LEGISLATIVE COUNCIL

Thursday 4 March 1993

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 2.15 p.m. and read prayers.

QUESTION TIME

GENTING GROUP

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the Adelaide Casino and Genting.

Leave granted.

The Hon. K.T. GRIFFIN: In 1987 I asked the Attorney-General a number of questions about the Genting Group, which is involved in the operation of the Adelaide Casino. Those questions related largely to the suitability of Genting to be involved in the Adelaide Casino in the light of interstate reports on that group.

On 14 October 1987 I asked the Attorney-General whether the South Australian authorities had kept up with investigations by the New South Wales Police Board and the Western Australian Corporate Affairs Commission, both into Genting, the first relating to the tender for the New South Wales Darling Harbour Casino and the second relating to the Western Australian Burswood Casino.

Following the New South Wales investigation, Genting was rejected as a tenderer. The New South Wales report concluded that available information 'raises considerable concern as to the probity and integrity of Genting'.

The Western Australian investigation recommended charges against two of the then directors of Genting (Australia) Pty Ltd who were also directors of Genting (South Australia) Pty Ltd.

In answering the question on 14 October 1987 the Attorney-General, in relation to applicants for the operating licence for the Adelaide Casino, one of whom was Genting, said:

> ...officers of the Department of Public and Consumer Affairs prepared comprehensive reports on the corporate and financial status of the companies involved in the proposal, and members of the South Australian Police Force reported on the character, background or suitability of the individuals involved in those companies.

In another place on the same day the former Premier told the House of Assembly:

> The Casino Supervisory Authority has let the licence to the Lotteries Commission and at all stages of that process rigorous checks are made, including police checks.

A submission was made to the Casino Supervisory Authority in 1985 by the Lotteries Commission when seeking the authority's approval for the involvement of Genting in the Adelaide Casino. The submission stated that a superintendent of police had visited Malaysia to inspect casino premises operated by Genting and had made detailed inquiries of the police and other statutory authorities in Malaysia.

In a ministerial statement on 27 October last year, the Deputy Premier said that South Australian authorities had pursued access to New South Wales and Western Australian reports but 'no evidence came to light which was thought to justify action being taken against Genting or any of its officers.'

The Opposition now has a letter and a submission from a Superintendent L.D. Ayton of the Internal Affairs Unit of the Western Australian police. It is a letter and submission to the Joint Committee on the National Crime Authority and it is information which has not been previously released. The Western Australia Inc. Royal Commission—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: No. The WA Inc. Royal Commission has described Superintendent Ayton as 'an upright, conscientious investigator'. The submission on the operation of legal casinos—and it dealt with a wide range of questions relating to legal casinos—says in relation to the Western Australian Government's choice of the Dempster-Genting consortium to own and operate the Perth Casino:

> The Government of Western Australia and its Casino Control Committee chose persons to build, manage and part own the Casino whom they knew possessed a suspicious background. When later faced with damning evidence of illegality by those same persons, Government and their committee simply ignored the information. Evidence is now available that establishes huge payments by persons involved in the Casino project to secret bank accounts under control of the then Premier of Western Australia. These payments at the time of the launch of the Casino company are at best highly suspicious and at worst corruption at the highest level of Government.

Genting still has a management involvement in the Burswood Casino. Superintendent Ayton's letter and paper raise some important questions which, if not already investigated by police and the Casino Supervisory Authority in South Australia, I submit should certainly be investigated. I am happy to make a copy of the letter and report available to the Attorney-General to consider it, but before asking the question I seek leave to table that submission and letter.

Leave granted.

The Hon. K.T. GRIFFIN: My questions to the Attorney-General are:

1. In the light of the further information available in relation to inquiries in other States relating to the operation of casinos, will the Attorney-General refer these matters to the Commissioner of Police and the Casino Supervisory Authority for review and bring back a report as to whether this reflects upon the suitability of Genting to remain involved in the Adelaide Casino?

2. Will he also seek a report on the extent to which South Australian police and the Casino Supervisory Authority pursued inquiries about Genting in New South Wales and Western Australian in particular as well as in Malaysia?

The Hon. C.J. SUMNER: As I understand the situation, before things were put in place for the Adelaide Casino extensive inquiries were carried out by the police and by officers in the Department of Public and Consumer Affairs of which I had the responsibility

at that time. At the present time in South Australia there is a Casino Supervisory Authority in place. The Lotteries Commission holds the licence; there is supervision from the Liquor Licensing Commissioner; and an extensive network of controls is in place. One can only hope that with that extensive network of controls they work to ensure that no wrongdoing or suspicious activity is occurring in the Adelaide Casino.

Those inquiries went into the people who were subsequently appointed to operate the Casino and those who were appointed to assist in its operation. So, all that was done, as I am sure the honourable member was aware, and there is currently an elaborate system of controls in place for the Adelaide Casino.

The honourable member has tabled a document. Normal courtesies are that if you table a document such as this and you want leave to be granted for it you usually give notice of at least the nature of the document to other members of Parliament. Otherwise, one runs the risk of having the leave refused. It was not in this case but I would have expected the honourable member to provide at least some information to the Parliament before seeking leave to table the document. Nevertheless—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMMER: You gave some indication of what was in it. I suppose it begs the question also as to where the honourable member got the document. I note that it is addressed to the Joint Committee on the National Crime Authority. My views of that committee are fairly well known in the public arena, and I will not repeat them today in the Council, although if I am provoked I might express some views on the matter. Nevertheless, as I said, it begs the question as to where the honourable member got the report from, as I imagine it was written on a confidential basis to the Joint Committee on the National Crime Authority. However, the honourable member has asked some specific questions, which I will take up and I will bring back a reply in due course.

SCHOOL APPOINTMENT

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Attorney-General, representing the Premier, a question about jobs for the boys.

Leave granted.

The Hon. R.I. LUCAS: This week, there has been a lot of media coverage about allegations of jobs for the boys relating to the TAB and the previous Minister of Recreation and Sport (Hon. Kym Mayes). In responding to those questions in the House of Assembly, the Premier commented on approaches that had been made to him as Minister of Education regarding ministerial involvement in appointments. The Premier said that under the Education Act it was illegal for the Minister of Education to be involved in the appointment of teachers. He said:

> There we had a clear situation of an Act of Parliament that makes it illegal.

I now want to refer to the involvement of the previous Minister of Education (Mr Crafter) in the appointment of his ministerial assistant to the position of Acting Principal of a school. In 1990, Ms Kathleen Cotter was a ministerial assistant employed in the Minister of Education's office. At the start of 1991, the Minister of Education and persons acting on his behalf had Ms Cotter appointed as Acting Principal of Nairne Primary School. The position was not openly advertised, and the personnel section of the Education Department was told that Ms Cotter had to be given a job. Senior sources within the Education Department have advised me that there was clear involvement by the Minister and others close to him in organising the appointment. According to the Premier's statement, that was an illegal act by the Minister. My question is: will the Premier have this appointment investigated by someone independent of the Education Department, such as the Commissioner for Public Employment, and bring back a report to Parliament?

The Hon. C.J. SUMNER: The first thing that needs to be said is that the honourable member has made a number of assertions, which I certainly am not in a position to verify, and given his previous form they may well not be correct. However, I assume that Ms Cotter was qualified for the position. She was a teacher before taking on her position of ministerial assistant with the Hon. Mr Crafter. I do not know anything further about the matter; however, I will refer the question to the Premier and bring back a reply.

STATE TRANSPORT AUTHORITY

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Transport Development a question also on the subject of jobs for the boys but this time in the STA.

Leave granted.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: This is just about the boys, not the girls. Following the question that I asked the Minister on Tuesday about the decision by the STA to appoint Mr Tom Morgan, the former Secretary of the Australian Tramways and Motor Omnibus Employees Association (ATMOEA) to the position of Patronage Systems Officer, I received almost a dozen telephone calls from STA employees at various depots urging me to question the Minister on demands of accountability by the STA. I have been told that an agreement between the STA and ATMOEA in 1977 guarantees that a former union official, provided that he or she was successful in passing a medical test, can gain a job, but it must be the job that that person held before entering the union hierarchy.

Mr Morgan was a bus driver before he became Secretary of the ATMOEA. It has been suggested that perhaps Mr Morgan now deems the job of a bus driver to be too lowly for him. After all, he did have aspirations to be the ALP candidate for Mitchell at the forthcoming State election, but withdrew when he appreciated that the incumbent member would be re-endorsed. Also I have been told STA workers generally are furious that a new position of Patronage Services Officer has been created for Mr Morgan at a time when at least 20 fellow workers—or comrades—have been on the redeployment list for some

time and when other STA workers are being pressured to accept voluntary separation packages. I have been told that STA workers are angry. The STA did not advertise the patronage services job before giving it to Mr Morgan.

The name of Mr Alf Boyle has been mentioned by two callers suggesting that he would have been a good candidate for the job. Apparently as a former union secretary Mr Boyle was paid by the STA to go overseas to investigate the Crouzet ticketing system. Of course, the job Mr Morgan now has is certainly involved in looking at what the Government can do about passenger dissatisfaction with the Crouzet ticketing system. However, Mr Boyle, whose current job is to plant trees for the STA, was not asked to apply.

As Mr Morgan's appointment is proving to be such a contentious issue among STA workers, will the Minister instruct the STA to abide by the terms of its 1977 agreement with the ATMOEA and, accordingly, transfer Mr Morgan from his position of Patronage Services Officer pending the advertising of his job throughout the STA to ensure that the job is awarded on merit and not favouritism, as is alleged at present?

The Hon. BARBARA WIESE: I believe that some of the information that may have been given to the honourable member is incorrect. As I indicated a couple of days ago when this question relating to Mr Morgan's employment was raised on the first occasion, I was unaware of this appointment and I undertook to obtain a report from the State Transport Authority about the matter. I have received some information about this matter since that time and I understand that very shortly I will also have responses to the particular questions that the honourable member asked.

However, it is my understanding of the agreement that was reached between the trade union and the STA that a person who is elected to serve as a trade union official has the right to return to the position that he or she previously held prior to union service. Mr Morgan is no exception to that. As I understand it, the arrangement or the agreement does not provide that that person must return to the position that they previously held: they have the right to return to the position previously held. In Mr Morgan's case he had the right to return to the State Transport Authority, he did so and he was placed on the redeployment list.

When two new positions were created at the State Transport Authority recently as part of the restructuring that has been taking place in recent times, Mr Morgan, as I understand it, applied for one of those positions—a position which I believe was advertised. He was unsuccessful.

The Hon. Diana Laidlaw: It was not advertised.

