Ministerial offices, and I believe every external door of offices of members of Parliament should have such a lock as the minimum form of security.

We must be able to feel that our correspondence is private and that generally our offices have a certain amount of security.

Parliament House: Security

A wider question of security is involved. We have had the recent innovation at this Parliament of electronic locking devices which I believe give only members easy access to this place. However, I wonder about the security of internal doors in this place. How many people over the years have had access to the keys to those doors and have had an opportunity of copying those keys? During the day we have security people manning external doors, and police officers available around the Parliament, but I wonder in the light of the break-in to my office whether more stringent security should be enforced. If juveniles can obtain access to a parliamentary office with recently installed locks, certainly the same access could be had to doors within this Parliament which have had the same locks for many years.

There must be thousands of keys and locks for the many Government offices and I wonder whether there is a need for legislation to provide that keys to all Government offices cannot be cut without proper approval. Perhaps it should be illegal for a key bearing a special mark to be copied. Such a system would improve the security of all Government buildings.

Of course, the Government offices with which I am most directly concerned are parliamentary offices. I hope the people in control of parliamentary security will ensure that the keys and locks suggested for installation at Ministerial offices will be made available for the parliamentary offices of members.

Question put and passed.

House adjourned at 9.49 p.m.

QUESTIONS ON NOTICE

ELECTORAL: DISTRICTS

Redistribution

467. The Hon. N. E. BAXTER, to the Minister representing the Chief Secretary:

Would the Minister please advise how many electors were enrolled, in each of the following local authority areas on Assembly district rolls, at the time when the electoral commissioners commenced the proposed redistribution of electoral districts—

Dalwallinu;
Wongan-Ballidu;
Goomalling;
Cunderdin;
Dowerin;
Koorda;
Mt. Marshall;
Trayning;
Wyalkatchem;
Tammin;
Nungarin;
Mukinbudin;
Westonia;
Yilgarn;
Kellerberrin;
Merredin;
Bruce Rock;
Narembeen;
Quairading;
Corrigin;
Kondinin;
Kulin;
Wickepin;
Northam Town Council;
Northam Shire Council;
York;
Beverley;
Brookton;
Pingelly;
Cuballing;
Narrogin Town Council;
Narrogin Shire Council;
Williams;
West Arthur;
Wagin;
Dumbleyung;
Woodanilling;
Kojonup;
Katanning;
Broomehill;
Tambellup;
Cranbrook;
Gnowangerup;
Kent;
Lake Grace; and
Ravensthorpe?

The Hon. G. E. MASTERS replied:

The numbers of electors enrolled in the local government districts specified on 18 May 1981 were—

Dalwallinu	1 060
Wongan-Ballidu	1 181
Goomalling	652
Cunderdin	963
Dowerin	630
Koorda	487
Mt. Marshall	523
Trayning	404
Wyalkatchem	622
Tammin	359
Nungarin	213
Mukinbudin	517
Westonia	220
Yilgarn	1 127
Kellerberrin	1 007
Merredin	2 557
Bruce Rock	926
Narembeen	746
Quairading	823
Corrigin	1 032
Kondinin	730
Kulin	710
Wickepin	736
Northam Town Council and Shire Council	5 470
York	1 354
Beverley	1 026
Brookton	670
Pingelly	862
Cuballing	354
Narrogin Town Council and Shire Council	3 256
Williams	683
West Arthur	697
Wagin	1 510
Dumbleyung	659
Woodanilling	213
Kojonup	1 657
Katanning	2 724
Broomehill	338
Tambellup	530
Cranbrook	830

Gnowangerup	2 022
Kent	499
Lake Grace	1 155
Ravensthorpe	800

COMMUNITY WELFARE

Institution: Geraldton

474. The Hon. TOM McNEIL, to the Minister representing the Minister for Community Welfare:

(1) With regard to the new emergency foster care home being built in Swan Drive, Geraldton, would the Minister advise—

(a) the home's capacity;

(b) construction cost; and

(c) expected completion date?

(2) Is it correct that two sets of foundations have been laid?

(3) If the answer to (2) is "Yes"—

(a) what is the cost of the error; and

(b) who is responsible for the error?

(4) Is it intended that the original set of foundations will be removed?

