LEGISLATIVE COUNCIL

Wednesday 9 March 1994

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the fourth report 1994 of the Legislative Review Committee, and I lay upon the table the Committee's minutes of evidence on regulations under the Education Act concerning Alberton Primary School.

QUESTION TIME

PUBLIC SECTOR CONTRACTS

The Hon. C.J. SUMNER: I seek leave to make an explanation before asking the Minister for the Arts a question about public sector salaries and Public Service dismissals.

Leave granted.

The Hon. C.J. SUMNER: In Opposition, the Liberal Party was very vocal in criticising salaries of public sector employees, even when they were in commercial enterprises competing with the private sector. The double standards of the Liberal Party are now obvious: another commitment has been overturned. I refer to the appointment and salary of Mr Michael Schilling as CEO of the Department of the Premier and Cabinet and of Mr Peter Boxall as Under Treasurer.

Mr Schilling's salary is at least $40 542 more than that of his predecessor, Dr Crawford. The salary of the new Under Treasurer, Mr Boxall, is $46 315 more than that of his predecessor. Of course, Mr Boxall struck the jackpot: in the Commonwealth Treasury his salary was only $68 663—a tidy little increase in earnings of $89 237. One of his qualifications is having worked for the Liberal Party, working as he did for John Hewson on the infamous Fightback package—and we all know how successful that was. Mr Schilling is receiving $84 548: $64 548 for additional duties and a $20 000 performance allowance over and above the base rate for his position as CEO of the Department of the Premier and Cabinet.

The excuses of additional duties and work performance targets are pure camouflage for the real situation, which simply is that Mr Schilling said he would stay in South Australia provided that Mr Brown was prepared to meet his demands for a similar salary to that which he was receiving in Victoria.

Members interjecting:

The PRESIDENT: Order! There is too much background noise.

The Hon. C.J. SUMNER: Mr Brown acquiesced and devised these phoney allowances to justify the salary. The reality is that Mr Schilling's additional duties of public sector reform and deregulation, etc., were being carried out under the previous Government without any additional salary.

As to the allowance for work performance targets, the question immediately arises as to whether other CEOs will be offered these allowances and, if not, why not. Why is every other CEO in the Brown Government prepared to perform without the incentive of the $20 000 offered to Mr Schilling whereas Mr Schilling is not? Why did Mr Schilling receive the $20 000 but Mr Boxall did not, even though they were appointed at the same time?

Mr Schilling is being paid $84 548 over the base rate to institute a reign of terror in the Public Service. Public servants' contracts have been broken and individuals illegally dismissed. Many have been shifted from their positions in a manner contrary to the provisions of the Government Management and Employment Act.

There has been no respect for the principles of the sanctity of contracts or the principles of legality of conduct in the Public Service. As far as the Liberal Government is concerned, if your face does not fit, then you are to be sacked or moved on. This has been done in a capricious manner, without regard to competence or skills. A McCarthyist atmosphere has been developed in the Public Service since the Brown Government took over.

The Hon. R.I. LUCAS: I rise on a point of order, Mr President. I understand that some latitude is being given to the Leader of the Opposition, who obviously—

The Hon. Anne Levy: Point of order!

The Hon. R.I. LUCAS: I am about to make a point of order. If you want to make a point of order, stand up.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The point of order, Mr President, is that the Leader of the Opposition clearly is expressing personal opinions and is not making an explanation. He is making a number of personal opinions in relation to this issue, and he ought to be required not to make those continued expressions of personal opinion during a question. If he wants to allege a wide range of matters, there are other forums in the Parliament for him to do so.

The PRESIDENT: Order! I note the point of order. The Leader was getting pretty close to the mark, and I advise him of that.

The Hon. C.J. SUMNER: It is a fact that a McCarthyist atmosphere has been developed in the Public Service since the Brown Government took over. It is a fact that people have been dobbed in to their superiors for fraternising with people who were associated with the former Labor Government.

The prize for the most cruel and callous illegal dismissals goes to the Minister for the Arts, the Hon. Diana Laidlaw. She illegally sacked the former head of the Department for the Arts, who was the first person of Aboriginal extraction to hold such a position in South Australia, who was selected after a proper merit selection procedure and who had also just overcome a battle with a serious illness.

As if this was not enough, in the middle of the battle by the head of the STA, Mr John Brown, against a serious illness, she illegally broke his contract of employment as well. All this to ensure that a personal friend could be appointed to the Department for the Arts without advertising the position—a fact—and without the declaration of that friendship made to Cabinet when it was being considered.

The Liberal Government's approach to the Public Service has been characterised by vindictiveness, capriciousness, illegality and the worst McCarthyist principles of condemning people by association.

The PRESIDENT: Order! That is opinion.

The Hon. C.J. SUMNER: I defer to your view, Mr President. However, it is a fact that this matter does involve broken contracts—they are broken contracts, absolutely no doubt about it. Contracts that people had entered into were broken by this Government. That is a fact and, if you want to argue with it, I would be interested to hear our legal counsel on the other side try to argue to the contrary. Contracts had

been entered into between employers and employees, and those contracts were broken.

But the broken contracts that were referred to yesterday in a ministerial statement are only the tip of the iceberg. There are dozens of people sitting around the Public Service in offices with phones and no work to do—all committed public servants who in many cases were illegally shifted from their jobs under the Government Management and Employment Act because their faces did not fit or because it was felt that they had an association with the former Labor Government. Considerations of capacity and skill were ignored. This procedure is costing taxpayers hundreds of thousands of dollars in direct pay-outs and lost productivity.

The decisions to break contracts illegally with public servants—a fact—or move them illegally—a fact—were not made on considerations of merit or capacity. A few (and I emphasise 'a few') public servants who started cooperating with the Liberal Opposition by leaking documents and by attempting to undermine the Labor Government have been promoted. Others who loyally went about their task have been demoted, irrespective of merit.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Mr President, it is obviously hurting them; they are obviously upset about it; they obviously know that they broke contracts that had been legally entered into; and they have shifted people contrary to the provisions of the Government Management and Employment Act. My question to the Minister for the Arts is as follows:

1. Why was Dr Eric Willmot, the first Aboriginal CEO appointed in South Australia to a position such as this, dismissed by the Minister for the Arts?

2. What were the criteria used in his dismissal and why did Dr Willmot have his contract illegally broken by the Government?

The Hon. DIANA LAIDLAW: It is Fringe Festival time and we have just seen a most amazing performance from the Leader, but I do not think that, unless we had to sit here and be paid for it, anyone else would bother to attend. The explanation did not relate to the questions asked, and I am surprised that they have been allowed. Nevertheless, I will answer those questions that have been raised with me. I believe that under the Equal Opportunity Act one cannot discriminate on the basis of race, and I certainly would not have made any judgment in respect of Dr Willmot on the basis of race.

I think it is most unfortunate that the Leader has stooped so low as to introduce the matter of race in this place. Dr Willmot was not dismissed: there was discussion with CEOs and it was by mutual agreement. That was negotiated by mutual agreement with the head of the Department of the Premier and Cabinet, who makes such appointments. There was no broken contract, no illegality, such as I and the Government have been accused of in this matter, and the explanation and questions are a mere beatup by the Leader and, I think, are beneath him.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: And it is smear. There are many other statements. I think it is very interesting that the Leader would raise all these matters, when one looks at Mr Bruce Guerin and the way the members of the former Government have set up friends, and the financial responsibility that we have in this State because of the way they have looked after their friend. That is something that should be and will be explored further in this place.

Members interjecting:

The Hon. DIANA LAIDLAW: You have paid $900 000 of taxpayers' money to your friend. For one individual you have burdened the taxpayers with $900 000 and, unlike a targeted separation package—

Members interjecting:

The PRESIDENT: Order! I remind members that the Minister is answering questions. She is entitled to be heard.

The Hon. DIANA LAIDLAW: Unlike a targeted separation package that has been negotiated with the individuals to whom the Leader has referred, we have with Mr Bruce Guerin a $900 000 ongoing commitment and, even when that contract has expired, we have to take him back into the Public Service at the top CEO rate—and we have the superannuation commitments flowing from that. I think, before the honourable member slings further accusations and smear in this case, he should look at what he was prepared to negotiate with his friend Mr Guerin. Mr Brown has been referred to in terms of—

The Hon. C.J. Sumner: You sacked him.

The Hon. DIANA LAIDLAW: —in terms of the General Manager of the STA, and it is true that I asked the board, after this matter was discussed with and agreed to by Cabinet, for its concurrence to terminate his contract. The matter now is being challenged by Mr Brown in the courts as is his right, and I do not think I should explore that further because of reasons of *sub judice*.

The matter of Ms Winnie Pelz being appointed as the CEO for Arts and Cultural Heritage has been explored before. I have never acknowledged that she is a personal friend and she is—

Members interjecting:

The Hon. DIANA LAIDLAW: I do not know how you define a personal friend. I do not deny that I said that she is a friend, but I have seen her only four times in the past four years. If one suggests that is a close personal friend I am sorry for them because their relationships with their friends must be pretty shallow. The shadow Attorney fails to recall that in 1986 Mr Bannon appointed Ms Winnie Pelz as Development Manager to the Living Arts Centre on a two year contract without advertisement and that in 1987 he again appointed Ms Winnie Pelz as Director of Programs and Policies within the then Department of the Arts. That was a substantive position approved by the Bannon Government and it was a substantive position appointed without advertisement.

The Hon. Anne Levy: It was not made by the Minister.

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: It was not made by me, either. I repeat: it was an appointment made without advertisement. It is very interesting to see that those members opposite seem to have forgotten when it is convenient that, in terms of the arts, the former Government certainly had a respect as I do and the Government does for the credibility, merit and capacity of Ms Winnie Pelz, and she was appointed, without advertisement, to those various positions. I find the short memory of the members opposite, when it is convenient, interesting. I have followed, if you like, the lead set by the former Government. I, too, share the same regard for Ms Winnie Pelz as it did when it made those earlier appointments.

The Hon. C.J. SUMNER: I have a supplementary question. If a contract with Dr Willmot was not broken by the Government, why did the Government pay out over $200 000 to Dr Willmot?

The Hon. DIANA LAIDLAW: Because the contract that the former Government had signed with Dr Willmot and others required that that be the pay-out under these terms. This parting was by mutual agreement; there was no breach of contract; and there was no illegality involved.

Members interjecting:

The PRESIDENT: Order! If the members on my left continue to interject—

The Hon. Anne Levy interjecting:

The PRESIDENT: If the Hon. Anne Levy wants to be warned, she is heading in the right direction. I have given her a very long leash but when she comes to the end of that leash it will be a very sudden stop. Will she desist from interjecting.

The Hon. DIANA LAIDLAW: The contract negotiated by the former Government with Dr Willmot provided for termination provisions. If it had not then we would not have done the right thing in this matter. The termination provisions were negotiated by mutual agreement. Dr Willmot, as he has explained to me, is looking forward to the work that he will be doing in private enterprise with a company that he has in Melbourne and, if the honourable member is not aware, he also has a grant to write. He is looking forward to pursuing those interests. We have amicably negotiated that contract and there is goodwill, with Dr Willmot offering to help me and the Government with arrangements from the past, after the contracted provisions have expired, where one cannot accept work from the Government. So there is goodwill in relation to Dr Willmot and myself, and one could not suggest that there would be such goodwill had we acted in the manner as accused.

HINDMARSH ISLAND BRIDGE

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Hindmarsh Island bridge.

Leave granted.

The Hon. BARBARA WIESE: As members are aware, the Minister has been thrashing about since the last election setting up one inquiry after another in an attempt to find a face-saving way out of the political mess she created with respect to the Hindmarsh Island bridge. Members will now be horrified to learn that her latest effort to inquire into the feasibility of the Goolwa barrage as an alternative proposal has generated a whole new group of people expressing opposition to her actions. I have been contacted on behalf of these people, many of whom live on or near the road running through Goolwa to the barrage, and they have many concerns.

First, they fear that if the barrage becomes a bridge and traffic increases past their homes it will affect the value and amenities of their properties. Secondly, they point out that this locality is the principal recreation area of Goolwa, with the yacht club and the aquatic club generating tremendous activity and traffic, particularly on weekends. Additional traffic congestion along the barrage road, should it become the access road of the barrage bridge, would create new hazards and road safety problems. Members familiar with the road will know that it winds through Goolwa and past the railway line, pedestrian crossings and playgrounds. These issues are very significant for local residents and, of course, are in addition to the cost and environmental factors (such as the road passing through a bird sanctuary, which matter has already been raised). So my questions to the Minister are:

1. Is the Minister aware of the concerns of residents in Goolwa about her proposed barrage bridge and that claims for compensation may arise if it proceeds at this location?

2. Can she guarantee to these residents that her feasibility study is broad enough so that it will fully assess the impact and cost of a bridge at this site, including additional road construction through the town, road safety and local amenity issues, and the potential for compensation pay-outs?