The Hon. BARBARA WIESE: I am not referring to the position he got; I am referring to the second of the two positions. The position was advertised and he applied for it. He was unsuccessful in his bid for that position. However, the interviewing panel that interviewed candidates for that particular position recommended to management that Mr Morgan would be an ideal person to be appointed to the second of those two positions and management agreed with that recommendation.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: It is correct that that second position was not advertised but as I understand it there are circumstances in most Government agencies from time to time where positions are not advertised, but Mr Morgan was an ideal candidate for that position and he had been interviewed for the other position that was also available at that time.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: I think it should also be taken into consideration that, because Mr Morgan is an employee who has been around for a very long time and is a man with whom the State Transport Authority has been dealing for a number of years, more recently as a trade union official—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE:—they would have a fairly reasonable idea of the capacity of this person and would have a very good idea of whether or not he would be capable of undertaking the job to which he was appointed. As I understand it, Mr Morgan is a very capable person. He has been appointed to a position for which he is ideally suited, and I am extremely pleased that he has again become a member of the STA staff, because I believe he is a very satisfactory candidate for the job.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The Hon. Ms Laidlaw will come to order. The honourable member has asked her question. She was treated with respect by the Chamber when she asked that question. She might not like the answer that she gets but she should listen to it in silence. If subsequently she wants to ask another question she can do so. I have never denied the right of any member to ask questions. However, when the member interjects all the time, as is occurring in many cases, it goes beyond the bounds of decency.

The Hon. BARBARA WIESE: There are two other points that I would like to make. First, the honourable member indicated when she asked her question the other day that there had been, as a result of Mr Morgan's appointment to this position, numerous requests for reclassification of positions within the State Transport Authority. I am advised by the General Manager that there has been no application for reclassification by rail staff at the Adelaide Railway Station nor has the Public Transport Union sought to place a claim on the STA for increased wages or conditions for rail staff at the Adelaide Railway Station.

I would suggest to the honourable member that she has been misinformed on a number of fronts about the issue on which she raised questions and I can only assume that it is part of the usual Liberal Party campaign against trade union representatives and people who serve trade unions in the interests of South Australian workers. If this Party opposite is the Party that is successful in winning the next State election then I think the work force of South Australia has a lot to be concerned about and that is certainly the case if their Federal counterparts are successful in a week or so.

The Hon. DIANA LAIDLAW: Mr President, I ask a supplementary question. Is the Minister aware that Mr

Tom Morgan was forced to resign as Secretary of the ATMOEA, on a number of charges?

The Hon. BARBARA WIESE: I am aware that Mr Morgan left his position within the union under controversial circumstances. I fail to see what possible relevance that has to his appointment to a position within the State Transport Authority. They are completely separate organisations—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —with completely different sets of objectives, and I would hope that, whether it is a trade union position or a position within the State Transport Authority, individuals would have the opportunity to be judged on their merits.

NATIVE VEGETATION

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister of Environment and Land Management a question about the Native Vegetation Act.

Leave granted.

The Hon. M.J. ELLIOTT: Judging by the number of letters which have been crossing my desk there is significant public concern about the possibility of the Government's moving a series of amendments to the Native Vegetation Act. The principal reason being given at this stage for these amendments is the Tandanya resort development proposed for Kangaroo Island.

It is now quite common knowledge that it has run into problems with the Country Fire Services fire safety requirements which, as a condition of planning approval, call for a significant amount of vegetation clearance: an amount that is not allowed under the Native Vegetation Act as it stands. From the time the Tandanya proposal first surfaced the Government was warned that this would be a problem if the development required destruction of the natural environment. Several endangered native plant species can be found within the boundaries of the site of the proposed resort.

Until now, the Government's record on native vegetation protection has been strong. In fact, a little over a year ago it tried to prohibit the removal of isolated trees in otherwise clear farm paddocks, but now it appears willing to throw away that record and allow the wholesale clearing of a wide area of native bush adjacent to a national park to ensure this favoured project goes ahead. I ask two questions:

1. Will the Minister confirm that the Government intends to change the Native Vegetation Act so that the Tandanya resort development can proceed?

2. How can the Government justify reversing its previously strong stand on the preservation of remnant native vegetation for the sake of one particular favoured commercial development?

The Hon. ANNE LEVY: I will refer those two questions to my colleague in another place and bring back a reply.

BUS SERVICES

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about public transport.

Leave granted.

The Hon. R.R. ROBERTS: Yesterday in this place a question was asked by the Hon. Ms Laidlaw in respect of the public transport services for the southern suburbs. She indicated that the Minister's response to the first question she asked was at odds with information that had been provided by the General Manager's office. This matter was further expanded last night on television, so I am particularly interested. Will the Minister say whether she has had the opportunity to investigate this matter further and can she give further information to the Chamber?

The Hon. BARBARA WIESE: I have had the opportunity to investigate this matter a little further and I must say that, after yesterday's question, on reflection it seemed to me that I should take up the suggestion made by the Hon. Ms Laidlaw herself that I should make inquiries of the General Manager and his office about the nature of information provided to her and to members of the public on the question of southern suburbs public transport decisions. I contacted the General Manager last evening and asked him about this matter and I learned that the Hon. Ms Laidlaw had indeed contacted the General Manager's office about this.

She spoke with the Executive Secretary in that office, who indicated to the Hon. Ms Laidlaw that Mr Brown was not available at that time but that she would be able to put her on to the Deputy Director, Operations who would be able to respond to her questions. So, she spoke with this person, and I am informed by that officer that, far from telling her that the Cabinet had rejected the southern suburbs proposal because the Government had no money, as the Hon. Ms Laidlaw claimed, what he in fact told the honourable member was that the matter of the southern suburbs transport proposal had been referred to the Minister for decision. That was all he said: the matter was with the Minister for decision. She asked no further questions and the conversation was terminated.

The Hon. Diana Laidlaw interjecting:

The Hon. BARBARA WIESE: No further questions on that matter. She certainly asked questions, as I understand it, about the north-west services and was given replies about that matter, but she did not receive the replies that she suggested yesterday she had received on the southern suburbs public transport issue. For that reason, I call on the honourable member to apologise publicly to this officer whom she has misrepresented and offended.

The Hon. DIANA LAIDLAW: I seek leave to make a personal explanation.

Leave granted.

The Hon. DIANA LAIDLAW: The Minister has sought to clarify matters that I raised in Question Time yesterday. Her network, however, is not as extensive as she would like to think. It is true that I rang on Tuesday at about 4.30 pm to speak to the General Manager. Ms Gerry Clarke, his assistant, referred me to another gentleman. I spoke to that gentleman about the north-

western bus services and also the southern services. That was after I had received information, as I indicated in my explanation to my question yesterday, from a well placed source, who was familiar with what had happened in Cabinet, that Cabinet had in fact rejected the advice. The questions that I asked of the gentleman—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Well, how do you know my source? Now the Minister is getting quite close to the point by suggesting that only Ministers would know what happens in Cabinet.

Members interjecting:

The PRESIDENT: Order! A personal explanation relates to the honourable member.

The Hon. DIANA LAIDLAW: The Hon. Ms Levy suggests a misinformed Minister. Anyway, they can pursue that matter; I do not need to do so. I sought information from the STA and spoke to a gentleman. The Minister is correct in the information with which she has been provided and relayed. However, my office also spoke to two well placed people within the STA and my officers—

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: I did speak to someone in the General Manager's office. They knew the question I was asking and referred me to the appropriate people. My office and another office within the Parliament also checked on the information as private individuals and they were told exactly what I stated in my question yesterday, and that reaffirmed the advice that I had been given by a most senior source.

The Hon. Barbara Wiese interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: I would never have misled the Parliament.

Members interjecting:

The PRESIDENT: Order! This matter cannot be debated. A personal explanation relates to a member explaining something that has been said against her.

The Hon. DIANA LAIDLAW: The Minister has accused me of misleading the Parliament and that is absolutely false. The Minister does not like to know that she has people around her whom she cannot trust.

The PRESIDENT: Order! That is not part of the personal explanation.

STATE BANK

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Treasurer, a question about the State Bank's involvement in a Singapore-based company called Southgate Insurance Pty Ltd.

Leave granted.

The Hon. J.F. STEFANI: On or about 5 July 1988 an information paper was prepared for consideration by the then Premier and Treasurer, Mr Bannon. This paper dealt with the establishment of a non-resident company in Singapore to operate as a captive insurer undertaking insurance risks for its parent company or other related companies. The company was to obtain a Government general insurance licence from the Monetary Authority of Singapore. Some of the commercial risks identified for cover by the captive and reinsurance entity included senior executive personal accident, kidnap, ransom and hijack risks.

Other covers were identified as suitable either for self-insurance or reinsurance through this captive insurance company. The company was to be managed by the Singapore agents. In Singapore income tax rates on profits from premium income were identified to be payable at only 10 per cent. Other income was taxed at 35 per cent, and therefore other income would be paid at 35 cents in the dollar.

The State Bank of South Australia was granted an option by Beneficial Finance for the allotment of shares to give it absolute control. On the other hand, Beneficial Finance had a put option from the State Bank of South Australia requiring it to subscribe up to $2.5 million in further capital.

Southgate Insurance Pty Limited was identified as a company which could offer offshore investment opportunities at higher retained profit levels because of the lower tax rates payable in Singapore. My questions are:

1. Will the Treasurer advise how much money was invested by the State Bank in this offshore company, and is the company still operating?

2. Did the company make any profits or losses and, if so, what were the amounts posted by the company since it began operating?

3. What were the amounts paid, if any, by the State Bank or Beneficial Finance to cover senior executives for personal reinsurance or any other premiums?

4. Did the company make any payments to any senior executive employed by the State Bank or Beneficial Finance and, if so, what were the circumstances under which such payments were made?

The Hon. C.J. SUMNER: I will refer those questions to the Treasurer and bring back a reply.

PARKING MACHINES

The Hon. J.C. IRWIN: I seek leave to make an explanation before asking the Minister representing the Minister of Local Government Relations a question about parking machines.

Leave granted.

The Hon. J.C. IRWIN: My attention was drawn to parking ticket machines by a small article in the *Advertiser* headed 'Warning on parking tickets'. The article states:

> Giving someone else your unexpired parking ticket to use might be a friendly thing to do, but in the eyes of the Adelaide City Council you're breaking the law and if you're caught it could cost you an $11 fine.
>
> Should you buy a two-hour ticket from a ticket dispensing machine, use only one hour of it and give it to the person who pulls in next to you to save a few cents you can be collared. A council spokesman...said motorists by law 'must purchase a ticket on arrival.'

The local government parking regulations 1991, in paragraph 22 (2) (a), talking about the operation of a parking meter, state:

...a vehicle must not be parked in a parking space in the zone...if the parking meter for the space indicates that the time allowed for parking has expired.

This indicates to me that, so far as parking meters are concerned, a motorist is or was able to drive into a parking space and use the remaining time. I understand that the City of Adelaide has now dispensed with parking meters, but there may be other councils with them. Paragraph 22 (2) (b), in relation to the operation of a ticket dispensing device, states:

...a vehicle must not be parked in a parking space in the zone...if a valid ticket is not displayed in the machine.