(5) If the answer to (4) is "Yes", at what cost?

The Hon. G. E. MASTERS replied:

(1) (a) The Minister for Community Welfare advises that the home's capacity is for eight children and two adults;

(b) $134 668;

(c) 30 December 1981.

(2) Yes.

(3) (a) $19 000;

(b) Public Works Department. The site is a sub-leased portion of a large reserve and the error was due to a misunderstanding of the precise location of the building in relation to the inadequately defined boundary.

On realising the error, it was necessary, in order to fulfil our responsibilities to local residents, to recommence construction on the correct site instead of negotiating an exchange of the land on that reserve. Although additional costs were raised thereby, it was felt that it was more important to stand by our understandings given to the local authority and local residents concerning the exact location of the Welfare Department cottage.

(4) Not at this stage.

(5) Not applicable.

GRAIN

Wheat

481. The Hon. J. M. BROWN, to the Minister representing the Minister for Agriculture:

(1) Will wheat deliveries be received at Yelbeni siding by Co-operative Bulk Handling for the 1980-81 harvest?

(2) As Yelbeni bin is an elevator-type receival point, will there be special receival facilities at Trayning or Nembudding, for those farmers who previously delivered to Yelbeni, in the event of the receival point being closed?

(3) Is there any pressure applied to farmers who deliver to bulk handling facilities who are not in a position to purchase tipper-type equipment for sidings, and therefore take the longest time to discharge their wheat?

(4) Are farmers expected to upgrade equipment to the tipper type?

The Hon. D. J. WORDSWORTH replied:

(1) Wheat was received at Yelbeni during the 1980-81 harvest. For 1981-82 Yelbeni is now officially closed and at this time it is not envisaged that grain will be received at Yelbeni from the 1981-82 harvest.

If the 1981-82 harvest is abnormally large the reopening of the Yelbeni receival point as a special matter could be reviewed.

(2) Nembudding was upgraded in 1975 and Trayning in 1980 to allow for the provision of services to growers formerly delivering to Yelbeni, and therefore no special facilities will be necessary.

(3) No pressure is applied to farmers by the company but it is desirable for all growers to have upgraded equipment to ensure all growers have the maximum use of the company's upgraded facilities, or to perhaps incorporate innovations to their existing machinery to take advantage of the faster receival rates.

(4) This has been the normal practice by thousands of growers at many other receival points throughout the State for many years.

RAILWAYS

Freight Rates

486. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Transport:

(1) What does Westrail charge per bale for the transport of wool between Kojonup and Albany?

(2) Is there a rebate granted for wool transported from areas away from the line between Kojonup and Katanning?

(3) If so, will the Minister provide details?

(4) Will these rates continue to apply during the period the line is temporarily closed?

The Hon. D. J. WORDSWORTH replied:

(1) Westrail's charges for the transport of wool between Kojonup and Albany—238 kilometres—are—

(a) $3.90 per bale if less than 40 bales per consignment;

(b) $3.40 per bale with a minimum of 40 bales per consignment;

plus ancillary charges for loading, unloading or checking as required.

(2) There is no known rebate for wool transported from areas away from the line between Kojonup and Katanning.

(3) Not applicable.

(4) At least during the current period of temporary closure.

STOCK: SHEEPSKINS

Treatment

487. The Hon. P. G. PENDAL, to the Minister representing the Minister for Agriculture:

I refer to my question 153, asked without notice, addressed to and answered by the Minister on 26 August 1981, and ask—

(1) Are the results of departmental and CSIRO investigations referred to by the Minister yet available?

(2) If so, with what result?

(3) If not, would the Minister be prepared to place before the appropriate technical committee, physical evidence in my possession of the ill-effects of the product "Clout" on sheepskins?

(4) Is the Minister aware of claims by Australia's largest exporters of tanned sheepskins—Interskin Products Pty. Ltd.—that losses to the world trade using Australian skins could reach between $20 million and $30 million?

(5) What tests, if any, are being carried out by the department on the effects "Clout" may have on Western Australia's wool clip, as distinct from the skin trade?

(6) Is the Minister aware of claims that of 146 skins treated with "Clout" and received by Interskin Products in Bendigo, some 34 per cent were adversely affected?