The Hon. DIANA LAIDLAW: In answer to the first question, yes, a number of people have written to me. All at this stage have identified themselves as having holiday houses in the South Lakes area. I have written back to all those people advising them that I am aware of their concerns and that we are proceeding on the basis of a feasibility study of the barrage bridge on the recommendation of Mr Jacobs, who, as the honourable member may recall (as I have said it often enough in this place), recommended that in the public interest the barrage bridge be one of three options that should be explored further because of the extraordinarily difficult situation that we had inherited with the former Government's proposal for a bridge at the ferry site.

So, I am aware of the concerns and I have indicated to the people who have corresponded with me that their concerns will be taken into account, because this is simply a feasibility study at this time. Therefore, I can give a guarantee to the honourable member, as I have to those people, that the assessment will take into account the views of not only those who have written to me but also others, as well as road safety costs and other issues, because the Mayor has also written to me in that regard and I have assured him accordingly.

In the meantime, I would say, Mr President, that it never ceases to amaze me that the honourable member—who was part of the Government that burdened this State with this bridge and in any exercise to get out of this bridge further burdened the State with a potential liability in excess of $12 million, plus years of litigation—can come in here and keep defending the extraordinary position in which she has placed the taxpayers of this State. To accuse me of creating this situation is absolutely amazing. When she was the Minister, it was Mr Bannon as Premier who went over to Westpac and negotiated that the State Government fully fund this bridge. It was the former Labor Government that, with the planning approval process and other means, agreed that this bridge be built in the first place. How I could have possibly created the mess is simply as fanciful and as appropriate for the Fringe Festival as was the shadow Attorney's question earlier.

WOMEN'S ADVISORY SERVICE

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the Women's Advisory Service.

Leave granted.

The Hon. CAROLYN PICKLES: Yesterday in another place the Premier, in a response to a question from the Leader of the Opposition, said that he would maintain the services of the Women's Adviser to the Premier. He said:

> I stand by the commitment I made in October 1993. We will maintain that service.

He went on to say that there was a process of restructuring the administration, and I understand that to be the case. I have been approached by a number of women who are anxious about the future of this service. There are rumours that the position of Women's Adviser to the Premier will be abol-

ished. People are concerned about the rumours and conflicting information they have received.

When I took up the position of shadow Minister, I quite properly approached all the Ministers who cover my shadow portfolio areas and asked for briefings, and this was agreed to in every case. The Hon. Ms Laidlaw agreed to a briefing, and I appreciate that offer, but indicated that matters had not yet been finalised and asked me to defer it until they had. I had no problem with that at the time, but as I have been receiving all this conflicting information and the Adelaide rumour mill is rife I now seek clarification of the position. Therefore, my questions to the Minister are:

1. Does she concur with the Premier that the Women's Advisory Service in the Premier's Department will be maintained?

2. How will this be achieved?

3. Have the details been finalised? If so, what are they and, if not, when will they be finalised and when will the Minister be able to make a public announcement?

The Hon. DIANA LAIDLAW: No details have been finalised. However, I believe that within the week I will be able to make known such details and at that time I would certainly be pleased to brief the honourable member fully on this matter.

The Hon. ANNE LEVY: I ask a supplementary question: will the Minister reassure the many members of the public who are concerned that if the position of Women's Adviser is abolished or if the current office is moved there will no longer be regular examination of all Cabinet submissions to measure their possible impact on women?

The Hon. DIANA LAIDLAW: I have never found it satisfactory in terms of the arrangements of the former Government where the Women's Adviser simply had contact with Cabinet submissions a couple of days before Cabinet actually considered them. That was far too late for the Women's Adviser to be involved in these important matters. I have been advised by Ms Jayne Taylor, who held this position, that she had access to only a very limited number of such submissions and not, as the honourable member has suggested, to all Cabinet submissions.

It is my belief—and this is what has been negotiated at present—that the Women's Adviser should be involved in the strategic planning of policy matters and, as arrangements are being considered at the moment for a three month strategic plan for Cabinet, I believe that it would be in the best interests of all women in South Australia that the Women's Adviser be involved at that very early stage and not at the last minute, as was the practice with the former Government, and then only in respect of selected Cabinet submissions.

HINDMARSH ISLAND BRIDGE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Hindmarsh Island bridge.

Leave granted.

The Hon. M.J. ELLIOTT: The Aboriginal significance of Hindmarsh Island has played a role in the current dispute about the Hindmarsh Island bridge. Concerns about the Aboriginal heritage potential of the initial site proposed for a bridge to Hindmarsh Island stalled the building of the bridge late last year. I understand that the former Transport Minister instigated an Aboriginal heritage survey of the island in November last year. However, only about half the island has been surveyed so far, and I have been told that about six weeks of work remains to complete the survey.

I also understand that the Department of Aboriginal Affairs has sent memos to the Department of Transport since the beginning of February seeking permission to complete this survey. However, I have been told that the survey group is still waiting for permission from the Department of Transport to finish the survey.

Of great concern in this issue is the fact that the barrage area, which is currently being considered by the Government as an alternative site for a bridge, is one area that has not yet been surveyed in relation to its Aboriginal heritage significance. Time is running out for the Government to make a decision on the bridge: it is due to report in mid-April on its decision. As I said earlier, the Aboriginal heritage survey is expected to take six weeks to complete its task. Like the Labor Government, it appears that the new Liberal Government is failing to do its homework on the bridge. My questions are:

1. Why has the Minister not given the go ahead for the completion of the Aboriginal heritage survey?

2. Will she do so; and, if so, when?

3. Will she wait until the survey is completed before the Government makes its report?

4. Will the Government take the results of the completed survey into account in its report on the bridge?

The Hon. DIANA LAIDLAW: It is true that the former Government initiated the survey of Aboriginal heritage, and it was on that basis that the former Government ceased work on the proposed bridge at the ferry site. At that stage, as I recall the correspondence, the Aboriginal Legal Rights Movement and other bodies indicated to the former Minister that this whole island could be surveyed for a certain sum of money. It is apparent that that was not possible. They have sought $35 000 to complete the survey. That application was forwarded to me at the time Mr Sam Jacobs was reviewing this matter, and I indicated that it was not appropriate to proceed with a further survey when the bridge at that site was the subject of an investigation.

It is true that in the area of the barrage, as in fact it would appear all over Hindmarsh Island, there are sites of Aboriginal significance. The honourable member asked why I have not given the go ahead. I have answered that question in the sense that the first application came in when Mr Jacobs was assessing the situation. He was looking at the ferry site. There is reason for further work to be done on the Aboriginal sites on the island, but first we must see whether it is even feasible to go ahead with a bridge in an engineering and cost sense before we look at the other matters to which the honourable member has referred. If it is not feasible, I do not see a need to continue this survey at this time.

The Hon. M.J. ELLIOTT: I ask a supplementary question: as the Minister has conceded that the question of Aboriginal heritage was a major impediment in relation to the present site, does she not also believe that carrying out the engineering work, which is incredibly expensive, may be rather premature and foolish if an Aboriginal heritage survey of the site of the barrage also finds that there is an area of heritage significance?

The Hon. DIANA LAIDLAW: No, I do not concede that it is foolish or a waste of time. If it is not possible to build a bridge at the barrage site—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Well, that is being assessed. That is the exact reason for the feasibility study that

is being conducted at present. That is why it has been done in the manner I have outlined with Connell Wagner looking at its feasibility in engineering and funding terms. I expect a decision will be able to be made on that matter in the very near future.

LEGAL PROFESSION

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General a question about the legal profession.

Leave granted.

The Hon. R.D. LAWSON: On 7 March 1994, the Trade Practices Commission released the final report of its study of the legal profession. The profession has been the subject of a number of green papers, white papers, reports and inquiries in recent years. In its latest report, the Trade Practices Commission makes a number of recommendations, the principal ones of which are: that the Trade Practices Act should apply to the legal profession; that within Australia there should be automatic reciprocal admission to local bars; that arrangements which maintain a divided legal profession should be eliminated; that legal practices be permitted to incorporate; that the requirement that barristers practise from approved Chambers be abolished; that contingency fees be permitted in certain circumstances, that the profession be entitled to advertise; that disciplinary and complaints bodies have lay representation; and that indemnity insurance be made compulsory. There are a number of other recommendations. My questions to the Attorney-General are:

1. Has he seen the report?

2. Does he agree with its general tenor?

3. Does he consider that major restructuring of the legal profession in this State is warranted in the light of the report?

4. Will he examine the report to ascertain whether it contains any recommendations that ought to be taken up in this State?

5. Does he consider that the provisions of the Trade Practices Act should apply to the legal profession?

The Hon. K.T. GRIFFIN: I have had only a quick look at the report. As the Leader of the Opposition interjected, many of the restrictive practices that are referred to in the report were actually abolished in South Australia, if they ever existed, particularly in consequence of some negotiations undertaken by the previous Government with the Law Society, negotiations which, I must say, the Law Society participated in without any difficulty.

The Hon. C.J. Sumner: You can congratulate the former Government for that.

The Hon. K.T. GRIFFIN: No, you've got your recognition.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: Let me say, Mr President, that the former Attorney-General did a few things in relation to the legal profession with which I did not agree, and we debated those when some amendments to the Legal Practitioners Act were before us during the last Parliament.

So, we are not on all fours in relation to changes to the profession. The impression I get from the Trade Practices Commission report is that it very largely makes its recommendations based on information which it has about the legal profession in New South Wales and in Victoria. Members need to understand that in New South Wales there is quite significant tension between the bar on the one hand and solicitors on the other, and that there are, in respect of the bar in New South Wales, and also in Victoria—

The Hon. C.J. Sumner: It's all fixed, then.

The Hon. K.T. GRIFFIN: No, it's not all fixed yet; it still has a way to go in New South Wales.

The Hon. C.J. Sumner: They passed an Act.

The Hon. K.T. GRIFFIN: They passed an Act, but it is not all fixed yet. In those two States there were significant restrictive practices in which the bar was involved. In this State, we come from a different background. There is a fused profession and, even though some legal practitioners have chosen to become barristers only or in other ways to specialise in particular areas of the law, barristers have generally belonged to the Law Society as members of the fused profession, as well as belonging to the separate bar association.

A number of the restrictive rules about briefing counsel and the appearance of counsel in court have all been removed in South Australia. So, although the Trade Practices Commission talks about a lot of these restrictions on competition, very few of those are left in South Australia.

It makes some observations about fee scales. As I understand it, the previous Government believed that it was important to retain fee scales, if only to set some standards and also to assist in determining whether charges had been unnecessarily high, and some action could be taken in respect of the reviewing of those charges.

In the legal profession, rules in relation to advertising in South Australia are the broadest of any in Australia. That is to be contrasted, of course, with the limitations imposed upon members of the medical profession across Australia which only in the last week has been making some noises about wanting to open up to advertising some aspects of the medical profession.

Contingency fees are already in place in a limited way in South Australia. So, a number of reforms have been undertaken by the legal profession in conjunction with the previous Government which, therefore, mean that a lot of what is said in the Trade Practices Commission report is irrelevant to South Australia.

There are, however, some aspects which give concern. They talk about a national market in the legal profession, but the report does not appear to have addressed the issue of professional standards and the protection of the public, remembering—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: They're good standards here—that professional standards have been established over the years to protect the consumers of legal services. The other issue relates to professional and indemnity insurance—and the Leader of the Opposition again interjects—and the fees for legal practitioners to insure for professional indemnity are, if not the lowest, certainly among the lowest in Australia. What the Trade Practices Commission report does not appear to address is the likelihood that at least in South Australia, and maybe some other States where the claims record is very good and where the professional indemnity insurance premiums are low, there will be a consequent increase in premiums for South Australian practitioners. So, there are some down sides in the recommendations of the Trade Practices Commission.

There are a number of other factors in the report in respect of the application of the Federal Trade Practices Act to the South Australian legal profession. That is an issue that has certainly not yet been resolved and needs to be carefully

considered, and a number of other issues are raised by the report to which I intend to give consideration. In due course, there will be a policy statement from the Government on the issues which are raised in that Trade Practices Commission report.

PUBLIC SECTOR CONTRACTS

The Hon. R.R. ROBERTS: My questions are directed to the Minister for Education as Leader of the Government in the Council, as follows:

1. Does the Government believe that contracts that are entered into between employees and employers should be honoured? If so, why did the Government allegedly unfairly dismiss a number of CEOs by breaking their contracts and subjecting the Government to damages claims for breaking those contracts?

2. What criteria were used in effecting the dismissals of the CEOs?

3. Why is the Government exhibiting what appears to be double standards by promoting enterprise bargaining and sanctity of contracts in its employer relations while undermining the principle by breaking contracts of a number of chief executive officers and subjecting taxpayers to significant pay-outs because of these breaches of contract?

4. What view will the Government take if employees break an enterprise bargain contract entered into with employers?

5. Will action be taken against the employees and, if so, what action will be taken?

The Hon. R.I. LUCAS: The advice available to me and to the Government is that there was no illegality at all in relation to the actions taken by the Government or its Ministers in this matter. If the honourable member or, indeed, his Leader has any information that either he or his Leader would like to offer to me I am quite happy to accept that and take it to the Premier and the appropriate Ministers. I will undertake to refer the honourable member's questions to the appropriate Ministers and bring back a reply.