This indicates to me that if a valid parking ticket is displayed a motorist can use that space, no matter how he or she obtained the ticket. To be fair, subparagraph (c) of the parking regulations states:

For the purposes of this regulation, a ticket obtained from a ticket dispensing device is valid only in respect of parking in a parking space in the zone in respect of which the machine is installed on the date shown on the ticket until the time shown on the ticket.

Those who are familiar with parking machines know that they are in the middle of a zone and that they can park their cars whilst getting and bringing back a ticket. Therefore, we are talking only about a zone.

I have inspected parking machines in the City of Adelaide and Glenelg, and neither have any indication whatsoever to warn motorists about trading tickets with other motorists either freely handed over or by exchanging money with the ticket. My questions are:

1. If councils do not indicate prominently on the parking ticket machine that it is illegal to transfer a parking ticket to another motorist, how on earth does the motoring public know that they may be breaking the law, which is established in this case by a council resolution under parking regulations 5(1)(c) and 6(iii)?

The Hon. K.T. Griffin: You are breaking the law if you disobey a resolution.

The Hon. J.C. IRWIN: That is what is implied in the article in the *Advertiser* from the Adelaide City Council.

2. Does the Minister acknowledge that under the sections of the parking regulations, and in the absence of a clear warning on the machine, motorists could face different conditions in each council area, depending on what motion they pass?

3. Does the Minister agree that the Adelaide City Council is correct in fining people $11, or whatever, for giving someone else their unexpired parking ticket?

The Hon. ANNE LEVY: With great delight I will refer those questions to my colleague in another place. I am sure the honourable member will not take offence if I remind him of the old maxim that ignorance is no excuse when it comes to questions of law. I am sure the Hon. Mr Griffin would back me up in the meaning behind that aphorism, but I will certainly refer those questions to my colleague in another place who I am sure will bring back a response if he has not already provided an answer to this matter to Mr Howie quite separately.

The Hon. J.C. Irwin: It is not Howie.

The Hon. ANNE LEVY: Not Howie this time?

X-RATED VIDEOS

The Hon. R.I. LUCAS: I seek leave to make an explanation prior to directing a question to the Attorney-General on the subject of X-rated videos.

Leave granted.

The Hon. R.I. LUCAS: Early this week a constituent of mine—someone unknown to me, I might say—attended a session at an adult movie house in Hindley Street and was surprised to see an advertisement urging support for the Australian Democrats, particularly as he was aware of the coalition between the Democrats and church leaders on the question of poker machines. At the conclusion of the performance this constituent was handed a leaflet, part of which stated:

Save our sex industry and your civil rights. In the Senate: Vote 1 Australian Democrats. In the House of Representatives: Vote 1 Australian Democrats, ALP or Independent.

Then, in block capitals, the following appeared:

DO NOT VOTE LIBERAL/NCP. For more explicit information telephone 005515476.

I have to say I have not telephoned that number, so I am not aware of what the more explicit information available on that number might be. Nevertheless, I have asked the question of the Attorney-General.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: On the reverse side of the leaflet it says:

The Liberal and National Parties have threatened to make the sex industry illegal if they are elected. Please send donations to the EROS Foundation Fighting Fund.

And there is an address, telephone numbers and contact points as well. Is the Attorney-General concerned that X-rated videos from the ACT continue to be made available in South Australia by mail order, and does he support the Federal Coalition's policy towards the banning of the X-rated video industry in the ACT?

The Hon. C.J. SUMNER: The Government's position has been quite clear now for many years, namely, that we have banned X-rated videos in South Australia, or introduced legislation into the Parliament to enable that to happen, so X-rated videos cannot be manufactured or sold in South Australia, although it is not illegal to show them privately in South Australia if they happen to have been in people's hands. Of course, the South Australian Government is not able to control their being sent from other parts of Australia where X-rated videos may be sold legally, particularly the Australian Capital Territory where there is a Labor Government in power and in the Northern Territory where there is a Liberal /National Party Government in power.

So, obviously the coalition Parties, at least around Australia, have different views on this topic as indeed it seems do Labor Parties on the sale of X-rated videos around Australia. Some Labor Governments have opposed the sale of X-rated videos and some Labor Parties have supported the sale of X-rated videos, at least in the ACT. On the other hand some Liberal/National Party Governments around Australia have opposed the sale of X-rated videos and one Government at least of a Liberal National Party persuasion permits the sale of

X-rated videos in its jurisdiction in the Northern Territory.

However, the Government in South Australia is concerned about the distribution of X-rated videos and made representations to the ACT Parliament on this topic some time ago now and has indicated its view at meetings of Ministers responsible for censorship.

I should say that the public showing of X-rated videos is also illegal in South Australia under the Classification of Films Act, although I am not sure that that was the particular point of the question that the honourable member asked.

HOUSING LOANS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about establishment fees for variable rate home loans.

Leave granted.

The Hon. T.G. ROBERTS: In today's *Advertiser a* quarter page advertisement appears with a big round zero indicating that 'This is our only establishment fee for variable rate home loans,' and it has been placed by the Commonwealth Bank. The advertisement goes on to say:

> That's the total establishment fee you will pay if you refinance your mortgage or take out a new loan with our variable home loan before 30 April 1993. It also applies to existing borrowers upgrading their homes.

It gives a contact number and goes on to explain in very small print that the offer is applicable in New South Wales, the ACT and Victoria. Does the application of the advertisement apply to South Australian applicants for variable home rate loans and, if not, why not?

The Hon. ANNE LEVY: I noticed the advertisement in today's paper also and was certainly somewhat surprised on reading the small print to find that the offer of zero establishment fees given such prominence was only available in New South Wales, Victoria and the ACT.

I got my officers to make some inquiries at the bank concerned and I was informed that the advertisement had in fact appeared by mistake in South Australia. It was placed through an advertising agency in Sydney which, in error, had included the *Advertiser*. So, the advertisement was not meant to appear here. However, the fact that the advertisement had appeared, of course, raised questions whether it could be regarded as baited advertising whereby it appears on the surface that something is available but in very small print it is not available as expected from the general tenor of the advertisement.

The Commonwealth Bank, I may say, has been extremely good about this and has decided that, although it was not meant to apply in South Australia, it will apply in South Australia. So, until 30 April anyone applying for a variable rate home loan with the Commonwealth Bank will pay a zero establishment fee. For many such people this will save them about $500. So one can say that it is an ill wind that blows no-one any good. It was an error which led to the advertisement appearing, but the result is that South Australians will also be able to benefit from this promotional activity of no establishment fees for variable rate home loans for the next eight weeks.

COURTS ADMINISTRATION

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about courts administration.

Leave granted.

The Hon. K.T. GRIFFIN: On 11 February I asked the Attorney-General about problems in court administration experienced by Mr Allan Clarke on Kangaroo Island while trying to recover a $250 debt. I outlined a saga of misinformation and lack of assistance by the court at Christies Beach which had caused significant frustration for Mr Clarke. Numerous telephone calls to the court, all information not being given to him at the one time or wrong information being given were all complaints of Mr Clarke. The evasion by the defendant of his legal responsibility to pay his debt was only a small part of Mr Clarke's complaint.

The Attorney-General gave me an answer on Tuesday, which I suggest ignores the difficulties with the court and does not address the issue of an *ex gratia* payment for costs incurred unnecessarily by Mr Clarke and as a result of the court's failures, an issue which I did ask the Attorney-General about specifically. In his reply, which he gave on Tuesday, the Attorney-General says:

> It appears that Mr Clarke's experience and subsequent complaint is more to do with being opposed by a difficult defendant than a faulty administration.

I suggest that that misunderstands the series of facts which I presented on that occasion, although I note that the Registrar of the Christies Beach court is travelling to Kangaroo Island in the near future and proposes to have a discussion with Mr Clarke.

My question to the Attorney-General is: in the light of the answer given on Tuesday and the fact that it seems to miss some of the significant points of difficulty experienced by Mr Clarke, will he investigate the complaints about the administration and the issue of an *ex gratia* payment and bring back a reply which addresses both of those issues?

The Hon. C.J. SUMNER: I think the reply did address the issues, perhaps not the one relating to an *ex gratia* payment, although I gather from the reply that was provided to me that the Court Services Department felt that the main problem in this case was a difficult defendant and not the court's own administration. However, I will refer this question again to the department. As has been noted, the Registrar of the Christies Beach court is going to Kangaroo Island and will speak with Mr Clarke. I will seek a further report from the department on the results of that visit and also ask the department to consider the issues raised by the honourable member in his question today.

ABORIGINAL HOUSING

In reply to **Hon. M.J. ELLIOTT** (26 November).

The Hon. ANNE LEVY: The Minister of Aboriginal Affairs has provided the following responses:

1. The 1991 and 1992Review of the Aboriginal Housing Board identified a number of problems facing the Aboriginal Housing program caused by such factors as inadequate formal linkages and accountability, differing cultures and priorities and inadequate opportunity for Aboriginal communities to achieve solutions to their housing needs.

The reviews did not propose a single solution to the problems but proposed a number of recommendations concerning the operation and structure of an appropriate Aboriginal Housing body.

The Government is committed to giving the Aboriginal community a greater input and involvement and providing a focus for Aboriginal issues. It was therefore appropriate that the Minister of Aboriginal Affairs portfolio include responsibility for Aboriginal Housing and that the Department of State Aboriginal Affairs (DOSAA) be the focus for coordinating various Aboriginal programs.

It should be noted that responsibility for the Aboriginal Housing program was transferred from the Minister of Housing, Urban Development and Local Government Relations and not from the Aboriginal Housing Board, which under its current structure has been unable to assume responsibility. It is considered that these arrangements will facilitate a much better delivery of the Aboriginal housing program and a greater capacity to progress the development of an appropriate Aboriginal Housing Authority model.

The new arrangements have been clearly communicated to the Board by both Ministers and the Board was invited to be strongly represented on the working party convened to oversee implementation of the arrangements.

One of the advantages of the new arrangements is to progress more vigorously the recommendations of the review. Earlier misunderstandings that some Members of the Board had have been clarified and the Board has indicated its willingness to contribute through the Working Party to achieving the best possible housing service outcome for Aboriginal people.

Far from disregarding the review outcomes the Government will progress the recommendations of the Review promptly and appropriately through the Department of State Aboriginal Affairs.

2. The Aboriginal Housing Board will continue to play a pivotal role in the delivery of the Aboriginal Housing Program.

Similarly, the South Australian Housing Trust will continue to provide for the delivery of housing services to Aboriginal people but this arrangement will be formalised through a performance agreement with the Department of State Aboriginal Affairs which will stipulate program outcomes.