The Hon. D. J. WORDSWORTH replied:

(1) and (2) No. Results are expected in three to four weeks.

(3) and (4) Yes.

(5) 278 kg of wool from sheep which were treated with "Clout" in late 1980 have been forwarded to CSIRO, Victoria, for testing. It is this work which is referred to in (1).

(6) No.

FUEL AND ENERGY: GAS

Customers

488. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Fuel and Energy:

(1) How many cubic metres of gas are sold on average per day by the State Energy Commission?

(2) How much is sold per day on average to the Fremantle Gas and Coke Company?

(3) Apart from the Fremantle Gas and Coke Company, who are the four major purchasers of gas from the State Energy Commission?

(4) How much does each use on average per day?

The Hon. I. G. MEDCALF replied:

(1) 433 800 cubic metres per day.

(2) to (4) Detailed sales to State Energy Commission customers are subject to commercial confidentiality.

EDUCATION: PRIMARY SCHOOL

Wembley Downs

489. The Hon. R. HETHERINGTON, to the Minister representing the Minister for Education:

Could the Minister advise what remedial teaching is available to children with learning disabilities attending Wembley Downs Primary School?

The Hon. D. J. WORDSWORTH replied:

Depending on the specific nature and severity of the learning disability, any one of three area remedial units would be available to which children from Wembley Downs Primary School can be referred. These consist of two special classes and one clinic.

PUBLIC HOLIDAYS

Public Servants

490. The Hon. P. G. PENDAL, to the Minister representing the Premier:

(1) Is the Minister aware of fears that public servants will lose public holidays on Easter Tuesday, and an extra day enjoyed at New Year?

(2) Could the Minister clarify the position, if indeed any clarification is necessary?

The Hon. I. G. MEDCALF replied:

(1) No.

(2) No decision has been made by the Government to alter the existing Public Service holidays as provided in the Public Service regulations.

HEALTH: DISABLED PERSONS

Assistance Scheme

491. The Hon. R. HETHERINGTON, to the Minister representing the Minister for Health:

(1) Could the Minister advise what funding has been made available by the Commonwealth Government to meet the cost of aids provided through the programme of aids for disabled persons scheme?

(2) Could the Minister advise what funding was provided by the State Government last year to meet the cost of aids through the domiciliary aids scheme?

The Hon. D. J. WORDSWORTH replied:

(1) $200 000 for the financial year 1981-82.

(2) It is assumed that the term "domiciliary aids scheme" refers simply to modifications made to and appliances installed in patients' private homes. The amount spent on these items in 1980-81 was—

home modifications	$133 871
home aids and appliances	$35 513

This amount was funded on a 50/50 basis by the Commonwealth and State Governments.

FISHERIES

Herring

492. The Hon. P. G. PENDAL, to the Minister for Fisheries and Wildlife:

(1) What is the current status of the review into the use of herring as both a food and bait fish?

(2) Is the Minister aware of the continuing concern of amateur anglers towards the use of herring as bait by professional fishermen?

The Hon. G. E. MASTERS replied:

(1) A review of the use of herring as both a food and bait fish is a continuing process.

(2) I am aware of both the anglers' concern about the capture of herring by professional fishermen and the need to maintain the professional fishery. Herring is a common property resource and the rational use of this resource to provide for the amateur and professional interests is a management objective.

EDUCATION: STUDENTS

Handicapped

493. The Hon. R. HETHERINGTON, to the Minister representing the Minister for Education:

Can the Minister advise what number of handicapped students have applied for assistance under the Australian Schools Commission "education for severely handicapped students" provisions as advertised in *The West Australian* of 15 July, 1981?

The Hon. D. J. WORDSWORTH replied:

Private submissions were made on behalf of 28 persons and additional submissions on behalf of 62 persons.

HEALTH: NURSING HOME

Quadriplegic Centre

494. The Hon. R. HETHERINGTON, to the Minister representing the Minister for Health:

(1) Is it a fact that the residents of the Quadriplegic Centre Nursing Home are required to pay 87½ per cent of their invalid pension towards the cost of care at the home (an increase of 12½ per cent)?

(2) Is it correct that, after the residents have paid their board at the centre, they are left with less than $10 per week to maintain their independence?

(3) If this is the case, will the Minister examine the possibilities of providing some relief for those residents whose main source of income is their invalid pension?