The Hon. R.R. ROBERTS: As a supplementary question, the question that the Leader has not answered is: what criteria were used in effecting the dismissals of the CEOs that were recently dismissed?

The Hon. R.I. LUCAS: The honourable member was too busy interjecting while I was answering. I said that I would refer the honourable member's questions—plural—to the Ministers and bring back a reply.

VOTING

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Attorney-General a question about non-voting offenders.

Leave granted.

The Hon. M.S. FELEPPA: An article appeared in the *Advertiser* of 2 March 1994 entitled 'Non-voters given reprieve until voluntary ruling'. I will read a couple of paragraphs of this article. It states:

> The State Electoral Commission has decided not to proceed with action against non-voters until the issue of compulsory voting is resolved.

Further, it states:

> He said that going on past election experience, only about 1 200 people would end up being asked to pay the expiation fee of $10, plus a $6 victims of crime levy. 'The cost of doing it is more than we get back,' Mr Becker said.

Non-voters at the last State election have in some way flouted the law and, in my view, should be expected to meet some consequences. Section 85 of the Electoral Act is clear to me. It gives no discretion to the Commissioner to refrain from taking the required action, other than initiating a prosecution within 12 months of polling day. To consider, therefore, not sending out 'please explain' notices trivialises the offence when there is no certainty that the Bill which is before the other House will be expeditiously passed or whether it will in fact be passed at all.

The reason, as reported by the article, for deferring sending out the balance of the notices is that the cost of postage and processing would exceed the amount of revenue raised by the expiation fee. By not sending out the notices, the levy that funds the Victims of Crime fund will certainly not be forthcoming. Further, the decision and the reason given cut across the idea that a breach of the law should always be pursued and addressed irrespective of the cost involved; otherwise, lesser offences will go free of prosecution and there will be more contempt for the law than there is at the moment.

The Hon. C.J. Sumner: Who says that?

The Hon. M.S. FELEPPA: I say that. My questions to the Attorney-General are:

1. Does the Minister or the Government approve the decision of the State Electoral Commissioner to defer discovering and prosecuting non-voting offenders at the last election?

2. Is deferring the action just towards those who observed the law and voted or is voting considered a trivial matter?

3. Does the fact that expenditure exceeds the amount recovered justify not taking the required action?

4. Will other offences where repeal of legislation is pending be treated in the same manner, so that offences committed under existing legislation may not be investigated or come to court?

The Hon. K.T. GRIFFIN: The honourable member referred to this in his Address in Reply speech, as I recollect, although I did not respond to it at the time. Certainly, I have taken no active role in directing the Electoral Commissioner—I do not have the lawful power to do that, in any event—as to the action which he should take in relation to non-voters. It is important to recognise that in the 1989 State election the cost of follow-up of non-voters was about $120 000 and the net return about $35 000, so there was a net cost to Government of about $85 000. One must ask, for what?

All we are doing is penalising people for having made the decision not to go to court so, from a personal point of view, as the honourable member will recognise from the statements that I have been making for the past 12 years, I think it is a pointless exercise to try to convict people of an offence for failing to vote, particularly when the process followed is that the Electoral Commissioner sends out 'Please explain' notices and a substantial number of people put on some sort of excuse, which the Electoral Commissioner makes a decision about as being an acceptable excuse, and gradually whittles down the number of non-voters to a mere handful who subsequently are the subject of prosecution.

So, in terms of the process, any decision by the Electoral Commissioner about whether or not he should issue a summons is, I would imagine, some way down the track, because it is the last step in the process. One must remember that the previous Government over recent elections granted a number of pardons to people after they had been convicted. They wrote after the event to, I presume, the Attorney-

General, who would have authorised it to go to Cabinet, and there were substantial numbers of pardons granted to people who had been convicted but who subsequently decided that they had a good reason not to vote, may not have attended at court; who knows? But they were the subject of a pardon.

What we will have in the next few weeks is the spectacle of yet another series of non-voters being followed up for the State by-election, because Mr Martyn Evans, so soon after the general election, decided he wanted to try his luck elsewhere, so we will be going through the exercise of a by-election in the seat of Elizabeth. I suppose there will be another bundle of non-voters followed up under that law. What the Electoral Commissioner does is a matter for the Electoral Commissioner. He is a statutory office holder, who has a discretion, as all prosecuting authorities and complainants have, as to whether or not they should proceed.

As I have indicated, on previous occasions he has decided and during this process he will decide that when people send back a notice saying 'I did not vote because I had a sick aunt', or giving some other reason, then he will relieve them of the obligation and they will not even have to pay the expiation fee. If you look at it objectively, the whole process is a farce. One cannot understand why one wants to proceed to prosecute people and to fine them for failing to vote.

EMPLOYMENT

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister representing the Minister of Industry, Manufacturing, Small Business and Regional Development a question about industry development and job growth.

Leave granted.

The Hon. T.G. ROBERTS: In another place yesterday three Bills were moved: first, the Occupational Health, Safety and Welfare Act Amendment Bill; secondly, the WorkCover Corporation Bill (the reconstitution of the Workers Rehabilitation and Compensation Corporation); and, thirdly, the Workers Rehabilitation and Compensation (Administration) Amendment Bill. The three Bills are directed basically at the re-regulation of the courts and the commission and at a reduction in benefits or making it far more difficult for benefits under the Workers Compensation Act to be claimed and administered.

It appears that the current Government is directing its reforms in industry development and job growth to sitting targets, to those areas that are the easiest to hit, and it appears that the more difficult job of reforming industry and development via more persuasive arguments put to managements within this State are being neglected; that the easy targets of regulating labour are to be the first cabs off the rank for the Liberal Party. There is an article by Alex Kennedy in *The South Australian* under 'SA Business' that directs some criticisms not at the trade union movement and not at workers generally in this State but at management and management methods. Members on the opposite side, in their contributions in this Chamber, have been critical of the way in which particularly those businesses within the manufacturing sector are doing business overseas—and I think it is a universal criticism that is being levelled at business in this State. It is a critical time for the manufacturing sector to get its act together so that it can coordinate its activities in the export field. The tenor of the article is as follows:

> Without at all detracting from the many, many hundreds of exciting and successful companies this State has, there is still a mentality in SA that says "Hold my hand and pay for me or I can't do it. And, even if I do it I'm not about to consider how worthwhile for the State's profile it would be if I publicised that success." It appears we are still home to a grouping of companies which blames Government for everything but the weather, one that is unwilling to accept it is not Government's role to push, prod and prop up a State's business sector, but instead create a climate for economic growth, one that is user friendly for business.

She goes on with the following illustration:

> One Melbourne business journalist referred to it, rather cruelly, as Adelaide's two Porsche mentality. Once they've got their two Porsches handed down courtesy of the work of the previous generation, they don't try, they coast or they wait for handouts, and growth delivered by way of Government platter.

I think that article gives a fairly sound illustration of where business is today in South Australia. We have a Government that is attacking the sitting duck end of labour reform and micro-economic reform, and that is labour reform. Does the Minister agree with the sentiments expressed by Alex Kennedy in her article in *The South Australian* in the March-April 1994 edition? What steps have been taken to draw together private, public and union expertise along with Federal, State and local government services to promote industry and employment growth for the whole of this State?

The Hon. R.I. LUCAS: I will refer the question to the Minister and bring back a reply.

SELECT COMMITTEE ON THE PENAL SYSTEM IN SOUTH AUSTRALIA

The Hon. BERNICE PFITZNER: I move:

> That the evidence given to the Legislative Council Select Committee on the Penal System in South Australia be tabled and made available to the Social Development Committee for the purpose of its inquiry into HIV and AIDS.

During its HIV/AIDS inquiry the Social Development Committee received evidence that there were shortcomings with existing measures to prevent the spread of HIV in South Australian prisons. A number of contentious issues were raised including calls for the provision of condoms and safe sex information in prisons, the supply of bleach for prisoners to clean injecting equipment and the provision of clean injecting equipment. The committee was told that these matters were of major concern because of the high number of prisoners with a history of activities that placed them at a high risk of infection with HIV. Claims were also made that prison authorities discriminated against HIV infected prisoners and that there were breaches of confidentiality involving the disclosure of prisoners' HIV status.

While noting this evidence in its report the committee concluded that it was beyond the scope of its inquiry to investigate these matters further. Moreover, the committee was told that a Select Committee on the Penal System in South Australia had received evidence about HIV transmission in prisons. The Select Committee on the Penal System visited every prison in South Australia as well as prisons in Victoria, New South Wales and Queensland. The Social Development Committee resolved to await the findings of the select committee and that, if the select committee's report did not thoroughly address the issue of HIV transmission in prisons, it would consider inquiring into these matters. The select committee was to have tabled its report by the end of

the last Parliament but did not do so. In an interim report on 20 October 1993 the Chair of the select committee stated:

The committee has received an extensive amount of evidence and has made considerable progress towards finalising a report. The committee at this stage however is unable to present its final report.

The select committee has now ceased to exist as, under parliamentary Standing Orders, all select committees are dissolved at the end of Parliament. The members of the former Select Committee on the Penal System in South Australia hoped that the evidence collected would be used by another committee. It would seem a great pity if the wealth of information collected by that select committee was not put to good use. This is particularly so in the light of information that the select committee obtained evidence that may be relevant to an inquiry into HIV transmission in prisons.

As the Presiding Member of the Social Development Committee, I therefore request that submissions received by the Select Committee on the Penal System in South Australia be referred to the Social Development Committee so that further consideration can be given to adopting an HIV and prisons term of reference. I hope that this House will support the motion.

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

TEA TREE GULLY LAND

Order of the Day, Private Business, No. 1: Hon. R.D. Lawson to move:

That regulations under the Urban Land Trust Act 1981 concerning Tea Tree Gully land, made on 26 August 1993 and laid on the table of this Council on 7 September 1993, be disallowed.

The Hon. R.D. LAWSON: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

CATS

Order of the Day, Private Business, No. 2: Hon. R.D. Lawson to move:

That Corporation of the Town of Thebarton by-law No. 8 concerning cats, made on 17 August 1993 and laid on the table of this Council on 7 September 1993, be disallowed.

The Hon. R.D. LAWSON: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

CRIMINAL LAW CONSOLIDATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 16 February. Page 57.)

The Hon. CAROLYN PICKLES: I remind members that this Bill was first introduced on 13 October 1993 as two separate Bills by the then Attorney-General, and I think it is somewhat petty of the Government not to allow this Bill to be debated at this point in time as private members' business because it contains another important part to the Bill, not just the issue of stalking.

I want to bring to the attention of members an article contained in *Choice* magazine of March 1994. The article goes through the legislative situation in various States in relation to stalking. It states:

South Australia's former Labor Government was actually first to introduce anti-stalking laws (similar to Queensland's) into Parliament last October, but further discussions were postponed because of the State elections last year. At the time of writing the incoming Liberal Government had not yet decided whether and how to pursue the issue.

It just goes to show how long it takes to get an article together, because the Government did indicate in its election strategy that it would introduce a Bill on stalking. I hope that members opposite will realise that the original concept of this legislation was introduced by a Labor Government. Although I am speaking in this debate at this time, I understand that the Government will adjourn this item and debate only its Bill, and I think that is rather petty considering that it was the former Attorney-General who initiated this legislation. I am also concerned that the other aspect of the legislation that the former Attorney-General introduced on 13 October 1993 relating to child sexual abuse is not being dealt with. I can only hope that the Government at some later stage will perhaps refer to that legislation, or maybe we can deal with it in a separate Bill, or perhaps amend this Bill. I hope the Government will support that amendment, if that is what we wish to do.

The issue of stalking is a very vexed one and I have often heard it referred to as a 'women's issue'. As has often been the case, it is said that when women are the victims it becomes our issue. Clearly, I would not refer to it as a women's issue simply because the victims are predominantly women. That is not always the case, and I note that in the *Choice* magazine article there is reference to other issues of stalking or harassment by telephone. Many documentaries have been made about this issue. In fact, quite a famous film was made about the issue of a woman who harassed a man to such an extent that it ruined his whole life and his marriage. One might say that it is about time that the role was reversed, but I do not actually take that view. I think it is about time that we had this kind of legislation to change people's attitudes.

A very sad case occurred in South Australia in Rose Park, in very close proximity to where I live in Dulwich. An innocent woman was murdered by her separated husband. He had harassed her over a long time, made threatening statements to her, and he eventually found out where she was, appeared on her doorstep and then finally shot her in the car park of the Queen Victoria Hospital in Rose Park. That is an appalling situation and it is something that I am sure every person in the community thinks should never occur. Obviously, the police in this case did not have the power to prevent that situation, and hopefully the legislation that I understand the Hon. Mr Griffin will refer to later in the day will in fact make sure that this situation does not occur again. That is to be commended.