The DOSAA is not going to run the current programs of the Board but rather will assist the Aboriginal Housing program. One of the department's key functions will be its priority role in negotiations with the Aboriginal and Torres Strait Islander Commission (ATSIC) on behalf of South Australian Government Agencies. This is particularly pertinent in view of the increasingly important role being played by ATSIC in Aboriginal housing. In fact, in 1993/94 Federal funding will be broad banded and channelled through ATSIC. DOSAA will also perform a coordinating role and provide advice to the Minister on the Aboriginal housing programs.

There has never been an intention to wipe out community based Aboriginal housing; on the contrary, Aboriginal Housing Management Committees will be strengthened to derive the full benefits of this broad based Aboriginal consultative mechanism at the grass roots level.

BUS SERVICES

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister of Transport Development a question about bus route service licences.

Leave granted.

The Hon. DIANA LAIDLAW: The Government Adviser on Deregulation in a report entitled 'Statutory Licensing Review' has recommended that 'the Government give notice of its intention to deregulate as soon as possible' intrastate licensed bus route services. Currently, following the issue of tender notices, the Office of Transport Policy and Planning awards exclusive five year contracts to bus operators for the delivery of intrastate services. Indeed, this has been the practice for the past 63 years following the enactment of the Road and Railways Transport Act in 1930.

However, bus operators are now agitated—I have been contacted by a few to date and I understand that the Bus and Coach Association is also concerned—because the Government Adviser on Deregulation is recommending that this long-standing system be overthrown. They are also concerned that the recommendation ignores the findings of a report commissioned just 18 months ago from Dr Ian Radbone—that report having been commissioned by the Office of Transport Policy and Planning—which acknowledged that the current intrastate bus route system provides people living in regional and rural South Australia with a stable network of passenger services at a fairly high standard and with fares among the cheapest in Australia. Notwithstanding Dr Radbone's endorsement of the current system, it is speculated that the subsequent recommendation by Mr Peter Day, the Government Adviser on Deregulation, to deregulate services has been prompted in part by the Government's refusal to enforce the exclusive bus licence system which it is responsible for administering.

I cite specifically the case of L.A. Johnson Pty Ltd. The Minister would be aware that last April that company failed to gain a licence to operate a bus service based in the Adelaide Hills, but Johnson's has continued to operate, undermining the business of the successful tenderer, Mount Barker Passenger Services. In January—and I am not sure whether the Minister is aware of this—Johnson's, using the name Multi-Cover Travel Club, sent a circular to schools in the Hills and southern suburbs offering to provide student members with a bus service, although it is not licensed to operate any such service.

I ask the Minister: why is the Government not enforcing its obligations when issuing exclusive five year intrastate bus route licences to ensure that companies awarded with such licences—and, indeed, paying for such licences—are not undermined by bandit operators; and does the Government intend to deregulate intrastate bus route services as soon as possible, as recommended by the Government Adviser on Deregulation?

The Hon. BARBARA WIESE: The Government is enforcing the rules that apply with respect to bus routes within South Australia. Regarding the specific case to which the honourable member refers, the company known as L.A. Johnson, recently and in accordance with the practice laid down I wrote to Mr Johnson asking him to provide a reason why I should grant him a licence

beyond the period which his current licence has to run in view of breaches that have occurred. By the due date I had received no correspondence from Mr Johnson about that matter, and there has been none subsequently. It is now well over a month since the deadline date, so I do not intend to renew the licence for that company when it expires in March, and I expect that other arrangements will have to be made.

As to the recommendation by the Deregulation Adviser that there should be deregulation in this area, I do not intend to implement that recommendation. I do not agree with the Deregulation Adviser that it would be in the interests of the South Australian transport system or of South Australians to deregulate intrastate bus routes. The system that has been in place now for a long time guarantees that in certain parts of the State we have an efficient and effective transport service for South Australians. While I appreciate the sentiment that is being expressed by the Deregulation Adviser, in this case I think increased competition, first, is not likely and, secondly, would not be very productive.

The Hon. Diana Laidlaw: It would jeopardise what we've got now.

The Hon. BARBARA WIESE: Yes. So it is not my intention to act on that recommendation. I have informed the bus and coach association representatives who raised this matter with me recently at a meeting that I held with them of my decision on this matter.

WHISTLEBLOWERS PROTECTION BILL

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a personal explanation.

Leave granted.

The Hon. C.J. SUMNER: I wish to refer to certain remarks made by the Leader of the Opposition during the debate on the Whistleblowers Protection Bill yesterday. In it the Leader made certain allegations about me and the Government in relation to a speech made by the Hon.

T. Roberts on the Whistleblowers Protection Bill. This was reported by the *Advertiser* as my being involved in a 'plot to defame'. This is pure fantasy on the part of the Leader. First, I have checked with the Whip, who has advised me that the Hon. T. Roberts spoke on the Whistleblowers Protection Bill in the normal way—no special arrangements were made. In any event, the arrangements for Mr Roberts to speak were not made by me.

Secondly, the Hon. Mr T. Roberts is perfectly able to deal with allegations levelled against him by members opposite. However, for my part, I wish to place on record that, while I was aware that the Hon. Mr T. Roberts wished to speak on the Bill, I was unaware of the matters he wished to raise. It is not my practice to vet speeches made by members. I trust that the Leader will desist from further repetition of these untrue and defamatory statements about me and the Government made either inside or outside Parliament.

WHISTLEBLOWERS PROTECTION BILL

Adjourned debate on second reading.

(Continued from 3 March. Page 1404.)

The Hon. R.R. ROBERTS: I wish to speak on this particular Bill, but unfortunately I do so as a consequence of what previous speakers have said. I do not intend to address my remarks so much to the legislation itself as to two matters raised during speeches made by members opposite. When this matter was being debated yesterday in this Council, the Leader of the Opposition made a range of statements about conspiracy. Today it was reported that the Attorney-General was involved and aided a plot to defame.

I too happen to have a copy of the speaking order list of that day—Thursday 18 February. I take particular offence at the tone of those remarks and allegations. You, Mr President, with your vast experience as a Whip in this place, would be aware of the procedures that take place in arranging the order of business sheet for a day. I need to put the record straight. The change in the order of business on that day came about as a result of a couple of events.

Members would recall that the Wednesday prior to this debate was a fairly onerous day; it was long and hard. On that day the Hon. Terry Roberts indicated to me, as his Whip, that he wished to speak on the whistleblowers legislation. The speaker that evening was the Hon. Mr Griffin, who spoke at some length. I remember the incident quite clearly because I had to call to the attention of the Council the background noise that was occurring—similar to that occurring at the present time—and call for relief. After a lengthy evening—members would recall that we rose at 11.35 p.m.—it was decided that the Hon. Terry Roberts would not speak, but he did take the adjournment, as is clearly shown on the Notice Paper for that day. On Thursday 18 February, as is the usual practice—

The PRESIDENT: Order! There is too much audible conversation in the Chamber. The Hon. Mr Roberts.

The Hon. R.R. ROBERTS: On Thursday18 February, as is the usual practice, I checked with the Whip on the opposite side, a man with whom I have always had a very good working relationship. He is a man of absolute integrity. I have always enjoyed the ability to be flexible with the Notice Paper from time to time. It was determined, because members on both sides of the Council had made evening arrangements for Thursday 18 February, that the Notice Paper would be altered to accommodate the business that needed to be done on that day so that members could honour arrangements they had previously made.

The order of business was laid out quite clearly. It would seem strange to someone outside Parliament that Order of Business No. 17 was in fact agreed to be the first item discussed and it went right down. One of those items of business was the whistleblowers legislation, which was No. 5. It must be borne in mind that we had agreed to do six items on that day and be finished by 6 p.m. We proceeded down the Notice Paper as usual. However, between two Bills, as is often the practice, the Minister for the Status of Women, the Hon. Anne Levy, was at a meeting and when the Bill came up we did what

we would normally do—and I am sure that members would have experienced this in the past—and used a speech we had on notice in that spot until the Minister was able to come back and resume her duties.

There was certainly no conspiracy. The Hon. Terry Roberts explained to me that he wanted to speak on this legislation. It is not my practice to ask each member what he or she wants to say. Mr Roberts expressed the view to me that he wanted to speak on this legislation and it has been my practice that when I have had an indication from a member that he or she would like to speak on a particular motion on a particular day, every accommodation is made wherever possible. When Mr Roberts asked me whether he could speak, I was happy to say, 'Yes, you will be on the Notice Paper.' The only question I ever ask any speaker is how long they will be. I do not ask people who have been elected to this place what they will say, nor do I try to tell them what they can say. What Mr Roberts presented to the Parliament was his business. He sees it as information that was provided by a constituent of his for whatever occupation he may occupy. If Mr Roberts wants to raise a matter in this Council it is purely his decision do to so.

During his contribution, the Leader of the Opposition did in fact accuse the Attorney-General of being involved in a plot. I think I have explained that there was certainly no plot. He also suggested that the Hon. Terry Roberts ought to be intimidated and called before the Premier and the Attorney-General because he said that there was more to come. What a terrible thing! This is coming from members opposite, whom I have had the displeasure of viewing in the past four years. They have conducted sleaze campaigns which one would not believe and which were aimed at members on this side of the Council. We all remember the continued attacks that took place on members of Parliament and people from outside the Parliament. One remembers the campaign against the Secretary of the Australian Labor Party that went on for some six months. Not satisfied with members of the Opposition—

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. R.R. ROBERTS: Not satisfied to come in here and sleazebag people who have no opportunity to answer their scurrilous allegations, they called insistently for investigations. That member of the public had to face three inquisitions and still the scurrilous remarks kept coming. On each occasion there was proved to be no foundation. But, of course, the poison had already been spread.

With issue after issue, people come in here and make attacks. The Hon. Ms Laidlaw in particular on one occasion defamed people within Tandanya, with no rights, and they talk about sleaze. They talk about sleaze like they are pure. They are not pure. There are two or three of them over there who have some integrity but not very many. They come in here and squeal crocodile tears but when the Hon. Terry Roberts gives them a little bit of their own medicine, when they cop a little bit, they cannot take it. The Hon. Mr Dunn is like Murphy's dog; he can give it but he cannot take it.

The Hon. Peter Dunn: I can't squeal crocodile tears!

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. R.R. ROBERTS: Like Murphy's dog, Mr President, he cannot take it.

The Hon. L.H. Davis: You will be crying like a pig soon!

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: We have had to sit here and listen to the scurrilous allegations of people like the Hon. Legh Davis and his concerted attacks, and every day, week after week, his punchline was, 'There is more to come.' When the Hon. Terry Roberts says, 'There is more to come,' the Leader of the Opposition squeals, 'Please, Premier, pull him into line.' What members opposite have to remember is that it is the stuff of big boys in here and if you want to keep slinging it out you are going to get some back. What is happening here—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Clearly, what the honourable Leader of the Opposition was on about yesterday was to say: because I have been a sleazebag for the past six years I am now going to try to implicate the Attorney-General and accuse him and put it on the record that the Attorney-General has been involved in this sort of thing. Very clearly, that is not true. This is a classic case of blaming the victim. That is what they are on about. They are squealers.