The Hon. D. J. WORDSWORTH replied:

(1) Yes. Patients in all Government and Government subsidised nursing homes now pay 87½ per cent of their pension towards the cost of care and maintenance.

(2) Yes.

(3) Consideration may be given by the boards of management of the nursing homes to any patient who has special financial needs.

HEALTH

Women's Refuge Centres

495. The Hon. R. HETHERINGTON, to the Minister representing the Minister for Health:

(1) Can the Minister inform me how many women's refuges there are being funded at present in Western Australia?

(2) Do these refuges meet the total needs for refuges in the State?

(3) What provision does the Government intend to make for the funding of additional refuges if the need is apparent?

The Hon. D. J. WORDSWORTH replied:

(1) 14.

(2) There may be a need for new refuges in some places outside the metropolitan area. However, the Government considers that in the metropolitan area most urgent needs can be met through existing services.

(3) If the need for new refuges is demonstrated, applications for funds will be considered with the context of other proposals for growth in Government expenditure.

HEALTH

Women's Refuge Centres

496. The Hon. R. HETHERINGTON, to the Minister representing the Minister for Health:

(1) Will the Minister outline the Government's basic proposals for the funding of women's refuges?

(2) What objections to these proposals have been raised by the management committees or collectives of women's refuges, individually or collectively?

(3) Is it the intention of the Minister to negotiate with representatives of the women's refuges to try to meet any of their objections?

(4) Did the Minister, or officers of his department, consult with representatives of women's refuges before drawing up the basic proposals?

The Hon. D. J. WORDSWORTH replied:

(1) The new funding arrangements are based on several principles. Firstly, that the State Government will continue to provide financial support for women's refuges. Secondly, all available funds should be distributed on an equitable basis between all refuges. Finally, refuges will no longer be required to match a proportion of approved expenditure in order to qualify for Government assistance.

The basic proposals are as follows—

(i) The size of the allocation to each refuge will depend upon the refuge capacity, type of staff needed—number of paid or voluntary staff—and rent charges, if any. Maximum levels will be set for the ratio of paid staff to refuge capacity. A standard subsidy per approved full-time position will be paid.

(ii) The capacity of each refuge will be assessed by an appropriate department officer in liaison with the relevant local health authority. This assessment will take into account relevant health regulations regarding sewerage, water supply, etc.

(iii) Allocations to individual refuges will be divided into these categories—food and other costs, salaries, and rent. Up to $5 000 may be transferred between categories without the prior consent of the Public Health Department.

(iv) Funds will be recouped quarterly on a specified form in a similar manner to the existing monthly system. Expenditure of the grant will continue to be subject to audit.

(v) The following statistics are to be provided on a regular basis—probably quarterly—in respect of each woman who uses the refuge: date of arrival, number of children, Aboriginal/non-Aboriginal, and date of departure.

(2) Their objections seemed to be based on financial needs, increase in pressure caused by cutbacks in funding to other agencies, variations in refuges, problems with salaries of staff, possible increases in subsidy to some refuges at the expense of others, and concern about whether there will be sufficient accommodation for all the women and children who require refuge.

(3) Not at this stage. A meeting was held initially by the Minister for Health with refuge representatives to outline and discuss the basic proposals for the funding of refuges. Since that meeting refuges which have voiced objections have been advised that once Budget details are known, if individual refuges are dissatisfied with their allocations, they will be given the opportunity to discuss their financial requirements with department officers.

(4) Sufficient information regarding refuges objections to previous funding arrangements and refuge financial needs had been presented in the past. The basic proposals took this information into consideration and further consultation prior to the meeting with refuge representatives was not considered necessary.

HEALTH

Women's Refuge Centres

497. The Hon. R. HETHERINGTON, to the Minister representing the Minister for Health:

(1) In what way does the Government's proposed method of funding women's refuges in Western Australia differ from the method used when the Federal Government provided the bulk of the funds for such refuges?

(2) Can the Minister explain why the Government chose to change the criteria for funding?

The Hon. D. J. WORDSWORTH replied:

(1) There are two main differences—

(i) Under the new arrangements, neither the refuges nor the State Government is required to make a contribution towards approved expenditure in order to qualify for Commonwealth funds;

(ii) previously there was no written policy for the allocation and distribution of available funds between refuges.