It pleases me that this legislation will have the support of both sides of the House. It is regrettable that the Government did not allow the Opposition's Bill to carry the day. However, I will confine my remarks at this stage and speak on the Bill in more detail when I understand Mr Griffin will be referring to it later in the day during Government business. I would just like to draw honourable members' attention to some comments that were made in the article to which I referred earlier in *Choice* magazine of March 1994, which states:

If you are threatened with violence you can generally obtain a court order for protection. Without a threat, however, police and courts have often been able to do little to protect you adequately, especially from potential domestic violence. To overcome certain ambiguities and weaknesses in existing legislation some States

recently passed special anti-stalking laws and others are reviewing their legislation.

The article continues:

In this context stalking refers to the kind of intimidation or threat that causes fear in the person who is being stalked. A common trigger is the break up of a relationship. One person does not accept the split and its consequences and threatens, harasses or intimidates the estranged partner or other family members.

That is usually the situation and it is unfortunate. It seems peculiar to me that people cannot accept that a relationship is over. It is obviously very painful for both partners when relationships and marriages break up. It is a very distressing process for both people concerned. Both the Federal Government and the State Government have provided some mechanisms to assist people to go through this process without having some undesirable types resorting to violence and intimidation. This legislation is timely and it is something that should be commended. When introducing the Bill in this place the Leader of the Opposition referred honourable members to comments that he made on 13 October 1993, and I can only urge other members and people who might be reading *Hansard* to refer to those issues also. I do not wish to make any further comments at this stage and I will speak further when the Government's legislation is referred to, as I understand it, later in the day.

The Hon. A.J. REDFORD secured the adjournment of the debate.

STATUTES AMENDMENT (NOTICE OF CLOSURE OF EDUCATIONAL INSTITUTIONS) BILL

The Hon. C.J. SUMNER (Leader of the Opposition) obtained leave and introduced a Bill for an Act to amend the Education Act 1972 and the Technical and Further Education Act 1975. Read a first time.

The Hon. C.J. SUMNER: I move:

That this Bill be now read a second time.

This Bill will require the Government to give 18 months notice of any school or TAFE campus closure. Formal notice of any closure will need to be given in the *Government Gazette* and written notice to be laid before both Houses of Parliament. The embargo will ensure that students, parents, teachers, the local community and industry are fully consulted. It will enable a local community to make plans and any appropriate new arrangements in advance of a school or a TAFE campus closure. School closures were a major issue in the recent State election campaign.

The then Opposition Liberal education spokesman, Mr Lucas, made a statement about the prospect of closing schools with less than 300 students. Mr Brown, as Leader of the Opposition, gave a firm assurance that the Liberals would not close schools simply as a cost cutting measure. Our legislation is simply a way of ensuring that Mr Brown keeps his word by insisting that school and TAFE communities be given adequate notice of the Government's closure plans.

The former Labor Government's position on this, as stated during the election campaign by former Premier Lynn Arnold, was that there should be a four-year freeze on school closure plans. I commend the Bill to honourable members.

The Hon. R.I. LUCAS secured the adjournment of the debate.

MEMBERS' ALLOWANCES

Adjourned debate on motion of Hon. M.J. Elliott:

1. That the Legislative Council notes that allegations of impropriety have been made against a former member of Parliament in relation to the claiming of living away from home allowances:
   (a) That it believes it appropriate that this member have an opportunity to clear his name, not just in a legal sense;
   (b) That as rumours are circulating in relation to other members of Parliament, present and past, they are given the opportunity to be cleared of those accusations.

The Legislative Council believes the matter is within the mandate of the Auditor-General and considers it an appropriate matter for him to examine.

The Council believes it is a matter of public interest that the Auditor-General be notified of its concerns.

2. The Legislative Council requests that the Remuneration Tribunal examine the living away from home allowance and investigate whether its rules require further clarification.

(Continued from 16 February. Page 59.)

The Hon. K.T. GRIFFIN (Attorney-General): I move:

Leave out all words after 'That' and insert the following:

(a) in view of allegations of impropriety having been made against a former member of the Legislative Council in relation to claims for living away from home allowances and observations having been made about claims for these allowances by other members; and
(b) noting that the Auditor-General already examines claims as part of his annual audit of the accounts of the Legislature, and that the Premier has already requested the Remuneration Tribunal to examine claims for certain allowances by members;

the Legislative Council—

(a) supports the Auditor-General, as part of his audit function examining such claims, the basis for them and the authority for such payments;
(b) supports the request to the Remuneration Tribunal to examine whether its determination in relation to living away from home allowances requires and is capable of greater definition.

The Government is sympathetic to the issues referred to in this motion. Mr President, in a sense, events have overtaken the motion in that you have given a ruling about access to the documents relating to the Hon. Mr Gilfillan to the police following procedures which you have agreed with the police, and the Premier has written to the Remuneration Tribunal requesting it to examine whether its determination in relation to living away from home allowances requires and is capable of greater definition. It is appropriate that the Remuneration Tribunal give some consideration to that issue because it is the body which has established the living away from home allowance and it is important that, if there is some lack of clarity in the description of the terms upon which the allowance is made, the Remuneration Tribunal be the body which gives consideration to whether or not that should be clarified.

The living away from home allowance has been paid to country members for many years, and quite obviously it affects members from all Parties in the Parliament. It is therefore appropriate that the issue be properly addressed and not left to the sort of debate that occurred prior to the election in relation to the Hon. Mr Gilfillan and subsequent to that.

The Hon. M.J. Elliott: It was not debate; it was assassination.

The Hon. K.T. GRIFFIN: Well, however you describe it; I perhaps put a different perspective on it. But, certainly, if that sort of public examination of the issue can be avoided by a clearer definition of the rules by which this allowance is made available then I think that is in the interests of all members of Parliament as it is in the interests of the community. The sort of publicity that was given to the

allegations against the Hon. Mr Gilfillan during the election campaign will reflect adversely not only on him but also on the Parliament and all members within the Parliament. I think all members would want to see that in the public arena the denigration of members of Parliament at a personal level does not occur and that the recognition of the work that all members of Parliament undertake is something taken more seriously than it appears to be from time to time. So, my amendment seeks to acknowledge that, in view of the allegations of impropriety, certain steps are supported by the Legislative Council.

The other issue relates to the Auditor-General, who, as I understand it, already undertakes as part of his annual audit function an examination of all of the accounts of the Legislature, whether it be the Legislative Council, the House of Assembly or the Joint Parliamentary Services Committee. It maybe not to the extent that may be necessary to check every claim, but quite obviously, as a result of the publicity given to this issue, the Auditor-General is on notice and will undoubtedly have to undertake a much deeper inquiry into claims for allowances than before. That will obviously extend beyond the living away from home allowance to allowances such as the members of Parliament travel entitlement scheme. That, again, is quite proper. What may be detected as a result is that there is some need for clarification of the bases upon which the various allowances are paid.

The Hon. Mr Elliott's motion seeks to place some emphasis upon the Hon. Mr Gilfillan having an opportunity to clear his name, not just in a legal sense. I have no difficulty with that, but it seems to me to be a curious way by which that is referred to in this resolution and the resolution itself will not necessarily allow that to occur. It refers to rumours circulating in relation to other members of Parliament and that they should be given the opportunity to be cleared of those accusations. Again, as a matter of practice, I think it is inappropriate to identify in that way that those things have occurred and then for the motion merely to express the belief of the Legislative Council about the matter being within the mandate of the Auditor-General, considers it an appropriate matter for him to examine, that the Auditor-General be notified of the Legislative Council's concerns, and that the Legislative Council requests the Remuneration Tribunal to examine the allowance.

As I said, I think events have somewhat overtaken the motion and already the Auditor-General, by virtue of the responsibility placed upon him and the usual responsibilities of Auditors-General, will now be required to take public notice of the issue that has been raised and undertake an even closer examination of claims for allowances. So, that will occur as a matter of course. The Remuneration Tribunal has received a letter from the Premier identifying what is within the resolution.

It therefore seems to me that the amendment which I propose certainly notes the concerns. It does not focus so personally on the Hon. Mr Gilfillan or on members of Parliament and the need for them to clear their name, but indicates support for the Auditor-General in the performance of his audit function in examining these payments and also supports the request that has already been made to the Remuneration Tribunal to examine its determination. It seems to me that that then puts the resolution in a more appropriate framework. It acknowledges what has already occurred, expressly indicates support for those two courses of action and does not leave the matter in any doubt. For that reason I have moved the amendment and hope that members will see their way clear to support it.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

SELECT COMMITTEE ON THE REDEVELOPMENT OF THE MARINELAND COMPLEX AND RELATED MATTERS

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

1. That a select committee of the Legislative Council be established to consider and report on:
   (a) the extent and nature of the negotiations by the Government and West Beach Trust which led to a long lease of West Beach Trust land to Tribond Developments Pty Ltd., an agreement for that company to redevelop the Marineland complex and a Government guarantee to the financier of that company for the purposes of the redevelopment;
   (b) the extent and nature of negotiations between the Government, West Beach Trust, the Chairman of West Beach Trust and Tribond Developments Pty Ltd (and such other persons as may be relevant) and the events and circumstances leading to the decision not to proceed with the development proposed by Tribond Developments Pty Ltd., the appointment of a receiver of Tribond Developments Pty Ltd., the payment of 'compensation' to various parties and the requirement to keep such circumstances confidential;
   (c) all other matters and events relevant to the deterioration of the Marineland complex and to proposals and commitments for redevelopment;

with a view to determining the extent, if any, of public maladministration in these events and to recommending action to remedy any such maladministration.

2. That Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.

3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.

4. That Standing Order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

5. That the evidence to the Legislative Council select committee on the redevelopment of the Marineland complex and related matters be tabled and referred to the select committee.

There is no need for me to speak at any length in relation to this motion other than to summarise the fact that during the last Parliament a select committee of the Legislative Council looked into matters regarding Marineland. The committee met for a very long time—over two years, and perhaps even three years; I am not sure. I was a member of that committee together with a number of other members in this Chamber.

Just prior to the election, the committee had reached the stage where its final report was almost three-quarters completed. In fact, there was a majority view on all the critical questions that needed to be resolved in relation to the terms of reference. Agreement had been reached by the majority of members of the committee and, as I said, three-quarters of the final report had basically been finalised. All the evidence had been taken, and the committee was in the final throes of trying to complete its report prior to the end of the last parliamentary session. Of course, the election came along, and the committee was unable to complete its deliberations.

So, this motion is to allow this Parliament to complete its work regarding this particular issue. A number of people in the community still have a passionate interest in this issue. They were involved in one way or another in relation to the

situation that occurred some years ago, and those people, other members who served on the Marineland committee and I are strongly of the view that this Parliament should set up a new committee to complete the work of the former committee and to finalise its decisions in relation to the terms of reference.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

WILLS (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Wills Act 1936. Read a first time.

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

That this Bill be now read a second time.

This Bill amends the Wills Act in a variety of respects. The genesis for the changes came largely from the Registrar of Probates and the judges of the Supreme Court together with suggestions from the Law Society. Many of the changes have been the subject of a report by the New South Wales Law Reform Commission.

The Bill represents the culmination of a considerable period of consultation and discussion commenced by the former Attorney-General.

The principal changes made by the Bill are as follows:

Will making by minors

At present minors (those persons under the age of 18 years) do not have testamentary capacity. If an unmarried minor dies, leaving any estate, the rules of intestacy provide that the estate will devolve upon the minor's parents, or if the minor's parents are deceased upon the minor's surviving brothers and sisters. If the minor is married the estate passes to the spouse and children.

The NSWLRC has expressed the view that there may be occasions when it is appropriate for a minor to make a will varying the order of intestate distribution. Examples of situations where this may be appropriate include the situation where a minor is entitled to considerable damages or owns considerable assets. The NSWLRC considered this problem could be overcome by giving the Supreme Court power to give approval in advance to allow a specific will to be made. This option was preferred to the alternative of empowering the court to confer testamentary capacity. It was considered that the minor's ability to make a will should be closely controlled and that the court should be able to examine the circumstances in any particular case to ensure that the minor is not subject to undue influence. This recommendation was supported by the Law Society and is included in this Bill. Further provision is made for a minor to make a will in contemplation of marriage and to retain testamentary capacity in the event of divorce.

Requirements as to execution of a will

The Wills Act currently provides that for a will to be properly executed it must be signed by the testator at the foot or end of the will. The effect of this requirement is that in cases where the testator signs the will at the side or on a page other than the last page the will, even though signed in the presence of witnesses, must currently go to the Supreme Court to be declared a " valid document purporting to embody the testamentary intentions of the deceased person" under section 12(2) of the Wills Act.

It is the opinion of the Registrar of Probates and the judges of the Supreme Court that there is no reason why the requirements for signature at the foot of the will cannot be relaxed. In the UK and in WA there is no longer any requirement for the signature to be in a spatial relationship to the end provisions of the will. There have been other reform proposals from NSW, Victoria and the ACT recommending such changes.

This Bill provides that it must appear from the face of the will or otherwise that the testator intended by the signature to give effect to the will. This will allow extrinsic evidence of the testator's intention (where relevant) to be taken into account. These amendments will allow the "misplaced signature cases" to be dealt with expeditiously.