The Hon. Peter Dunn interjecting:

The Hon. R.R. ROBERTS: As the Whip in this place I place great faith in the fact that I try to do my job without fear or favour. I have had members of the Opposition, and they know who they are, when they have wanted a particular matter discussed, come to me and ask, 'Look, can I get this on today because I want to do it?' I am not naive; I know that in many cases they have got the press releases already printed and they want to get it out to the constituency; but I play their game and I allow them the right to speak. When a member of the Government comes to me and says, 'Look, I want to make a speech today,' I do not ask him what he wants to say. I try to make the accommodation.

There were six matters listed on the Notice Paper that day and every matter that was listed on there, by agreement with the Leader of the Government, the Leader of the Opposition and the Whip, was discussed. In fact, Mr President, an extra matter was put on, and there was a long and rambling speech by the Hon. Mr Dunn, which closed proceedings at 6 o'clock, in line with the agreement. The Hon. Rob Lucas in his cries of 'foul' was complaining that the press were not here, and yet it was all in the papers the next day and on the media. Last night when he made his outburst and these scurrilous allegations I took particular note of the time, and it was 8 o'clock, and I also took note of who was in the gallery. There was not a soul, not a sausage. Well, surprise, surprise, in the *Advertiser* this morning there it all was, 'The conspiracy theory'. It is the grossest hypocrisy you have ever seen in your life.

It has been the objective of the Leader of the Opposition to try to create the circumstance that somebody over on this side has lowered themselves to the depths of their activity in making personal attacks. I have been a member of this Council for four years and

on a number of occasions information has passed to me from members of the public in respect of certain matters and I can say with absolute honesty that when these questions have been vetted with the Leader of the Government in this place he has always said, 'Look, we don't want to get down to the depths of the Opposition,' and those types of questions have been absolutely discouraged. I can say that, in the four years that I have been here, I have not seen it happen from this side of the Council, and on many occasions it could well have happened.

Just for the record, and I will conclude on this note: let it not be said anywhere that there is any basis for suggesting that either the Attorney-General or myself were involved in any conspiracy to defame anybody in this Council. The Hon. Terry Roberts is over 21 and he makes his own decisions. He will not be pursued by either the Leader of the Government or the Whip to tell him what he can say, despite what members of the Opposition do. If they want to go around with their sleazebag campaigns and organise who is going to tip the bucket each particular day, well let them do it, but do not try to implicate the Government in that sleazebag activity.

We have not gone into that sort of activity and we do not intend to. We will continue to ensure whilst ever I am Whip that every member who wants to make a contribution will be accommodated, within the bounds of reason, and that will apply for members of the Government as well as for members of the Opposition. It is with much regret that I find that I have to stand on my feet today to protect this decision. The Hon. Rob Lucas described, in relation to his false and baseless allegations, the matter as being beyond contempt. I can tell you, Mr President, if it is below contempt, I am certain that anybody who is down in those depths will be walking on the heads of members opposite.

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

EVIDENCE (VULNERABLE WITNESSES) AMENDMENT BILL

Adjourned debate on second reading

(Continued from 10 February. Page 1186.)

The Hon. K.T. GRIFFIN: I can indicate that the Opposition supports the second reading of this Bill and the general direction of this legislation. The Bill seeks to provide a mechanism by which certain witnesses may give evidence other than being confronted by an accused person in the witness box in court on an eye to eye basis. In December 1992 a white paper on courtroom environment and vulnerable witnesses was released. In January and February the Government developed a Bill which was introduced several weeks ago to address the issue of evidence being given by certain witnesses where, at the present time, they may be subject to intimidation or embarrassment when coming face to face with an accused person.

One of the difficulties with any legislation of this sort is to try to find an appropriate balance. I suppose that one of the best statements I have seen on this is the small publication put out by the Home Office in London on 8 May 1987 accompanying the introduction of amendments to the Criminal Justice Bill designed, among other things, to introduce the use of video technology at trials of alleged child abusers. The paper that was published dealt with the practical aspects of video links and of screening. It dealt also with one way or two way vision and a number of other practical issues such as the placing of counsel, judges, accused and others. In relation to the general principle, remembering that this is directed to child witnesses and not to the broader range of witnesses referred to in this Bill, the paper made the following observation:

> While sparing the child as much distress as possible, it is also important to safeguard the rights of the defendant. Unless and until a jury returns a verdict of guilty, he is presumed by the law to be innocent.

The reference in this part of the paper is to 'he', I suppose mostly because the accused persons in these sorts of cases are generally male. I continue with the quote as follows:

> Any person accused of a crime is entitled to a fair trial, to be represented by counsel of his own choosing and to question the evidence against him. The Government could not support proposals which seriously infringed these fundamental principles of our criminal justice system. In particular, the Government does not believe that questioning can be left to a child examiner, as is sometimes suggested. The Minister of State, Home Office [then Mr Mellor], made this clear during the report stage of the Criminal Justice Bill in the House of Commons.

There is then a quote of what Mr Mellor had to say, as follows:

> I should like to make it clear, as I did in Committee, that it would be wrong to deprived the accused of his right to cross-examine the child in a trial in which a video recording had been admitted. I am sure that we all agree on that. Of course, that would be traumatic. I sympathise with parents who do not like the idea of the child being questioned critically about what happened. However, we would go from one extreme to the other: from an alleged insensitivity to the rights of the complainant to a certain insensitivity to the rights of the defendant if we did away with cross-examination. Such cross-examination cannot be carried out other than by the counsel who has been appointed by the defendant to represent his interests.
>
> I say that quite firmly, because however much we envisage a well meaning person interposing himself between the defendant and his lawyers on the one hand and the child on the other, that would dilute the interaction between counsel and child which is a key part of protecting the rights of the accused person who, we must remember, is innocent until adjudged guilty. It would be inappropriate for us to fail to recognise that fact. I have yet to be persuaded that such a person exists who could properly carry on the business of asking questions on both sides and do so in such a way as to satisfy us all that justice had properly been done.

That presents the issue in an appropriate perspective. It is always difficult with these sorts of changes to the law to achieve an appropriate balance between the rights of the accused, who must be presumed to be innocent until proved guilty beyond reasonable doubt, and the alleged victim. We must remember that, in our system, an accused person's liberty is generally at risk and the onus is upon the Crown to present all the available evidence,

including evidence that might be detrimental to the Crown's case and beneficial to the defendant's case, but objectively to present all the evidence upon which it might then be found that the accused is guilty beyond reasonable doubt.

The Crown Prosecutor, now the Director of Public Prosecutions, has an important duty to the court as well as to the community, not necessarily to achieve a conviction at all costs and regardless of the facts but to achieve a conviction if the evidence demonstrates beyond reasonable doubt that that is the proper course. The Director of Public Prosecutions (formerly the Crown Prosecutor) has an obligation to the court to act fairly and reasonably and not to distort all the evidence, and to ensure that it is properly presented to the court and to the jury, who must then make the judgment whether guilt has been established beyond reasonable doubt: not that the accused is innocent, because it necessarily follows that, if an accused is not proved guilty beyond reasonable doubt, that is all that the judgment of the jury means—not guilty on the basis of the evidence presented by the prosecution.

It does not mean that the accused is innocent: just that the charge has not been proved. In Scotland there is an additional verdict which a jury can bring in. There is either guilty or not guilty but also the verdict of not proven. Sometimes that may be a better verdict to bring in, particularly from the perspective of the prosecution and its witnesses, than either the black or white guilty or not guilty. Of course, in this State there has been debate about the way in which evidence can most properly be given by children. The Bill actually extends beyond children to a range of other persons whom it seeks to describe as vulnerable witnesses but, certainly, the debate in the past 10 years in South Australia has been focused upon the child witness for the prosecution rather than other witnesses.

It is in the context of child witnesses that reports have been prepared addressing the way in which those young witnesses might best give evidence if the objective is to ascertain the truth and not necessarily to obtain a conviction at all costs. And if the focus is on achieving the truth then, quite obviously, both prosecution and defence have a role to play in that, as well as the court's having the primary responsibility. Under the Bill, a vulnerable witness is a person under 16 or over 75 years of age; a person who suffers from an intellectual handicap; a person who is the alleged victim of a sexual offence to which the proceedings relate; or a witness who is, in the opinion of the court, at some special disadvantage because of the circumstances of the case or the circumstances of the witness.

The description 'vulnerable witness' appears not only to apply to an alleged victim but also to any other person who falls within that category, who is a witness in proceedings. The question has been raised whether in fact that can also extend to the accused. I must say that I would be surprised if in logic one could draw that out of the Bill, but it has been put to me as one of the possibilities. Certainly, that is an issue that ought to be examined before the Bill is passed.

The Bill provides that in criminal proceedings where evidence is to be given by a vulnerable witness the court should determine whether an order should be made under the new section before evidence is taken from that witness. Where the court determines that a person is a vulnerable witness, the court may make orders for special arrangements in respect of the taking of the evidence of that witness. Those orders may include an order that the evidence be taken outside the courtroom and transmitted to the courtroom by means of closed circuit television, or an order that a screen, partition or one way glass be placed to obscure the witness's view of a party to whom the evidence relates or some other person, or an order that the witness be accompanied by a relative or friend for the purpose of providing emotional support.

Where the trial is a trial by jury and special arrangements are sought and put in place, the judge has a duty to warn the jury not to draw from that fact any inference adverse to the defendant. There is a view among some defence lawyers and also the courts, particularly the Chief Justice, that the existence of screens or special facilities for giving evidence can never be put to one side in the minds of the jury, no matter how strong the direction by the trial judge for that to occur.

The Chief Justice is totally opposed to the proposal for an audio-visual link and the alternative proposal for the use of a screen or one-way mirror. He opposes the proposition on the basis that it is a fundamental principle of justice that a person accused of a crime is entitled to be faced with his accuser, because it is easier to tell lies about a person in the absence of that person. He also holds the view that a visual link or screen would convey to the jury and to the accused that he was already considered to be at least presumptively guilty when the presumption should be one of innocence.

Other judges also support the Chief Justice's view, as do a number of members of the legal profession. However, other judges support the use of screens or audio-visual links and do not have the same objection to audio-visual links or screening as expressed by the Chief Justice.

The Law Society criminal lawyers have made a submission which indicates opposition to the legislation. Some individual criminal lawyers with whom I have discussed the issue have a similar view. However, some make pertinent points about the taking of evidence, particularly from child witnesses. I want to address that issue later with a view to floating several positive proposals which might facilitate the objective of getting to the truth.