(2) The previous arrangements were no longer applicable once control of funding was transferred to the State. The criterion was changed for two main reasons—

(i) The previous cost-sharing arrangements restricted the use which some refuges were able to make of their Government allocation; this situation will be relieved by the new arrangements;

(ii) most refuges are heavily dependent on Government assistance and although it is accepted that individual refuges will always operate differently, the differences should not be created by an uneven-handed approach to the distribution of Government funds; the new criterion was needed to provide a basis for all refuges to have the opportunity to receive an equitable portion of available funds.

HOUSING: SHC

Lady Gowrie Child Centre

498. The Hon. P. G. PENDAL, to the Minister representing the Minister for Housing:

(1) Can the Minister advise whether the State Housing Commission would consider accepting responsibility for the maintenance of the grounds of the Lady Gowrie Child Centre at Karawara?

(2) Is the Minister aware of a South Perth City Council decision to take over the maintenance of the grounds for a period of 12 months subject to review at the end of that period?

The Hon. G. E. MASTERS replied:

(1) The land at Karawara was transferred to the Lady Gowrie Child Centre and the commission cannot accept responsibility for maintenance of the grounds.

(2) No.

HEALTH

Women's Refuge Centres

499. The Hon. R. HETHERINGTON, to the Minister representing the Minister for Health:

What criteria does the Department of Health use in deciding whether any group or organisation is a women's refuge to receive funds from the department?

The Hon. D. J. WORDSWORTH replied:

A women's refuge is a facility which provides short-term accommodation and emotional and practical support for women and their children—if any—who are in a crisis situation. However, applications for funds are considered on an individual basis and factors such as the ability of the organisation to provide a refuge service, suitability of proposed premises, and the need for additional refuge accommodation in the proposed location would need to be assessed.

HEALTH

Women's Refuge Centres

500. The Hon. R. HETHERINGTON, to the Minister representing the Minister for Health:

Is it a fact that the Government funds a hostel for single women run by Jesus People (Inc.) out of funds allocated to women's refuges?

The Hon. D. J. WORDSWORTH replied:

Under the women's refuge programme, Government funds are provided to Jesus People (Inc.) for the operation of a refuge for young women without children.

HEALTH

Women's Refuge Centres

501. The Hon. R. HETHERINGTON, to the Minister representing the Minister for Health:

(1) Can the Minister inform me what funds are to be allocated collectively or individually to women's refuges in the 1981-82 financial year?

(2) Compared with 1980-81, which refuges will receive increased funding, and which will receive less?

The Hon. D. J. WORDSWORTH replied:

(1) and (2) No, the Budget allocations are not yet known.

HEALTH

Women's Refuge Centres

502. The Hon. R. HETHERINGTON, to the Minister representing the Minister for Health:

(1) Is it a fact that women's refuges first have to spend money and then be recouped?

(2) If this is a fact, will the Minister examine the possibility of an improved method of funding refuges?

The Hon. D. J. WORDSWORTH replied:

(1) No. Initially each refuge is given an advance for one month. Expenditure of this advance is then reimbursed at the end of the month.

(2) Not applicable.

HEALTH

Women's Refuge Centres

503. The Hon. R. HETHERINGTON, to the Minister representing the Minister for Health:

(1) Has the Minister decided to make funds available again to Emmaus Women's Refuge?

(2) If so, under what conditions were the funds restored?

The Hon. D. J. WORDSWORTH replied:

(1) Yes.

(2) The refuge agreed to accept, where possible, referrals from all sources and to abide by the funding arrangements previously detailed—question 496 (1).

RAILWAYS: FREIGHT

Small Goods

504. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Transport:

Referring to question 483 on Wednesday, 9 September 1981, will the Minister advise the name of the private company with which Westrail is considering entering into a joint venture?

The Hon. D. J. WORDSWORTH replied:

There is no particular private company with which Westrail is considering entering into a joint venture.

However, in examining the alternative of entering into such an arrangement, Westrail has had assistance of at least two freight forwarders.