Witnessing requirements

The Bill maintains the current requirement that the testator make or acknowledge his or her signature in the presence of two witnesses. However, the Bill makes clear the fact that the two witnesses need not sign in each other's presence. While the Wills Act does not currently specifically require the joint presence of the two witnesses when witnesses sign, the practice is for witnesses in fact to sign in each other's presence.

Informal wills

A major amendment made by this Bill is to the sections of the Wills Act relating to the proving of informal wills.

South Australia was the first State to enact provisions enabling the Supreme Court to admit to probate a document which does not comply with the formal requirements of the Wills Act.

The current standard of proof in section 12(2) is that the court must be satisfied that there is no reasonable doubt that the deceased intended the document to constitute his or her will. This Bill replaces that criminal onus with a heavy civil onus which will be determined by judicial determination. It appears anomalous and contrary to the principles applied in civil litigation, including probate litigation, to impose the criminal standard of proof.

Other States which have now followed the South Australian section 12(2) procedure have all opted for a lesser standard of proof requiring that the court be "satisfied" the document was intended to be the will of the deceased. It is quite clear that the courts will continue to scrutinise closely all written and oral evidence in determining whether to exercise the dispensing power.

A further amendment to section 12 makes clear that it applies to a document which came into existence outside this State but which is propounded for probate here. This is a problem drawn to the attention of the Government some time ago by the Hon. H. Zelling, and the opportunity has been taken to remedy the problem.

The final amendment to section 12 concerns the jurisdiction of the Registrar of Probates in relation to informal wills. Provision is made for the Registrar of Probates to exercise the dispensing power pursuant to rules of court. The Registrar of Probates in NSW has authority by the rules of court in that State to deal with all non-contested informal will matters. It is not unreasonable to anticipate that the making of similar rules of court in this State will result in a saving of both cost and time to the estate of a person who dies leaving an informal will and to the court. Opportunity has been taken to make clear that the dispensing provision applies also to instruments of revocation.

Rectification

The final matter dealt with by the Bill is the matter of rectification. In the general law where that form of a document does not truly reflect the stated intention of the party or

parties to it, the equitable doctrine of rectification enables the court to correct the document to express those intentions. The principles of rectification are well settled and accepted. The document seeking rectification must provide clear and convincing proof of error and must clearly establish what form the document was intended to take. The court currently has the power to correct mistakes in wills but that power is more circumscribed than the equitable doctrine of rectification. The United Kingdom, Queensland, New South Wales and Australian Capital Territory have all now included a specific power of rectification. This Bill therefore provides that rectification of a will is available wherever a court is satisfied that the will is so expressed that it fails to carry out the testator's intentions.

In large part this Bill brings the South Australian law in relation to wills into line with the law which applies in other jurisdictions. The Bill does not deal with two matters which will be the subject of further consideration and perhaps future legislation. The first of these matters concerns provisions allowing for the making of statutory wills for persons who do not have testamentary capacity. Provisions of this type have not been enacted in any Australian jurisdiction but have been in existence for some time in England, and were recommended by the New South Wales Law Reform Commission in the report entitled 'Wills for persons lacking will-making capacity'.

The second matter concerns the effect of divorce on wills. The law in this area is clear in this State in that divorce has no effect on the validity of a will. However, some of the other jurisdictions have made provision for divorce to affect the validity of a will in a variety of ways: invalidating the whole will, causing a bequest to a former spouse to lapse, or the will may be treated as if the former spouse had predeceased the testator. These issues will be further considered. The Bill is a worthwhile reform and is commended to all honourable members. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment of s. 3—Interpretation and application of Act

The amendment inserts definitions of "adult" and "minor" for the purposes of new sections 5 and 6 inserted by clause 4.

Clause 4: Substitution of s. 5

Section 5 dealing with wills of minors is replaced by 2 new sections dealing with wills of minors.

Section 5 enables a minor who is or has been married to make, alter or revoke a will. It also enables a minor to make a will in contemplation of marriage.

Section 6 enables a minor to make, alter or revoke a will pursuant to an order of the Supreme Court. The court must be satisfied that the minor understands the nature and effect of the proposed action, that the proposed action accurately reflects the intentions of the minor and that the order is reasonable in all the circumstances.

Clause 5: Amendment of s. 8—Requirements as to writing and execution of will

The formal requirements for the execution of wills are altered in two respects.

The testator's signature must currently appear at the foot or end of the will. Under the amendment the testator's signature may appear anywhere on the document so long as the testator intended by the signature to give effect to the will.

Currently 2 witnesses must sign the will in the presence of the testator. Under the amendment the two witnesses may either sign or acknowledge their signatures in the presence of the testator (but not necessarily in the presence of each other).

Clause 6: Repeal of s. 9

This amendment is consequential to the amendment in clause 4 removing the requirement that the testator's signature be at the foot or end of the will.

Clause 7: Amendment of s. 12—Validity of will

The amendment alters the burden of proof with respect to informal wills. Currently the Supreme Court must be satisfied that there can be no reasonable doubt that the deceased intended the document to constitute his or her will. Under the amendment the Court must be satisfied that the document contains testamentary intentions. The Court is also given express power to take account of informal documents revoking an earlier formal or informal will.

The amendment also makes it clear that the provision applies to wills that come into existence outside the State and that rules of court may authorise the Registrar to exercise powers under the section.

Clause 8: Insertion of s. 25AA and heading

The new section gives the Supreme Court power to rectify a will that the Court is satisfied does not accurately reflect the testator's intentions.

Clause 9: Application of amendments to formality requirements

The amendments as to formal requirements for the execution of a will are to have effect whether the will was made before, on or after the commencement of the amending Act.

The Hon. C.J. SUMNER secured the adjournment of the debate.

PARLIAMENTARY COMMITTEES (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Parliamentary Committees Act 1991 and to make consequential and related amendments to the Development Act 1991, the Environment Protection Act 1993 and the Parliamentary Remuneration Act 1990. Read a first time.

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

That this Bill be now read a second time.

It seeks to amend the Parliamentary Committees Act 1991 to establish the Statutory Authorities Review Committee and the Parliamentary Public Works Committee. The express policy position of this Government is that it will ensure that Government is more accountable to the people through Parliament. Parliamentary committees enable members of Parliament to investigate issues of public importance and particularly to keep Government departments and agencies under scrutiny. It is the view of the Government that when parliamentary committees function effectively they are one of the most important means by which a Government is held accountable to the Parliament.

In order to implement these principles, the Government promised at the last election that it would legislate to establish a Parliamentary Public Works Committee to investigate public works projects where the cost of such work exceeds a limit to be fixed by statute. The Government also promised to legislate to establish a Statutory Authorities Review Committee to investigate the functions and operations of designated statutory authorities and report on whether particular authorities should continue to operate and, if so, in what form and subject to what constraints.

Public Works Committee

The previous Public Works Standing Committee was established by its own Act of Parliament in 1927. The Act (and thus the committee) was repealed by the Parliamentary Committees Act in 1991. Under the Parliamentary Committees Act, there is no obligation for capital expenditure to receive the additional approval of what was the Parliamentary Public Works Committee. No parliamentary committee scrutinises significant Government construction projects or monitors their progress. It is the view of this Government that

this is a major deficiency in the parliamentary committee structure.

The Government is of the view that the Government must be accountable to the people through the Parliament for all aspects of major public works and that these should be subject to the scrutiny of a special committee established to approve and then review and monitor the project and the expenditure of public moneys. Accordingly, the Bill provides that a public work must be referred to a Public Works Committee established in the House of Assembly if the total amount of the project exceeds $4 million. It requires that a project of this magnitude must be inquired into by the committee and a final report presented to the Parliament before any sum of money can be applied for the actual construction of the public work.

In this way, public works can be fully considered before any moneys are committed and any work has commenced and an informed decision taken as to the viability of the project without wasting resources. A critical report of the committee will alert Parliament to any problems inherent in the project prior to commencement and the application of taxpayers' money. The Public Works Committee has extensive functions under the Bill to inquire into the necessity or advisability of constructing the work, the public value of the work, the recurrent costs associated with the construction and the efficiency and progress of construction of the work.

Statutory Authorities Review Committee

In the past 11 years, Liberal members have introduced private members' Bills in both Houses of Parliament to establish a Statutory Authorities Review Committee in the Legislative Council. A Statutory Authorities Review Committee would make the operations of statutory authorities more open to detailed scrutiny to determine the desirability of their continuation and the propriety of their activities and actions.

The Economic and Finance Committee of the House of Assembly presently scrutinises the financial affairs of the Government. One area in which large losses of taxpayers' money have been incurred is statutory authorities such as the State Bank, State Government Insurance Commission and the South Australian Timber Corporation. Bodies such as these clearly need to be more open to detailed scrutiny to endeavour to avoid repetition of the losses which have occurred in the past.

In my private member's Bill in 1990, I excluded the State Bank and the State Government Insurance Commission from the ambit of the Statutory Authorities Review Committee. However, this Bill varies from that Bill in so far as there is no longer the same exclusion for these two bodies. Events have overtaken us in the case of the State Bank, which is to be restructured and renamed by legislation which is in another place at this time. It is the Government's view that the State Government Insurance Commission should also be subject to the scrutiny of the Committee and, accordingly, it is no longer excluded from review.

The Bill provides for the establishment and membership of the committee and details its functions. The functions of the committee include inquiring into the need for an authority to continue in existence, the effect of the authority and its operations on the finances of the State, whether the authority and its operations provide the most effective, efficient and economic means for achieving the purposes for which the authority was established and whether the functions or operations of the statutory authority duplicate or overlap in any respect the functions or operations of another authority, body or person.

In the case of both committees proposed, the functions detailed in the Bill are not exhaustive. This Bill provides that either Committee can be required to perform such functions as are imposed under the Parliamentary Committees Act or another Act or by resolution of both Houses.

If a report of a committee contains a recommendation it must be referred to the Minister with responsibility in the area concerned for the Minister's response within four months. The Bill also removes responsibility for subordinate legislation from the Environment, Resources and Development Committee and returns it to the Legislative Review Committee. It has been a concern of the Government, while in Opposition, that the review of subordinate legislation under the Development Act 1993 and the Environment Protection Act 1993 had been removed from the Legislative Review Committee to become the responsibility of the Environment, Resources and Development Committee, which is not equipped or established to review subordinate legislation but rather to address policy issues on environment and related issues.I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the measure to come into operation on a day to be fixed by proclamation.

Clause 3: Amendment of s. 3—Interpretation

This clause makes amendments to existing definitions consequential on the proposed new Public Works Committee and Statutory Authorities Review Committee and inserts the following new definitions:

"Public work" is defined to mean any work that is proposed to be constructed where the whole or a part of the cost of construction of the work is to be met from money provided or to be provided by Parliament or by a statutory authority.

"Work" is defined to mean any building or structure or any improvements or other physical changes to any building, structure or land.

"Construction" is defined to include—

(a) the making of any improvements or other physical changes to any building, structure or land;

and

(b) the acquisition and installation of fixtures, plant or equipment when carried out as part of, or in conjunction with, the construction of a work.

"Land" is defined to include an area covered by the sea or other water.

"Statutory authority" is defined as a body corporate that is established by an Act and—

(a) is comprised of or includes, or has a governing body comprised of or including, persons or a person appointed by the Governor, a Minister or an agency or instrumentality of the Crown;

(b) is subject to control or direction by a Minister;

or

(c) is financed wholly or partly out of public funds,

and as including a company or other body corporate that is a subsidiary of, or controlled by, such a body corporate, but as not including—

(d) a body wholly comprised of members of Parliament;

(e) a council or other local government authority;

(f) a body whose principal function is the provision of tertiary education;

or

(g) any other body excluded by regulation from the ambit of this definition.

Clause 4: Amendment of s. 6—Functions of Committee

Section 6 of the principal Act sets out the functions of the Economic and Finance Committee. The functions are narrowed so that they do

not overlap with the functions of the proposed new Statutory Authorities Review Committee.

Clause 5: Amendment of s. 9—Functions of Committee

Section 9 of the principal Act sets out the functions of the Environment, Resources and Development Committee. The functions of this Committee are narrowed so that they do not overlap with the functions of the proposed new Public Works Committee.

Clause 6: Amendment of s. 12—Functions of Committee

This clause makes a drafting amendment consequential on the proposed new section 16A providing for referral by force of the Act of major public works to the proposed new Public Works Committee.

Clause 7: Insertion of Part 4A—Public Works Committee

Proposed new section 12A provides for the establishment of the Public Works Committee as a committee of the Parliament.

Proposed new section 12B provides that the Committee is to consist of five members of the House of Assembly appointed by the House of Assembly.

Under proposed new section 12C the functions of the Public Works Committee are to be as follows:

- to inquire into, consider and report on any public work referred to it by or under the Act, including—
  - the stated purpose of the work;
  - the necessity or advisability of constructing it;
  - where the work purports to be of a revenue-producing character, the revenue that it might reasonably be expected to produce;
  - the present and prospective public value of the work;
  - the recurrent costs (including costs arising out of financial arrangements) associated with the construction and proposed use of the work;
  - the estimated net effect on the Consolidated Account or the funds of a statutory authority of the construction and proposed use of the work;
  - the efficiency and progress of construction of the work and the reasons for any expenditure beyond the estimated costs of its construction;
- to perform such other functions as are imposed on the Committee under an Act or by resolution of both Houses.