Notwithstanding the Chief Justice's opposition and that of other members of the legal profession, the fact that similar legislation is in place in a number of other jurisdictions suggests that as a Parliament we should not have the same objection to legislation which enables screens or audio-visual links to be established. However, the white paper indicated that the legislation in other States had not been in place for a sufficiently long period of time to enable us to make a considered assessment of the appropriateness of screening or audio-visual links. So, at least in Australia such means by which evidence is given by witnesses for the prosecution in criminal cases is still very much in its infancy.

I want to work through some of the legislation. I have not had an opportunity to complete my review of the

legislation which is referred to in the white paper, but on the information that I have so far been able to research, whilst the white paper gives a reasonable overview of the legislation, there are factors in the legislation in other jurisdictions which are not referred to in the white paper. They are matters which I think ought to be referred to for the sake of completeness to ensure that a proper balance is achieved in weighing the respective rights of the accused and of the alleged victim and other witness.

Before I do that, I should say that I have received a submission from the Intellectual Disability Services Council and from several other people who suggest that in its drafting the reference to 'intellectual handicap' is now outmoded and the proper description is either 'intellectual disability' or 'intellectual impairment'. I shall be taking up that issue in Committee by way of amendment.

In the Australian Capital Territory a court may make an order that a child give evidence or part of his or her evidence via a closed circuit television system if the court is satisfied that the child would suffer mental or emotional harm if the child gave evidence in the conventional manner. In that legislation a child is a person under the age of 18 years. Also in that legislation, the order is to be made by the court only if it is satisfied that it is likely that the child would suffer mental or emotional harm if required to give evidence in the ordinary way or that the facts would be better ascertained if the child's evidence were given in accordance with such an order.

The matters that the ordinance requires the court to take into account include the age, personality, intelligence, education and maturity of the child, any disability to which the child is or appears to be subject and the nature and importance of the matters on which the child is being called to give evidence.

There is an important provision in the ordinance of the Australian Capital Territory, section 7, which provides that the court shall not make an order that would be unfair to a party to the proceedings. That provision, which appears in legislation in other jurisdictions, appears not to have been picked up by the white paper or by the Government in the preparation of this Bill.

In Queensland, amendments in 1989 to the Evidence Act broadened the classes of witnesses who may be the beneficiaries of special arrangements for giving evidence. A special witness is a child under the age of 12 or a person who, in the court's opinion, would, as a result of intellectual impairment or cultural differences, be likely to be disadvantaged as a witness, to suffer emotional trauma or to be so intimidated as to be disadvantaged as a witness. A party to a proceeding, or in a criminal proceeding the person charged, may be a special witness.

So, in Queensland it is broadened out to include a person charged as well as witnesses whether for the prosecution or for the defence. Under the Queensland Evidence Act amendments, the court may make orders in relation to the giving of evidence by a special witness.

In the case of a criminal proceeding the person charged is to be excluded from the room in which the court is sitting or be obscured from the view of the special witness while the special witness is giving evidence or is required to appear in court for any other purpose. While the special witness is giving evidence all persons other than those specified by the court will be excluded from the room in which it is sitting. That, I think, is a power that already our courts have.

Also, the special witness gives evidence in a room other than that in which the court is sitting and from which all persons other than those specified by the court are excluded. A person approved by the court will be present while the special witness is giving evidence or is required to appear in court for any other purpose in order to provide emotional support to the witness, and a videotape of the evidence of the special witness or any portion of it shall be made under such conditions as are specified in the order and the videotaped evidence be viewed and heard in the proceedings instead of the direct testimony of the special witness.

That videotaping of evidence is a feature in one or two other jurisdictions. I am not advocating that we should pursue that at this stage, but I do want to make some observations about it later. Again in the Queensland Evidence Act there is a specific provision, as there is in the ACT Ordinance, that:

> An order shall not be made if it appears to the court that the making of the order would unfairly prejudice any party to the proceeding or in a criminal proceeding the person charged or the prosecution.

Again, it is an important provision, and I would like the Attorney in reply to address the reasons why that specific injunction does not appear to have been so clearly provided for in the Bill. It then goes on to deal with electronic devices and also videotaping of evidence.

I have looked at the United Kingdom criminal justice legislation. At this stage all that I have been able to track down is the Bill which was, I think, passed in about 1989 (certainly it was introduced in 1987) and which deals also with live closed circuit television links on trials on an indictment or an appeal to the Criminal Division of the Court of Appeal.

It applies more broadly than child witnesses but extends also to witnesses outside the United Kingdom. It applies particularly to a situation where the witness is under the age of 14 and the offence charged is one to which subsection (2) applies. That subsection provides that it shall apply to an offence which involves an assault on or injury or a threat of injury to a person; to an offence under section 1 of the Children and Young Persons Act, 1933; cruelty to persons under 16; to an offence under the Sexual Offences Act 1956; the Indecency with Children Act 1960; the Sexual Offences Act 1967; section 54 of the Criminal Law Act 1977 or the Protection of Children Act 1978; and to an offence which consists of attempting or conspiring to commit or of aiding, abetting, counselling, procuring or inciting the commission of an offence falling within paragraph (a) (b) or (c).

The criminal justice legislation in the United Kingdom allows special provision to be made for the taking of evidence from those witnesses and I suggest means that, at least in the United Kingdom, very careful consideration is being given to the issue over many more years than in South Australia.

The white paper published by the Attorney-General refers to the situation in New South Wales where closed circuit television facilities may be used for a person giving evidence where the child is under 16; where the

accused is alleged to have committed a prescribed sexual offence on the child; or the child would suffer mental or emotional harm if the child gave evidence in the conventional manner.

I have not had an opportunity fully to explore the situation in New South Wales, Victoria or New Zealand for that matter, and I would certainly want to do that before I concluded my speech on this Bill. In Victoria the white paper says that similar provisions apply where a witness is under 18 or has impaired mental function and the offence is of a sexual nature or involves the use of threat or violence. The discretion in the court exists where the witness in sexual matters is considered likely to suffer severe emotional trauma.

As I indicated at the beginning, notwithstanding the position of the Law Society on the issue I hold the view, as does the Liberal Party, that some form of audio-visual link or screening ought to be available to a judge presiding over a trial. But one should ensure, and the court should be enjoined to ensure, that such audio-visual link or screen does not prejudice the accused.

It is interesting to note in relation to the use of screens that the Legislative Council's Select Committee on Child Protection Policies, Practices and Procedures did look at the issue of the way in which child witnesses could be dealt with. It did make a number of recommendations, particularly in the recording of evidence whilst the allegations of child abuse were being investigated. It recommended that all South Australian legislation which deals with the various aspects of the law relating to children be brought together under one Act in order to simplify it and to remove injustices caused by the present fragmented and complex system of legislation.

That report was tabled either at the end of 1991 or early in 1992. It would be interesting to know what the Government's response is to that and other recommendations. The committee recommended that in conjunction with bringing together all the legislation regarding children under one Act the Government set up an inquiry into alternative approaches to the adversarial system with the aim of making the law more effective in achieving justice for children. As far as I know there is no initiative on that. There is, of course, the Juvenile Justice Select Committee in the House of Assembly, but that can hardly be regarded as a response to this recommendation.

The select committee also recommended that all cases in the criminal court involving child abuse are heard as a matter of priority; that long delays currently the norm become a thing of the past; and that resources are made available to the appropriate agencies to do this. Again, I am not aware of any positive initiative being taken in respect of that, but if it has I would certainly welcome information about it.

The committee does recommend that resources be made available for children to be attached to the courts with a specific role of providing support for child witnesses. It also recommends that the abused child victim does not have to face the accused in court and that this is circumvented by the use of screens and video and audio equipment.

It also focuses upon the need to ensure that there is more effective training of workers who are likely to be dealing with alleged victims of child abuse and that there be a joint approach to the taking of statements rather than the duplication that presently occurs. According to some legal practitioners, good men and women defence lawyers to whom I have spoken, there is still a major problem with child witnesses in that child witnesses are frequently interviewed up to six or seven times. By the time the matter gets to court there is a great deal of doubt about the accuracy of the evidence which is given in court because the child may have been prompted, trained or confused as a result of the investigations which have been undertaken.

One of the lawyers who raised this issue with me made a couple of suggestions, and I want to float them in the context of this Bill, because they have some merit. One suggestion is that in some States of the United States there is a procedure called deposition taking. Deposition taking occurs in the period before the court hearing where, for example, a child witness might be interviewed by the Attorney-General's Office. The Attorney-General's Office in the United States undertakes investigation and prosecution responsibilities. Here, the investigation is done by the police and the Crown gets involved in interviewing the child witness at a very late stage, frequently on two or three occasions before the trial commences. In some States of the United States where there is deposition taking, that is done in conjunction with the lawyer for the defence. So, in rather congenital surroundings, or should I say less intimidating surroundings than a courtroom, a child witness with a support person attends, is questioned by the prosecutor or the Attorney-General's officer, the defence counsel is present (the defendant is not) and is entitled to ask questions, and all of that is recorded, not necessarily on videotape but on audio tape and the questioning is admissible.

The woman defence lawyer who made this suggestion to me feels that that is an ideal way of narrowing down the areas of difference between defence and prosecution in taking evidence from child witnesses. She made the point that if our objective is to get to the truth, every opportunity ought to be taken to involve defence counsel along with prosecution counsel in trying to limit areas of dispute, because if you have unequivocal evidence at an early stage with which the defence lawyer can confront the defendant you are more likely to get a conviction and avoid traumas for the child and other witnesses in lengthy court proceedings. So, I commend that course of action to those who are involved in taking evidence from child witnesses.

That lawyer also said that there would be considerable value in recording statements at each stage by audio tape. I believe videotaping is more appropriate than audio taping, but in some instances videotaping may not be as practicable as audio taping, either because of the immediacy of the questioning or the unavailability of equipment. In those circumstances, there ought to be an audio tape record of every conversation which the authorities have with the child witness. If you can eliminate a number of the occasions where a child witness is interviewed and reinterviewed, it will do a lot for both the prosecution and the defendant and will be less likely to traumatise the child witness. At the moment, the police, Family and Community Services, and Children's Hospital psychiatrists get involved, as

well as the Director of Public Prosecutions on perhaps two or three occasions. If a witness is examined half a dozen times, it can be confusing even for an adult but it can be so much more confusing for a child witness.

The Hon. T.G. Roberts: The select committee actually suggests a cross-disciplinary unit.

The Hon. K.T. GRIFFIN: The Hon. Terry Roberts says that the select committee suggests that a cross-disciplinary unit have the responsibility. I have no difficulty with that, but an important addition to that is the involvement of defence counsel at the earliest opportunity in at least seeing how the statements are being taken and suggesting questions that ought to be asked.