MEAT: QUALITY

Control

505. The Hon. LYLA ELLIOTT, to the Minister representing the Minister for Health:

Further to question 466 on 9 September 1981, and the Minister's reply—

(a) how many inspectors are employed by the State for this purpose;

(b) how often are inspections carried out under each category listed from (i) to (vii); and

(c) do inspectors give advance notice of their intention to visit abattoirs and other processing works?

The Hon. D. J. WORDSWORTH replied:

(a) There are 30 State-employed officers engaged on full-time meat inspection duties in the metropolitan area; and approximately 70 officers engaged by local government conduct these duties in country areas;

(b) a full-time inspection service is provided for categories (i), (ii), and (iii); categories (iv), (v), (vi) and (vii) are subject to regular surveillance service by departmental and local government officers;

(c) no.

ROADS: FUNDS

Stirling City

506. The Hon. N. E. BAXTER, to the Minister representing the Minister for Transport:

Further to question 477 answered on Wednesday, 9 September 1981—

(1) Is the Minister aware that a City of Stirling information brochure, issued August 1981, shows the following information—

Government road grants year ending 30 June 1981—$1 365 870.
Government road grants year ending 30 June 1982—$2 492 189?

(2) Is the aforementioned information correct?

(3) If the information is correct, do the figures not represent an increase of 82.46165 per cent?

The Hon. D. J. WORDSWORTH replied:

(1) Yes.

(2) and (3) Yes, but the amounts shown do not reflect the level of road grants allocated to the Stirling City Council in each of the two years 1980-81 and 1981-82. This is because the amount of $2 492 189 for 1981-82 includes some $580 000 as well as some other funds allocated to the council in 1980-81 and not spent in that year.

QUESTIONS WITHOUT NOTICE

FISHERIES

Rock Lobster

163. The Hon. P. H. LOCKYER, to the Minister for Fisheries and Wildlife:

(1) Will the Minister give an undertaking that, when giving consideration to expansion of the restricted area for rock lobster fishing at the Blowholes north of Carnarvon, pressure from large rock lobster operators will not affect his decision?

(2) Will he acknowledge that, prior to 1981, no rock lobster boats operated at the Blowholes?

The Hon. G. E. MASTERS replied:

(1) The member would know the background to the discussions and the reviews taking place at the Quobba Point north of Carnarvon. He would know also that, quite recently, at the request of him and the Hon. Norman Moore, I attended a meeting at Carnarvon and inspected the site—going out in a boat and meeting local people, including representatives from the shire council. He would know also that I gave an undertaking that on my return I would give consideration to the further evidence submitted by him and the Hon. Norman Moore. I am doing that, and

naturally, in doing so, I am consulting with the fishing industry through the professional fishermen. I have discussed the matter also with the Western Australian President of the Australian Fishing Industry Council. The matter is under review, and as soon as I have given consideration to it, I will give an answer to him, to Mr Moore, and to anyone else who may be interested. I can assure him I am giving every consideration to their representations.

(2) I am led to understand probably that is so. In other words, rock lobster fishermen probably did not fish in that area prior to 1981. However, I have not carried out investigations in depth. It may be that in the past someone has done so, but my understanding is that is not the case. The short answer is that the matter is still under review. As soon as I have made a decision, both the member asking the question and the Hon. Norman Moore will be advised.

"DE FACTO"

Definition of Term

164. The Hon. W. M. PIESSE, to the Attorney General:

In view of the many references made to *de factos* in debates in this Chamber, would he tell me the definition of a *de facto*, and the qualifying period required to become a *de facto*?

The Hon. H. W. Olney: We should ask her to declare her interest!

The PRESIDENT: Order! I am of the opinion that the question is out of order in that either it is hypothetical or that it is seeking a legal opinion. As such, it is out of order. If the member would like to reframe her question, I would be prepared to consider it.

FISHERIES

Lancelin

165. The Hon. TOM McNEIL, to the Minister for Fisheries and Wildlife:

(1) When is it anticipated that the next major naval exercises after May will be repeated in the Lancelin area?

(2) Is more than one major exercise in any given year a contravention of the agreement made between the then Minister for Fisheries and Wildlife (the Hon. G. C. MacKinnon) and the Minister for Defence (the Hon. D. J. Killen) in 1977?

The Hon. G. E. MASTERS replied:

(1) I understand nothing is planned for the remainder of 1981.

(2) No.