It should be noted that, while the public works described in proposed new section 16A are referred to this Committee by force of that section, other public works may be referred to the Committee under section 16 of the principal Act.

Clause 8: Insertion of Part 5A—Statutory Authorities Review

Proposed new section 15A provides for the establishment of the Statutory Authorities Review Committee as a committee of the Parliament.

Proposed new section 15B provides for the Committee to consist of five members of the Legislative Council appointed by the Legislative Council.

Under proposed new section 15C the functions of the Statutory Authorities Review Committee are to be as follows:

- to inquire into, consider and report on any statutory authority referred to it under the Act, including—
  - the need for the authority to continue in existence;
  - the functions of the authority and the need for the authority to continue to perform those functions;
  - the net effect of the authority and its operations on the finances of the State;
  - whether the authority and its operations provide the most effective, efficient and economic means for achieving the purposes for which the authority was established;
  - whether the structure of the authority is appropriate to its functions;
  - whether the functions or operations of the statutory authority duplicate or overlap in any respect the functions or operations of another authority, body or person;
- to perform such other functions as are imposed on the Committee under an Act or by resolution of both Houses.

Clause 9: Amendment of s. 16—References to Committee

This clause makes a drafting amendment consequential on the proposed new section 16A providing for referral by force of the Act of major public works to the proposed new Public Works Committee.

Clause 10: Insertion of s. 16A—Certain public works referred to Public Works Committee

Proposed new section 16A provides for a public work to be referred to the Public Works Committee by force of the section if the total amount to be applied for the construction of the work out of money provided by Parliament or by a statutory authority will, when all stages of construction are complete, exceed $4 000 000.

The proposed new section goes on to provide (as was the case under the repealed *Public Works Standing Committee Act 1927*) that no amount may be applied for the actual construction of such a public work unless the work has first been inquired into by the Public Works Committee and the final report of that Committee on the work has been presented to its appointing House or published under section 17(7).

Clause 11: Amendment of s. 17—Reports on matters referred

This clause makes a drafting amendment consequential on the proposed new section 16A providing for referral by force of the Act of major public works to the proposed new Public Works Committee.

Clause 12: Amendment of s. 20—Term of office of members

This clause removes a transitional provision that has served its purpose.

Clause 13: Amendment of s. 24—Procedure at meetings

This clause makes an amendment designed to make it clear that Standing Orders may include provision governing the procedures of Committee meetings.

Clause 14: Amendment of s. 30—Committee may continue references made to previously constituted Committee

This clause makes a drafting amendment consequential on the proposed new section 16A providing for referral by force of the Act of major public works to the proposed new Public Works Committee.

Clause 15: Insertion of s. 37—Regulations

The clause adds a regulation-making power that is now required in view of the new definition of "statutory authority" which allows the exclusion of bodies by regulation.

Clause 16: Transitional provision

This clause provides that the first members of the Public Works Committee and of the Statutory Authorities Review Committee are to be appointed as soon as practicable after the commencement of this measure.

SCHEDULE

Consequential and Related Amendments

Clause 1: Amendment of Development Act 1991

This clause removes subsection (9) of section 108 of the *Development Act 1991* which requires regulations under that Act to be referred to the Environment Resources and Development Committee. With the removal of this subsection, such regulations will be subject to the scrutiny of the Legislative Review Committee in the normal way.

Clause 2: Amendment of Environment Protection Act 1993

This clause makes a corresponding amendment to section 140 of the *Environment Protection Act 1993*.

Clause 3: Amendment of Parliamentary Remuneration Act 1990

The *Parliamentary Remuneration Act 1990* is amended by this clause to provide for additional salary for the Presiding Members and other members of the new Committees—an additional 14 per cent for the Presiding Members and 10 per cent for the other members.

The Hon. C.J. SUMNER secured the adjournment of the debate.

SELECT COMMITTEE ON THE CIRCUMSTANCES RELATED TO THE STIRLING COUNCIL PERTAINING TO AND ARISING FROM THE ASH WEDNESDAY 1980 BUSHFIRES AND RELATED MATTERS

The Hon. K.T. GRIFFIN (Attorney-General): I move:

1. That a select committee of the Legislative Council be established to consider and report on the circumstances related to the Stirling council pertaining to and arising from the Ash Wednesday 1980 bushfires, the nature of claims, including but not limited to the nature and extent of the involvement of the State Government, the procedures leading to the settlement, the basis for the settlement of the claims, and the circumstances leading to the appointment by the Government of an administrator.

2. That Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.

3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.

4. That Standing Order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless

the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

5. That the evidence given to the Legislative Council Select Committee on the Circumstances related to the Stirling Council pertaining to and arising from the Ash Wednesday 1980 Bushfires and Related Matters be tabled and referred to the select committee.

The Government has decided that, in view of the extensive work which the select committee established in the last Parliament undertook in relation to Stirling council and the Ash Wednesday 1980 bushfires, the work of that committee ought to be concluded. Quite a large amount of paper was generated during that select committee inquiry and there is the expectation, at least from residents in the Stirling council area, that some report will emanate from the Parliament on this issue. It is a controversial issue and one on which the committee has heard extensive evidence. Although the momentum of the committee slowed considerably in the past year it is desirable that all that work be brought together and that there be a report for the benefit of the Parliament and of the public.

My motion seeks to re-establish the select committee and to enable the evidence received by the previous select committee to be referred to this select committee, if the Council agrees to its re-establishment, and that it report at the earliest opportunity. That may, of course, be a matter of some debate but, certainly, it would be the Government's intention that adequate resources be provided to the committee to enable it to complete its work and to have that report available—perhaps not during this session, which is relatively short, but certainly early in the next session. So, I commend the motion to members and ask for their support of the re-establishment of the committee.

The Hon. M.S. FELEPPA secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION (STALKING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 February. Page 60.)

The Hon. C.J. SUMNER (Leader of the Opposition): The Opposition supports this Bill. The Attorney-General has requested that the matter be dealt with and I am happy to accede to that request. However, I point out that a Bill that I introduced prior to the Attorney-General's Bill does deal with the same subject matter, that is, the question of stalking, and that a Bill on this topic was introduced by me as Attorney-General in the previous Government on 13 October 1993. I should have thought that normal courtesies would lead to the Bill that I had introduced in private members' time on this topic being dealt with, particularly as it was introduced prior to this Bill that we are now debating. However, the Attorney-General has advised me that he is not ready to deal with my Bill, because it contains another provision dealing with certain evidentiary matters relating to child abuse cases.

So, in that light, I am prepared to deal with this Bill now because it is a matter of some importance. The Bill is in substantially the same form as that introduced by me last year. It was then, as I had anticipated, the subject of community discussion and submissions, and those submissions have been considered by the present Government. As a result, two amendments that have been described by the Attorney in introducing the Bill have been made to the Bill that I introduced, and both those amendments are acceptable to me and to the Opposition. So, it is with pleasure that I support the passage of this Bill and trust that it will receive a quick passage in another place and be brought into effect at an early date.

The only issue that I wish to raise is really a matter of procedure. My Bill, as I said, dealt with an additional, unrelated matter related to creating a new offence of having a sexual relationship with a child and providing that in a charge dealing with this matter it is not necessary to specify the dates or in any way to particularise circumstances of the alleged acts. The rationale behind this part of the Bill that I introduced was explained fully by me when I introduced a similar provision as Attorney-General on 13 October 1993, but it has not been included in the Attorney-General's Bill that we are now debating.

So, I am prepared to allow this Bill to proceed, but I should point out that it has been suggested to me that I should have sought an instruction to add the provisions relating to child abuse to this Bill before proceeding with its passage. I have not done that, but I may seek to do it, depending on what response the Attorney-General is prepared to give to dealing with my private member's Bill and, in particular, I want an assurance from him that my Bill will be dealt with at an early time. I should like an undertaking that he will deal with it on the next Wednesday of sitting, which I do not think is too unreasonable a time, given that it has been before the public now since October 1993.

I should like that undertaking. I think I am being cooperative in allowing this Government Bill to go forward, but it would have been possible for me to have sought an instruction to add my provisions relating to child abuse to this Bill. I have decided not to do that because we have to get on with the legislative program.

So, I think in return for that it would be reasonable for the Attorney to give some commitment to dealing with my Bill and if he is not prepared to do that I may have to raise the matter again with the Hon. Ms Kanck, who in a private conversation suggested that this might be an appropriate way to go.

The Hon. ANNE LEVY: I support this piece of legislation. I do not need to go into the reasons why it is necessary, as the absence of such legislation has certainly lead to a number of tragic occurrences both in this State and elsewhere, which do not need to be elaborated on. It is very interesting that the latest issue of *Choice*, the magazine produced by the Australian Consumers Association, has felt that the whole question of stalking legislation is one of general consumer interest and has in a recent edition of its publication given an overview article which discusses what is occurring in various States around the Commonwealth with regard to anti-stalking laws.

As mentioned by the Hon. Ms Pickles, the credit has been given to the previous Labor Government for having been the first to introduce such anti-stalking legislation, though we will not be the first to pass such legislation as both the New South Wales and Queensland Governments have done so since the Labor Government introduced the measure last year. There are differences between the New South Wales and Queensland legislation, a major difference being that the New South Wales legislation applies to domestic situations only, whereas in Queensland, as in the Bill before us, the stalking and consequent harassment and intimidation of the victim is a general offence and not limited to domestic situations,

although it is widely presumed that it will mainly be used in such situations.

Yesterday I was given a brochure put out by the Women's Electoral Lobby indicating its stand on the whole question of domestic violence. On reading this brochure I discovered that, among other things, it wishes to influence the proposed anti-stalking legislation, of which it heartily approves in principle. It is certainly true that people from the Women's Electoral Lobby stated their views and made submissions on the legislation introduced last October but this is a new pamphlet from the Women's Electoral Lobby, and the fact that the brochure indicates that it wishes to influence the proposed anti-stalking legislation suggests to me that either it is not aware that the new legislation has been introduced or it may be that it has made submissions on the legislation to the Government but not to the Opposition. Has the Attorney-General had further submissions on his Bill from the Women's Electoral Lobby?

The Hon. K.T. Griffin: I will check on that—

The Hon. ANNE LEVY: In his summing up speech could the Attorney indicate whether he has had further submissions from the Women's Electoral Lobby since the election, as I presume its new brochure talking about influencing the anti-stalking legislation would not be referring to the submissions it made last October?

In the article published in *Choice* magazine a number of people point out that the best of legislation will not work unless there is goodwill and its interpretation and administration is adequately undertaken. *Choice* contains a comment made by a representative from the New South Wales Domestic Violence Advocacy Service who, referring to the New South Wales legislation, states:

> The new legislation is really a step forward. It will allow police and magistrates more scope. . . .although those whose job it is to implement the legislation must be prepared to do so. It's the interpretation and administration that will make the difference.

The article also quotes criminologist, Julie Stubbs, and it states:

> It's difficult to predict what impact the legislation will have on those seeking protection orders.

Quoting from her the article further states:

> It depends so much. . . on the way in which any police will interpret it at the time.

She acknowledges in the article that there have been real gains made over the last decade in terms of protecting women from domestic violence, but indicates that there is still room for improvement and for further education. Criminologist, Julie Stubbs, is further quoted as saying:

> Education particularly for the police, although a lot of resources have been put into that and maybe it's now time to concentrate more on the education of the courts. . . Perhaps now, given all the current debates about gender bias and the law. . . the judiciary might be more willing to identify the need for that training.

I certainly hope that this legislation will provide the protection sought by the victims of such stalking and the community, but I think it is salutary to remind ourselves that such legislation will work only if the administration of justice through the police and through the courts accepts the legislation in the spirit in which it is presented and discussed by Parliament and is prepared to implement it fully. I trust the Government will keep a watching brief, gather statistics on its use and ensure that the spirit in which Parliament passes this legislation is in fact implemented through the other arms of the justice system.

The Hon. CAROLYN PICKLES: Mr Acting President, as I indicated earlier in the debate on the proposed Bill by the Leader of the Opposition on the same issue I support the second reading.

The Hon. Mr Griffin has indicated that his legislation differs in two minor aspects to the original legislation introduced by the Hon. Mr Sumner. The Opposition has had time to look at these two changes and supports them. The Hon. Ms Levy has referred to some aspects that may not be supported by the Women's Electoral Lobby. I do recall that, at the time of the introduction of the Hon. Mr Sumner's legislation, the Women's Electoral Lobby did make submissions to members of Parliament, and whether this is the same objection that they have and whether they are aware that the Hon. Mr Griffin has changed the legislation and has accommodated their concerns I do not know, since (like the Hon. Ms Levy and apparently the members of the Government opposite) no formal submissions have been made. I understand the Hon. Mr Griffin will refer to that in his summing up. I understand that this legislation is scheduled to go through tomorrow, so if people wish to make some submissions to the Government or the Opposition they have about 24 hours to do so.