I refer to an interesting article by Professor Glanville Williams, which deals with the videotaping of children's evidence. It is a commentary on the Criminal Justice Bill in the United Kingdom, which dealt only with live link videos and resiled from the videotaping of evidence. The videotape could then be available later in court. I am not suggesting that we ought to amend the Bill immediately to deal with that, but Professor Glanville Williams suggests that there are a number of advantages for the prosecution as there are for the defence in having evidence videotaped at an early stage. He suggests that it should be done by a child examiner with professional training so that you have an inquisitorial situation rather than an adversarial situation. As I have indicated, in the United Kingdom the Home Office was not supportive of that. I must say that one would have to be assured that the examiner was perfectly objective to ensure that there was no bias in the questioning and, therefore, no criticism of the way in which the statement was taken.

The Hon. T.G. Roberts: If it is taped, the defence can examine the tape for any breach.

The Hon. K.T. GRIFFIN: I agree with that. If it is taped, the tape is there at an early stage and can be the subject of criticism, but it is important to minimise the criticism as much as possible. Of course, the interesting aspect of this Bill—and the Attorney-General should give us some information about this—relates to the videotaping of statements. Can the Attorney indicate how many units are available and to what extent videotaping of statements is presently being used, what is the cost involved and, more particularly, regarding this Bill when it is passed, what costs will be involved, what is the program for expenditure and implementation and in how many courts is such a facility to be available? Is it only to be available in the city or the metropolitan area or will it extend into the country?

I refer again to Professor Glanville Williams' paper where he states:

> The child examiner should have professional training; she should be chosen for intelligence, and should be acquainted with the various influences and motives that may cause a child to give mistaken or otherwise false evidence. She may, in fact, have better knowledge of these matters, and better insight into the mind of a child than a lawyer, particularly one who has little experience of children. On the whole, I do not think that lawyers have just cause for complaint if their functions are partly transferred, in these exceptional cases, to another kind of professional. Lawyers do not take part in investigations by the police. Why should they object to investigations by psychologists?

That examination was partly in that context, although that is not an argument against the sort of involvement that I have suggested in relation to examination of child witnesses in the context of deposition taking.

The Texas Code of Criminal Procedure does recognise videotaping. It is interesting to note that it is probably similar to other provisions in other States of the United States. It states:

> The recording of an oral statement of the child made before the proceeding begins is admissible into evidence if:
>
> (1) no attorney for either party was present when the statement was made;
>
> (2) the recording is both visual and aural and is recorded on film or videotape or by other electronic means;
>
> (3) the recording equipment was capable of making an accurate recording, the operator of the equipment was competent, and the recording is accurate and has not been altered;
>
> (4) the statement was not made in response to questioning calculated to lead the child to make a particular statement;
>
> (5) every voice on the recording is identified;
>
> (6) the person conducting the interview of the child in the recording is present at the proceeding and available to testify or to be cross-examined by either party;
>
> (7) the defendant or the attorney for the defendant is afforded an opportunity to view the recording before it is offered as evidence; and
>
> (8) the child is available to testify.

That relates to the admission of taped evidence, for which there is at the moment provision as a result of amendments to our Evidence Act.

As I said, the Law Society has expressed some concerns. Presumably the Attorney-General has some information about that. The society opposes this Bill. It makes a number of proposals, which ought to be taken into consideration. Some of those I will be raising in the course of the Committee consideration of the Bill. It does raise questions about the extent to which the vulnerable witness provision ought to be available. There is the question of whether it ought to be available to those 75 and over as well as to any other person who, in the opinion of the court, is at some special disadvantage because of the circumstances of the case.

I do not have any difficulty with it in relation to child witnesses, nor do I have any difficulty in the case of a witness who is suffering from an intellectual handicap, disability or impairment, or a witness who is the alleged victim of a sexual offence to which the proceedings relate. I have a concern about the wide ranging catch-all provision in paragraph (d) of the definition of vulnerable witness. I have some questions about some cases of assault, where the alleged victim is known to the defendant and whether we ought perhaps to provide specifically for those protections in the context specifically of domestic violence. However, in relation to specifying 75 years, one has to ask: why 75? Why not 60? Why not 55? Why not 70? All people who go into court, unless they are particularly thick skinned, are at some special disadvantage. Certainly, they are intimidated when they go into the court environment. The concern is that this provision is so wide as to remove the necessary constraints which must be placed upon the court in implementing what is to some extent new legislation.

There is also a concern about one-way glass. The question must be raised as to what that does for the witness who is not able to see anything of what is going on in a courtroom, where the witness is in another room and can see only one way. At least, I presume that is what is intended: that the witness will not be able to see the accused. I would hope that it is not the other way—that the accused cannot see the witness—because that would place both the accused and the jury at a particular disadvantage in not being able to see the physical responses as well as the verbal responses of the accused.

I want to raise several other matters in the course of my second reading contribution. I have not had an opportunity to examine fully those issues. I would hope that I can complete this contribution next Tuesday, after I have had an opportunity to undertake some further research and I would appreciate it if the Council would allow me leave to conclude my remarks.

Leave granted; debate adjourned.

The Hon. C.J. SUMNER: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

PUBLIC AND ENVIRONMENTAL HEALTH (REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 March. Page 1419.)

The Hon. M.J. ELLIOTT: I rise to support the measures contained in this Bill, which seeks to update and clarify certain measures in relation to notifiable diseases and update the schedule of such diseases. It also identifies the responsibilities of local government and the Health Commission in relation to maintaining public and environmental health.

Another measure, and one in which I have an interest because of its impact on the environment, relates to waste disposal systems. The definition of 'waste control system' which is to be inserted into the Act is sufficiently broad so as to include recent developments in technology, particularly in the area of human waste treatment. Anaerobic systems and biological solutions to waste treatment utilising micro-organisms are being developed for commercial, industrial and residential applications and I am pleased to see this legislation acknowledging those advances, subject of course to health considerations.

While this particular Bill does not cover an issue I am about to raise, I would like to do so within the context of the Act that it is amending, as it seems to be related. I have on a number of occasions had discussions with local government in some areas and with conservation groups. Some people are simply concerned about the rate of water usage and about the question of use of grey water, that is, water which has been used for washing dishes or clothes or for bathing. At the moment it is not legal to use that water, for instance to divert it into your garden areas, something many people would want to do, for good conservation reasons.

I have been through the legislation and it does not directly mention the issue of grey water, although my suspicion is that it has probably been picked up by way of regulations under the Act. Now that the Government is seeing the need to change the definition of 'waste control systems', recognising that advances are being made there and that there are good environmental reasons for doing so, I would hope that the Government might reconsider its position. It is a position that has been around for many years in relation to the use of grey water. All I am doing at this stage during the second reading is to raise the issue. It is one that I think deserves further attention and I would hope that the Minister can return with a response, if not during the proceedings of this particular debate, then in the near future, on this matter. The Democrats support the Bill.

The Hon. BARBARA WIESE (Minister of Transport Development): I thank honourable members for their contributions to this debate and for the support for this legislation that has been indicated by both the representative from the Liberal Party and also the Australian Democrats. I shall refer to a couple of issues that have been raised during this debate. I refer firstly to a concern that was raised by the Hon. Dr Pfitzner concerning clause 15. During her contribution she indicated full support for the intentions of clause 15 which deals with codes and standards for septic tanks and other waste disposal systems but expressed concern that the additional responsibilities that are being given to local government in this area may be beyond their resources or that they may not have sufficient resources to carry out the functions. I indicate to the Hon. Dr Pfitzner and other members that the matters that are dealt with in clause 15 have the support of local government and the idea is to enable the development of regulations which will be acceptable to local government. Various local government representatives have been involved with the development of the legislation right through to the drafting stage and, as I said, the legislation has Local Government Association support.

The provisions contained in clause 15 will be accompanied by the provision for fees to be charged by local councils, which will reflect the cost to councils of the approval and inspection process that is associated with the provisions contained in clause 15. The current situation is that persons seeking to install a septic tank system pay a fee to the Central Board of Health, so there would be new arrangements made to accompany the

increased responsibilities being given to local government. The development of these regulations and the rationalisation of responsibility for the administration of waste disposal systems will take place in the context of the consultation arrangements established by the memorandum of understanding between the Premier and the LGA.

Rationalisation of responsibilities and negotiations on financial responsibility between the two sectors of government generally are the subject of current ongoing negotiations between local government and the State Government to ensure the whole process of demarcation of powers takes place on a sensible financial basis. It is expected that the matters contained in this piece of legislation will be among the issues to be negotiated

between State Government and local government as part of the agreement that I have just referred to.

The matter that was raised by the Hon. Mr Elliott concerning grey water is not, as he indicates, specifically related to the Bill that is before us. I do not have any updated information at my disposal today about the Government's views on this matter or future intentions but I undertake to ensure that the remarks that he has made about that topic are referred to the Minister and I will request the Minister to provide in writing the information that he has requested at a later date.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. BERNICE PFITZNER: I move:

Page 1, after line 19—Insert new paragraphs as follows:

(ab) by striking out the definition of 'controlled notifiable disease' and

substituting the following definition:

'controlled notifiable disease' means a notifiable disease—

(a) which has the potential to spread rapidly from one person to another, or to cause death;

and

(b) which is—

(i) included in the second schedule;

or

(ii) prescribed by regulation to be a controlled notifiable disease;

(ac) by striking out the definition of 'notifiable disease' and

substituting the following definition:

'notifiable disease' means a communicable disease which is—

(a) included in the first schedule;

or

(b) prescribed by regulation to be a notifiable disease;

In this amendment I have sought to clarify the two terms 'notifiable disease' and 'controlled notifiable disease' as I myself had difficulty getting any information about it. At present, in the principal Act, 'controlled notifiable disease' is only that disease which is in the second schedule and 'notifiable disease' is only that disease which is in the first schedule, but does not give any further description of the disease. Initially I sought to provide further information for members of Parliament about what these schedules might mean and I wanted to put in the description of the 'controlled notifiable disease' as being a disease more rapidly communicated and that it had greater potential for death. I now note that if one put those descriptions in it would be limiting the list and causing some difficulty, and so my final amendment is to put the descriptive term 'communicable disease' to describe what 'notifiable disease' might mean.

The Hon. BARBARA WIESE: The Government supports this amendment.

Amendment carried; clause as amended passed.

Clause 4—'Delegation.'

The Hon. PETER DUNN: The Minister referred to the fact that local government would be able to recover costs, or there was a cost that would be sent on to the Central Board of Health, I think she said, but they would be able to recover the cost for inspecting the installation and the proper management. Has the Minister any idea of what the costs are likely to be?

The Hon. BARBARA WIESE: I was referring in my remarks to the provisions relating to septic tanks and other waste disposal systems and I indicated that in future local government would be allowed to charge appropriate fees to reflect their costs for the approval and inspection process. As far as I am aware there has been no resolution of discussions on exactly how much those fees will be. I would imagine that the discussion on fees will be held in the context of the broader discussions that are taking place between local government and State Government on the rationalisation of responsibilities and financial arrangements, which is occurring according to an agreement signed quite some time ago between the Premier and the President of the Local Government Association. So, discussions will be taking place generally about the rationalisation of powers.