As I indicated earlier, the issue of stalking is one that has concerned me for some time. It is something that has never happened to me as a woman, but I understand from people who have spoken to me to whom this has happened that they have in many cases been fearful of their lives. On many occasions both in this country and overseas women have actually been killed following prolonged periods of stalking and harassment. This is a timely piece of legislation. It is legislation that the former Government and the former Attorney-General supported wholeheartedly, and it was legislation that I supported when the Hon. Mr Sumner introduced it in October of last year. I certainly hope that the passage of this Bill will change the attitudes of many people in this State, because saying that this behaviour is unacceptable actually raises the issue as an educational process and one that I hope people will take heed of. Like the Hon. Ms Levy, I trust that the legislation will be carefully monitored and enacted in a way that this Parliament intends, and that the police will be cooperative in every aspect following its passage.

The Hon. Anne Levy: And the courts.

The Hon. CAROLYN PICKLES: Indeed, the courts. We have had experiences in this State and other States where the courts do not always follow the spirit of the legislation, but perhaps on this occasion we hope that they will. I am sure that the Government will give the assurance that it will closely monitor this legislation once it has been enacted. I support the second reading.

The Hon. A.J. REDFORD: I rise in support of this legislation, particularly having regard to my years in the practice of the law specialising in both the criminal law and, to some lesser extent, family law. The real thing that this legislation attacks is the creation of fear in the women and the weaker persons in our community. It not only addresses the issue of people stalking or following other people or creating or interfering with their normal day-to-day lives but it gives the victims of that sort of conduct some degree of recourse, some degree of safety and somewhere where they can go to complain of this behaviour.

In my practice, on many occasions I have had situations of this nature, where people have approached me—and I must

say they usually approach a lawyer very late in the piece, knowing how much lawyers charge—after having exhausted their rights with police officers and various other institutions within the community. This certainly gives police a real opportunity to stop this sort of conduct. It is also important to remember that this does not just cover issues involving men harassing women.

The Hon. Carolyn Pickles: Mostly, though.

The Hon. A.J. REDFORD: It does mostly, yes, but there are often other occasions—and certainly as a lawyer you run into other occasions—where you have the student who is infatuated by his or her teacher and harasses his or her teacher, and that occurs more commonly than a lot of people would recognise.

The Hon. Carolyn Pickles: The other way around.

The Hon. A.J. REDFORD: It cuts both ways. We live in a non-sexist society, or at least we are headed in that direction.

The Hon. Anne Levy interjecting:

The Hon. A.J. REDFORD: Yes. It can also affect people in authority. Perhaps some of my colleagues have experienced harassment from various constituents. Again this stalking legislation enables the police and the authorities to act, so that people going about their normal day-to-day duties, whether it be as politicians or other community leaders, who are being harassed or stalked, in terms of the legislation, can have some recourse and some protection through the criminal law in this area.

The other important aspect is that it adds teeth to protection orders and to family law injunctions. Certainly, there is a recognition of that in this Bill, where if there is such an order or injunction in place then the penalties are much higher. I think that that aspect is to be commended. It gives teeth to the Family Court orders, and certainly as a litigant it can be expensive to deal with breaches of Family Court orders. Sometimes people are met with some indifference in the enforcement of protection orders, particularly in some areas, by our courts, and this legislation gives greater teeth and greater enforcement to both protection orders and Family Court injunctions.

It also assists in relation to harassment over the telephone. The average person in the street really only comes into contact with our State police and generally understands our State police as being the first port of call in dealing with their problems. Some of the conduct that is covered by this legislation is indeed covered in the Commonwealth Crimes Act and the Commonwealth Telecommunications Act, but that can necessarily lead to dealing with Federal police. This enables State police to deal with this sort of conduct without having to refer the matter to Commonwealth authorities, and it almost gives the victim an opportunity of a 'one stop shop'.

Also, I commend the differences between the legislation presented by the Government and that which was presented by the previous Government. I appreciate that the previous legislation did not get very far down the track, but it does cover, as the Attorney said, a number of additional things, and one can imagine—and I know I have had experience of this with clients—where men, particularly estranged husbands, interfere with the underclothing and the clothing of their estranged wives on their clotheslines and that sort of thing. This legislation will deal with that sort of conduct. It also deals with the giving of offensive material, and that happens more commonly in the community than perhaps a lot of us might like to recognise.

The other aspect that commends this legislation to this place is its essential simplicity. All the Crown has to prove beyond a reasonable doubt is that the conduct complained of occurred on two separate occasions. As I understand the legislation, it does not have to be the same conduct that occurs on each occasion. The legislation sets out six different matters that can be the subject of stalking; for example, following the other person and loitering. This offence, as I understand it, can be made out if on one occasion the accused follows the victim and on the second occasion the accused loiters outside the place. As I read the legislation, there is no requirement that there be two similar courses of conduct set in section 19AA(1)(a).

The other matter that I would like to raise is the degree of urgency in relation to this legislation. In the past week I have had at least three inquiries from people who believe they are being stalked about when this legislation will be proclaimed. That will unable those three people to contact the police immediately and, as the Attorney indicated, the police will interview the alleged offenders about their conduct. That will inevitably lead to either of two things: that conduct will stop or, alternatively, there will be a prosecution—and a successful one.

I refer to some comments made by members opposite. We appreciate that there has been little time for submissions but, essentially, this legislation has been before the Parliament since October last year. It is my view that there has been ample opportunity for the community to comment on this topic. I do not believe that there is any good reason why this legislation should be held up.

The Hon. Anne Levy interjecting:

The Hon. A.J. REDFORD: To some of the people I am dealing with, 24 hours is probably enough time for the community to comment.

The Hon. Anne Levy interjecting:

The Hon. A.J. REDFORD: I didn't say that you were suggesting that it be held up; but there was the comment that there was little time for submissions, and people can draw their own conclusions from that.

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: That is exactly the point I made.

The Hon. Anne Levy: And that was the point I made.

The Hon. A.J. REDFORD: We are all in agreement.

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: The Hon. Mr Sumner said he could see no reason why his Bill was not dealt with. The other aspect of his Bill is a little more complex than what is currently before this place. Obviously that was recognised by the former Attorney when he presented that legislation in the form of two Bills on the last occasion. I would imagine that when the Attorney goes through all the issues that that will occur and be dealt with in pretty much the same manner as occurred on the previous occasion. I commend this Bill to the Council.

The Hon. SANDRA KANCK secured the adjournment of the debate.

REAL PROPERTY (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 March. Page 179.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank the Hon. Mr Sumner for his support of this measure. He said quite rightly that this has been a long time in the development stage. There has been significant consultation on the Bill. My understanding is that all those who have been involved through the Standing Committee of Conveyancers have agreed with the Bill, which will mean a significant deregulation initiative. In the course of his contribution, the Hon. Mr Sumner drew attention to the fact that the Real Property Act still uses very outdated terms such as 'idiot', 'lunatic' and 'committee of the estate of such persons'. I agree that they are archaic and certainly not in touch with modern terminology. I have had one of my legal officers examine the matter and my advice is that there is no apparent reason why these references cannot be updated.

A little history lesson might put it all into context. It appears that the term 'lunatic' was removed from the mental health legislation prior to 1935, the terms 'idiot' and 'imbeciles' passed out of our mental health legislation in 1964 and 'committees' and 'inquisitions' were replaced in 1977 by an administrator appointed by the Guardianship Board. Of course, that structure was recently changed again by the new guardianship and administration legislation. But the position remains that an administrator under the mental health legislation or a manager under aged and infirm persons' property legislation or the donee of an enduring power of attorney are the appropriate persons clothed with authority under other legislation to deal with the estate of a person who cannot do so himself or herself. In reality, it is unlikely that recourse would be had to the provisions in the Real Property Act for authority to deal with property which forms part of a protected or managed estate. I do not have any objection to the Hon. Mr Summer moving the amendments that he has foreshadowed. I certainly will be supporting them because I think it is appropriate that those terms be removed from this piece of legislation.

The Hon. T. CROTHERS: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

Bill read a second time.

The Hon. C.J. SUMNER (Leader of the Opposition): I move:

That it be an instruction to the Committee of the whole that it have power to consider new clauses in relation to the definition of 'lunatic' and references to 'idiot'.

Motion carried.

SUPPLY BILL

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

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

That this Bill be now read a second time.

As the second reading explanation of the Bill is the same as that given in another place, I seek leave to have it and the explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

In presenting the first supply Bill of the Brown Liberal Government, a number of key initiatives will be outlined.

Asset Management Task Force

Prior to the election an undertaking was given to establish an Asset Management Task Force to oversee the sale of State public sector assets. The role and function of the Task Force was to review the management of State assets (particularly in regard to their disposal or sale) and to advise the Treasurer of the appropriate policies, objectives and procedures respecting the management of those assets.

Specifically the Task Force will advise the Treasurer on three major tasks—

- identifying surplus land-related assets and developing a strategy for their disposal which optimises returns, is consistent with urban development objectives and enhances the economic development of the State
- identifying and advising on the issues to be covered in the corporatisation and sale of Government bodies and developing and advising on a strategy for achieving the relevant policy and commercial objectives that the Government expects from this process
- identifying, and recommending action to rectify, deficiencies in the recording of all major assets of Government.

The proposed structure for the corporatisation and sale of Government business enterprises will have the following features—

1. Subject to Cabinet direction, the Treasurer will take responsibility for the corporatisation and sale.
2. The Asset Management Task Force will advise the Treasurer at the strategic level in respect of each corporatisation and sale.

This structure should ensure that the corporatisation and sale procedure is accountable, that it is reviewed and that it remains under Government control.

The owner of the enterprises is the Government and its priorities may be different from those of the body being sold. To take PASA as an example there are issues such as future gas prices, PASA's status as a monopoly distributor, tax compensation from the Commonwealth, PASA's tax treatment once in the Commonwealth tax net and trade practices questions which will need to be addressed. The Government must absolutely control the process.

Asset Management

In 1987 the Public Accounts Committee drew attention to potential major funding problems for replacing the State's ageing infrastructure and for delivery of associated services. The Committee highlighted the need for substantial effort in refining asset replacement estimates and developing funding and service delivery strategies.

As revealed by the 1992 report of the Economic and Finance Committee, agencies and the former Government have paid insufficient heed to the earlier PAC report and there are no refined estimates or strategies in place on this vital matter.

It is also clear that maintenance of major assets in certain areas of the public sector has been inadequate. As a result, the standard of significant numbers of public assets, such as schools, is below levels acceptable to the community.

Several key measures are being implemented as a matter of urgency to redress this situation.

A comprehensive asset management policy which will clearly define the requirements of agencies in managing their assets is being developed and will be released shortly in draft form.

This is the first time such a comprehensive policy has been produced in this State on the management of the State's massive infrastructure and capital asset portfolio. It will be rigorous in demanding standards of excellence in asset management so that we can establish the basic foundations for further economic development and community service delivery.

The key objectives of this document will be—

1. to ensure that capital works programs and asset management practices are closely attuned with Government priorities;
2. to minimise the costs of providing, maintaining and operating capital assets to support service delivery of agreed standards;
3. to set the basis for a new asset management culture in the public sector which is consistent with sound business principles of analytical and rational decision making.

The key themes and principles that will be embodied in this statement of policies and practices are—

- early and rigorous evaluation of all options for meeting a perceived need for additional assets with an emphasis on non-asset based solutions and minimum cost options.
- recognition of private sector provision and operation of infrastructure as a valid alternative to traditional public sector approaches with efficiency and minimum whole of life costs being key criteria for selection from options.
- a need to keep accurate information on assets and produce regular agency and aggregate State estimates of future costs of, and strategies for, maintaining, replacing and otherwise sustaining the State's infrastructure base.

- rigorous analysis and project assessment of the likely contribution of proposed capital works to State priorities.
- agency asset management plans tied to service delivery programs and objectives as well as specific plans for individual major assets.
- minimisation of whole of life asset costs with a need to consider both the recurrent and capital costs of providing and maintaining capital assets in an integrated approach to asset management and "asset budgeting".
- regular assessment of options of maintaining existing assets versus replacing them using a criterion of minimum whole of life costs.
- the need for a public sector corporate culture of best management practice in sustaining and improving the State's infrastructure base for the long term future.
- a need to focus more carefully on monitoring and improving levels of utilisation of assets and to adopt a corporate Government approach to sharing of assets.
- adoption of accrual accounting systems to more accurately reflect the cost of capital assets in program and service delivery costs.

As a further major asset management initiative, the PAC "exploratory calculations" on asset replacement are to be superseded by a more refined aggregate estimate of the future funding needed to sustain the State's infrastructure.

A critical and closely related aspect of restoring the State's financial well being is to ensure that the provision and operation of infrastructure and the delivery of services to the community at acceptable standards is achieved for the lowest possible cost. This concept extends well beyond the mere provision of roads, pipes and wires infrastructure for urban development to the intensive operating cost areas such as prisons, schools and hospitals.

For several years now the eastern States in particular have been seeking to harness the competitive environment of the private sector to increase efficiencies and ultimately to reduce the costs of services to the community.

It is now critical that this State actively and relentlessly pursues options for ensuring the delivery of quality services at the minimum possible cost. It is imperative that private sector involvement be invited, encouraged and nurtured in the development and operation of new infrastructure items such as schools, prisons, hospitals, water treatment works and so on.

These projects will then become the benchmarks for improving the performance of the rest of the public sector system which is vital to restoring the State's financial health.

Admittedly, the field we are talking about is immensely complex and we need to have our eye firmly on the ball, that is, the identification, development and/or negotiation of the appropriate arrangements for delivery of quality services at least possible cost.

There are some advantages in activities being carried out in the public sector. For example the public sector can borrow at cheaper rates than private sector developers and entrepreneurs and the public interest can be better protected than through formal contractual and regulatory arrangements. The private sector on the other hand almost invariably has a clear lead when it comes to maximising efficiency and minimising operational costs.

What is needed is the careful development and negotiation of the optimum mix of public and private sector involvement that produces infrastructure, facilities and services at the least possible overall cost. This requires sophisticated whole of life cost forecasting and present value analysis to ensure the identification of least cost approaches.

In order to accelerate progress in this area, the Infrastructure and Asset Management Branch of Treasury will be taking a much more pro-active role in the matter of private sector provision and operation of capital facilities with associated service delivery.

Key elements of this role will be—

- establishing forecasts of the whole of life costs of the public sector providing and operating new elements of infrastructure for comparison with private sector proposals;
- rigorously assessing all new capital works proposals at the early concept stages to determine whether private sector involvement might be a plausible option to reduce costs;
- publishing future works programs widely, and specifically encouraging potential private sector providers to register interest and submit proposals;
- providing a core of special expertise to assist agencies in the complex task of negotiating fundamental contractual terms for private sector involvement which ensures quality of facilities and services and achieves cost savings compared with the traditional public sector approach to provision of such programs.

Once key projects are established with private sector involvement they will become the benchmarks and the key to improved performance in the rest of the public sector. Gains will be applied to the restoration of the State's financial health and to achieving improvements in our credit rating which will in turn reduce our costs of capital and further reduce costs of providing community services.

Program Performance Budgeting

Program Performance Budgeting (PPB) was introduced in the early 1980's in South Australia with the objectives of gathering and analysing information to assist in policy formulation and implementation, program design, planning and administration, budgeting, accountability, and the reallocation of government resources.

It was introduced in a limited way in the 1980-81 budget and until 1982-83 operated in parallel with the traditional line item approach. In 1982-83 the line budgets for several agencies were replaced by program estimates.

Over the next few years all budgets printed in the Estimates of Payments and Receipts were gradually transferred to the program format. By 1987 all agencies were transferred to the Treasury Accounting System which required that budgets and actual expenditure be recorded on a program basis. This was seen as an essential pre-requisite to the effective operation of PPB.

The process of program evaluation and review was seen as the final stage of the transition to full PPB.

The purpose of program evaluation is to assess whether programs are needed, are achieving their intended outcomes or can be made to work better. In the longer term, it was expected that evaluation results would enable better decisions to be made on the allocation of resources between agencies, but in the short term it was expected that evaluation would improve public sector management in specific areas and contribute to resource allocation decisions within agencies. To be successful it was seen as essential for program evaluation results to feed into the decision-making process of the Government as part of the budget process and the PPB Estimates Committee process. It was envisaged that PPB would then be actively used by agencies as part of agency planning and would no longer be viewed as a stand-alone activity.

However, under the former Government, the evaluation process failed to gain the necessary momentum.

While agencies produced budget documents in the program format, there were in many cases conflicts between the program and organisation structures. This was particularly true in those agencies which delivered a variety of services from individual organisational units. An example of the problem was the work required to apportion the budget for a hospital or a Family and Community Services office across the programs which were delivered from those units.

A survey was recently undertaken of the existing Program Performance Budgeting system.

The responses from agencies revealed that Program Performance Budgeting as it is presently used is considered—

- useful for setting explicit program objectives and assessing alternative means of achieving objectives;
- unhelpful for setting priorities;
- of little value in facilitating decisions on the appropriate level of resources to carry out programs; and
- not useful generally as a basis for policy formulation, enforcing accountability or redirection of government effort or resources.

The responses are consistent with a situation in which the budget and program evaluation processes are separate. The lack of a systematic process that links financial planning and budget decision making with the evaluation and review processes of the agencies means that unless the agencies actively pursue their own reviews and evaluations on a program basis, then the PPB exercise is one largely of presentation.

At the same time, it is a very time consuming and resource intensive process.

The absence of a systematic link between budget decision making and the review processes of agencies has also meant that savings targets have been set more often than not without any particular regard to Government priorities except in the broadest sense. There have been across the board cuts to agency allocations rather than close analysis of programs and their effectiveness.

In the future it will be the Government's aim to have Treasury officers working closely with agencies to find ways of achieving the Government's objectives more effectively and at reduced cost. This will require a re-examination of program structures so that they reflect more accurately the objectives which the Government is trying to achieve through a much closer link between the program evaluation process and decisions about resource allocations.

It is important to stress that the primary aim of this process will not be to identify programs which can be eliminated altogether, although there may be some in this category, but to examine the effectiveness with which programs are being delivered, to find better ways of delivering those programs thereby freeing up resources for use elsewhere within the agency in accordance with agreed priorities. By improving their efficiency and effectiveness in this way agencies will be able to contain the extent to which they need to draw on the budget and so assist the Government to achieve its debt reduction target.

Asset sales are an important element of our debt reduction program and can provide the initial impetus which is vital but that impetus will be lost and eventually reversed unless annual deficits are contained. The long term debt reduction program must be one in which operating agencies seek constantly to find better ways to deliver services and central agencies assist them in that process.

This process is one of striving for world's best practice. First we must establish appropriate benchmarks against which to measure our current performance and then we must measure ourselves against those benchmarks. Where we fall short of the standards being achieved elsewhere in the world in the delivery of comparable services we must try to establish why and find ways of improving our performance.

The benefits to the wider community are considerable.

In other fields of endeavour, it is the aim which South Australians are setting themselves and it is the appropriate one in the field of Government.

Appropriation

The Bill before the House provides for the appropriation of $1 800 million to enable the Government to continue to provide public services for the early part of 1994-95. The Appropriation Bill which contains details of the Government's budget proposals is not normally passed until well into the financial year.

In the absence of special arrangements in the form of the Supply Acts, there would be no parliamentary authority for expenditure between the commencement of the new financial year and the date on which assent is given to the main Appropriation Bill.

It has been customary for the Government to present two Supply Bills each year. The first Bill has covered expenditure from 1 July until the second Bill is passed. The second Bill has covered the remainder of the period prior to the Appropriation Bill becoming law.

The Government has decided that it would be more sensible and efficient to have only one Supply Bill to cover the entire period from 1 July until assent is given to the main Appropriation Bill. This new arrangement will commence with the 1994-95 financial year.

Consequently this Bill provides for the appropriation of $1 800 million which is $80 million less than the total of both Supply Bills for last year. It is nevertheless considered to be sufficient to cover the Government's requirements.

Members will recall that a new provision was included in the current Appropriation Act to facilitate appropriation arrangements when agencies are restructured or abolished.

A similar provision (clause 3, subclause (3)) has been included in this Bill to cover the Supply period. Its purpose is to ensure that where functions or duties for which Parliament has appropriated funds in the previous financial year are transferred to another agency as a result of restructuring or abolition the funds may be used by the newly responsible agency during the Supply period.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides relevant definitions.

Clause 3 provides for the appropriation of up to $1 800 million.

Subclause (2) imposes limitations on the issue and application of this amount.

Subclause (3) is a new provision to ensure that where Parliament has appropriated funds to an agency to enable it to carry out particular functions or duties in the previous financial year and those functions or duties become the responsibility of another agency the funds may be used by the responsible agency during the Supply period in accordance with Parliament's original intentions without further appropriation.

The Hon. C.J. SUMNER secured the adjournment of the debate.

CORRECTIONAL SERVICES (PRISONERS' GOODS) AMENDMENT BILL

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

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

As this Bill has been dealt with in another place, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The object of this Bill is to rectify a recently discovered loophole in the *Correctional Services Act*.

Until recently, the Department restricted the entry of goods into prisons by interpreting Section 33(3)*(h)* of the *Correctional Services Act* to require approval of the manager of the prison before a prisoner could receive any parcel of goods from outside of the prison confines.

On 21 December 1993, the Crown-Solicitor advised the Department that an application to serve Judicial Review proceedings on the manager of the Yatala Labour Prison would be made. This was as a consequence of an earlier decision by the manager to invoke this section of the Act to refuse a prisoner access to a parcel which had been received without his prior approval.

The Crown-Solicitor has advised that the Department was inappropriately interpreting this section of the Act and should concede the Judicial Review proceedings and agree to costs. In addition to conceding the Judicial Review, the Crown-Solicitor recommended that the Department should seek to urgently amend the *Correctional Services Act* to reflect the need to restrict the entry of goods into prisons.

This advice has major implications for the prison system in that prisoners will now be able to have parcels containing any item they wish sent to them and prison managers will have to give them the contents of the parcel unless the item does not qualify as part of the range of items permitted in that Division's items in cells, or the item contravenes the regulations. For example, a parcel of food would have to be given to a prisoner. As drugs can be added to food, this can cause difficulty. It is not practical to test foodstuffs and it would seem sensible to prohibit its delivery to prisoners, unless permitted by the manager.

It is widely recognised that control of the entry of goods into prisons is essential if the Department for Correctional Services is to effectively manage the behaviour and activities of prisoners in a safe and secure manner and procedures have been adopted to ensure that prisoners cannot receive goods which might prejudice the 'good order' of prisons.

An important part of these procedures has been the interpretation given to section 33(3)*(h)* of the *Correctional Services Act* that the approval of the manager is required before prisoners can receive any parcel from outside of the prison. This has ensured that only those parcels approved by the manager need be thoroughly searched by correctional officers for weapons and other contraband, while those without approval are returned to the sender where a return address is known. In those instances where a return address is not known, the item is recorded, stored and given to prisoners on their release.

Now the advice is that the Department cannot restrict the entry of goods into prisons unless the goods contravene regulation 6 of the *Correctional Services Act Regulations*, or are items not permitted in the cells.

This advice could have significant resource and security implications for the Department.

Without legislation to stop the uncontrolled forwarding of parcels to prisoners, checks of all parcels will have to be more thorough, and only those items specifically covered under regulation 6 of the *Correctional Services Act Regulations*, or not included on the list of items permitted in cells, will be able to be excluded from the prison. Prohibited items include liquor, paint, oil, acid, glue, herbicides, fungicides, insecticides, pressurised spray canisters, cigarette lighters, explosives or explosive devices, incendiary devices, any type of gun, any type of material designed or capable of being used to instruct or teach a person to make a weapon or cause a riot and any instrument which can be adapted to inflict bodily injury.

The additional staff resources which would be necessary to search every parcel thoroughly for contraband and return or store items as a consequence of expected increases in parcel numbers

would be considerable and would affect the operation, and, in particular, the security, of prisons.

The intention of this Bill is to ensure that the receipt of goods by a prisoner will need the permission of the manager of the prison. As a consequence, managers will have more control over the number and nature of parcels received in prisons.

In those instances where the manager does not give permission, the goods may be returned to the sender, or stored or destroyed, all at the prisoner's expense, or may, at the discretion of the manager, be handed over to the prisoner's family. Should the items be stored and on release the prisoner fail to collect the items, the Bill also provides for sale of these goods. Proceeds of sale will be refunded to the prisoner if his or her address is known.

It is considered essential that these amendments be made and I therefore commend this Bill to the House.

Explanation of Clauses

The clauses of the Bill are as follows:

Clause 1: Short title

Clause 1 is formal.

Clause 2: Amendment of s. 33—Prisoners' mail

Clause 2 amends the section of the Act that deals with prisoners' incoming and outgoing mail. All references to parcels are deleted from the section so that it will continue to relate only to letters.

Clause 3: Insertion of s. 33A

Clause 3 inserts a new provision in the Act that deals with goods being sent to or by a prisoner. A prisoner is not entitled to receive goods unless he or she has the permission of the manager of the prison to do so. A manager may cause all goods and parcels, whether sent to a prisoner or sent by a prisoner, to be examined. If goods are items prohibited by the regulations or the manager does not give permission for their receipt, the manager has an absolute discretion to deal with or dispose of the goods as he or she thinks fit. The Minister may fix charges for storing goods on behalf of a prisoner. Costs of selling, storing, etc., goods may be deducted from the prisoner's account (but not from his or her resettlement account). Prohibited items must be destroyed if they are not to be kept as evidence of an offence. Goods left behind in a prison may be sold. The proceeds from the sale of any goods under this section will be credited to the prisoner's account or refunded to a discharged prisoner if his or her whereabouts are known. If not so refunded, the *Unclaimed Moneys Act* applies.

The Hon. C.J. SUMNER secured the adjournment of the debate.

ADJOURNMENT

At 4.50 p.m. the Council adjourned until Thursday 10 March at 2.15 p.m.