This is certainly one of the areas in which a rationalisation is occurring as a result of this legislation and it will be in that context that discussion about fees will occur. I imagine that discussions will commence very soon after the passage of this legislation so that regulations can be set in place and the legislation enacted as soon as possible.

Clause passed.

Clauses 5 to 14 passed.

Clause 15—'Regulations.'

The Hon. BERNICE PFITZNER: I want to expand on what the Hon. Mr Dunn raised about waste control systems. I am encouraged by the communication that will take place. I would like to ask that in this communication during the discussion about fees the local council itself will be involved and not only the LGA representatives, and is there an opportunity for the community also to be involved during the discussion of fees for approval and inspection?

The Hon. BARBARA WIESE: As I understand the process, under the protocol of the agreement between State Government and local government on rationalisation of responsibilities and finances, the Local Government Association would make the decision as to how consultation would take place within the local Government community. I would expect that the LGA would want to consult directly with all councils within the State, as it does on most of these issues. As to community consultation, I understand that it is the intention that a green paper will be released on proposals for regulations. That will be a public document so will be available to all councils within the State, and any communities, organisations or individuals who are interested in it.

The Hon. PETER DUNN: I did not really ask the question I intended to ask under clause 4, but it can come under this clause, I believe. The delegation of power to inspect and to supervise the installation of these septic tanks or waste management systems, as they are now called (because I know there are a number of aerobic, anaerobic and other methods now being used), is that likely to be by private enterprise or is it still within the three tier system?

The Hon. BARBARA WIESE: I understand that the powers for inspection and approval are granted to

councils and to inspectors who are nominated by councils, so I believe that at this stage it would be intended that those people would be council employees. But it may be possible to have as part of the process a certificate of competency, a certificate that indicates quite clearly that the work that is supposed to have been done has been done. But that will be one of the issues that is canvassed with options, if desirable, in the green paper that will be circulated to councils and the community, and anyone who has alternative suggestions about how things might be done will have the opportunity to make submissions.

Clause passed.

Remaining clauses (16 to 18) and title passed.

Bill read a third time and passed.

PUBLIC FINANCE AND AUDIT (MISCELLANEOUS) AMENDMENT BILL

Consideration in Committee of the House of Assembly's message — that it had disagreed to the Legislative Council's amendment.

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

That the Council do not insist on its amendment.

This is the only matter in dispute between the two Houses. The amendment deals with clause 32, which requires the Auditor-General, if requested by the Treasurer, to examine the accounts of a publicly funded body. The Legislative Council wished to add to the request by the Treasurer a request by resolution of either House of Parliament so that the Auditor-General would then be required, if requested either by the Treasurer or by resolution of either House of Parliament, to examine the accounts of a publicly funded body.

The House of Assembly has disagreed with the amendment which would have permitted either House of Parliament to direct the Auditor-General to carry out such an inquiry. The opposition to that proposition uncharacteristically had bipartisan support in the Lower House. Mr Stephen Baker, the shadow Treasurer and member for Mitcham, made a passionate plea to reject the amendment made by the Legislative Council in this way. I will not repeat Mr Stephen Baker's remarks on the topic. They are in the *Hansard* record for all to see.

Suffice to say that I take it that honourable members in this place will now have been overwhelmingly persuaded by Mr Baker's eloquence on this occasion and will support my proposition that we no longer insist on this amendment.

The Hon. L.H. DAVIS: One of the consistent views which the Liberal Party has expressed in the past three years following the 1989 election and the revelation of financial losses in the State Bank, SGIC and Scrimber is the very important role that the Auditor-General has in overviewing the financial management of public sector finances. We have been lucky in South Australia to have had two such fine Auditors-General in recent times, Mr Tom Sheridan, now retired, and his successor, Mr Ken McPherson. They have been the very essence of a modern Auditor-General: fearless, frank and quite passionate in upholding the independence of the role of the Auditor-General.

As I said in my second reading contribution, there can be no doubt that this Act further strengthens the powers of the Auditor-General and overcomes some of the deficiencies of what admittedly was a pretty reasonable principal Act when it was first brought into operation in 1987. I moved this amendment in the spirit of giving the Parliament access to the Auditor-General, remembering, of course, that he is first and foremost a servant of the Parliament.

I noted that the Economic and Finance Committee has a new and expanded role since it first came into operation a year ago, and many of the day-to-day financial and managerial questions which may or may not sometimes be raised in Parliament are picked up by that bipartisan committee, which sadly is represented only by members from another place. I moved that amendment believing not only that the Treasurer should have the right to refer matters to the Auditor-General but also that a resolution of either House could alert the Auditor-General to a particular concern.

The Attorney-General has pointed out that the other place has not agreed with the Legislative Council on this occasion—that is not at all unusual—and has moved that on this occasion the Council should not insist on its amendment. I do not want to play sheep stations with this—I suspect that sheep stations are not worth very much at the moment, anyway—but, given that we achieved some improvement of the Bill both here and in another place, in a spirit of goodwill, I agree to the Attorney-General's suggestion and will allow the other place for once to have its way.

Motion carried.

SUPPLY BILL (No.1)

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

As the 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.

Explanation of Bill

It provides for the appropriation of $900 million to enable the Government to continue to provide public services during the early months of 1993-94.

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 is customary for the Government to present two Supply Bills each year. The first Bill is designed to cover estimated expenditure from 1 July until the second Bill is passed. The second Bill covers the remainder of the period prior to the Appropriation Bill becoming law. This practice will be followed again this year.

Members will note that the expenditure authority sought this year is $40 million more than the $860 million sought for the first Supply Bill last year.

Traditionally, the first Supply Bill has provided appropriation authority for July and August only. In recent years, however, the second Supply Bill has not received assent until early September. Since several agencies draw funds from Consolidated Accounts to their deposit accounts at the beginning of the month, the first Supply Bill this year will also need to cover early September.

There will be a corresponding reduction in the amount of the second Supply Bill.

Clause 1 is formal.

Clause 2 provides for the appropriation of up to $900 million and imposes limitations on the issue and application of this amount.

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

POLICE SUPERANNUATION (SUPERANNUATION GUARANTEE) AMENDMENT BILL

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

As the 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.

Explanation of Bill

This Bill seeks to amend the Police Superannuation Scheme so that the scheme complies with the requirements of the Commonwealth's *Superannuation Guarantee (Administration) Act.* In terms of this Commonwealth legislation, employers are required to provide for employees a minimum level of employer support in a superannuation scheme. This is a requirement in respect of employment on and after 1 July 1992.

The minimum level of required support commenced at 4% of salary on 1 July 1992 and increased to 5% of salary as from 1 January 1993. The superannuation guarantee charge to employers is to rise in steps to 9% of salary in the year 2002-2003.

There are at present two areas where the scheme may, in certain circumstances, not comply with the Commonwealth legislation. One of the areas is where a police officer resigns and elects not to preserve the accrued benefit by leaving his/her own contributions in the scheme. In these circumstances the present scheme provides no employer financed benefit. The Bill seeks to remedy this situation by providing a compulsorily preserved employer financed benefit at the level required under Commonwealth law.

The second area in which the scheme may not comply is on the death of a contributor, and in circumstances where there is no spouse entitled to a benefit under the scheme. The Bill seeks to remedy this situation by providing a benefit equal to the accrued benefit, payable to the former police officer's estate.

The Bill also makes a minor technical amendment to Section 50 of the Act. The amended provision provides greater clarity to the original intention of the provision by reinforcing the fact that the Police Superannuation Board has prime responsibility for administering the scheme and resolving any doubts and difficulties that arise.

The Bill also includes an urgent technical amendment to the wording of the death benefit provisions under the *Superannuation Act 1988.* The technical deficiency in the *Superannuation Act* was identified in the preparation of this Bill. The amendment will not only remove the possibility of double benefits being paid in certain circumstances, but also make the wording consistent with that under the *Police Superannuation Act.*

In summary, the amendments being sought in this Bill are similar to those made to the main State scheme under the *Superannuation Act* and for the same purpose.

The provisions of the Bill are as follows:

Clause 1: Short title

Clause 1 is formal.

Clause 2: Commencement

Clause 2 provides for the commencement of the Act. The Act (except for clause 9) will come into operation retrospectively on 1 July 1992 because this is the date when the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth came into operation. The reason for the retrospective operation of clause 9 is explained in the note to that clause.

Clause 3: Amendment of s. 4—Interpretation

Clause 3 defines "**the Commonwealth Act**".

Clause 4: Amendment of s.22—Resignation and preservation

Clause 4 amends section 22 of the principal Act which provides for resignation under the new scheme. The provision is drawn on the same lines as the amendments made to the *Superannuation Act 1988* last year. A contributor who elects on resignation to take his or her contributions is entitled to the minimum payment under the Commonwealth legislation as well. This amount must be preserved unless it is less than $500.

Clause 5: Amendment of s. 26—Death of contributor

Clause 5 amends section 26 of the principal Act. Paragraph (c) inserts new subsections (5) and (6). Subsection (5) provides a benefit for the estate of a deceased contributor who is not survived by a spouse but is survived by an eligible child. Subsection (6) replaces existing subsections (5) and (6) of section 26. Under the existing provisions it is possible that the estate of a deceased contributor will receive less than the minimum required by the Commonwealth. New subsection (5) and the formulas in new subsection (6) avoid this problem. Paragraphs *(a)* and *(b)* make consequential changes.

Clause 6: Substitution of s. 33

Clause 6 amends section 33 of the principal Act which provides a benefit for the estate of a contributor under the old scheme who is not survived by a spouse or an eligible child. The formulas in this section are the same as those in existing section 26(5) and the new section is in line with new subsection (6) inserted into section 26 by clause 5.

Clause 7: Amendment of s.34—Resignation and preservation of benefits

Clause 7 amends the resignation provision of the old scheme in the same manner as clause 4 amends section 22.

Clause 8: Substitution of s. 50

Clause 8 replaces section 50 of the principal Act with a provision that expresses the intention more clearly.

Clause 9: Amendment of Superannuation Act 1988

Clause 9 amends section 38 of the *Superannuation Act 1988*. Subsection (7) of that section provides a benefit to the estate of a deceased contributor who dies without leaving a spouse or eligible child. It was never intended that a contributor who retires should in addition to receiving a pension until he or she dies be entitled to have a lump sum benefit paid to his or her estate. This amendment makes that intention clear. Subsection (7) was inserted by Act No. 67 of 1991 and therefore clause 2 makes this amendment retrospective to the date on which that amending Act came into operation.

The Hon. L.H. DAVIS secured the adjournment of the debate.

ADJOURNMENT

At 5.4 p.m. the Council adjourned until Tuesday 9 March at 2.15 p.m.