LEGISLATIVE COUNCIL

Tuesday 22 March 1994

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

QUESTIONS ON NOTICE

The PRESIDENT: I direct that the written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard:* Nos 18 and 23.

CONSULTANCIES

18. **The Hon. BARBARA WIESE:**

1. Is the Minister for Housing, Urban Development and Local Government Relations aware that a major private consultancy was commissioned prior to the Department of Housing, Urban Development, Local Government Relations and Recreation, Sport and Racing being established on 1 July 1993?
2. Why is the Minister advertising for another major consultancy into the same department?
3. Why is another consultancy required?
4. Why are not the previous consultants being asked to review or extend their work?
5. How much will the further consultancy cost?
6. (a) What advice and from whom did the Minister receive recommendations that a further consultancy should be commissioned?
   (b) Will the Minister make available details of that advice whether written or verbal?
7. Who advised the Minister on the anticipated costs of the further consultancy?
8. How will these funds be provided, from which budget line and will their payment mean a diminution of effort or responsibility in other program areas?

The Hon. DIANA LAIDLAW: The replies are as follows:

I Yes.

II The previous consultancy was called prior to the establishment of the Department of Housing and Urban Development on 1 July 1993. Its major task was to develop a 'concept plan' and investigate various structural and reporting options within the context of the previous Premier's April 22 Economic Statement 'Meeting the Challenge' and the decision to both reduce the overall number of departments, and bring together within the one department the SA Housing Trust, the SA Urban Land Trust, the (then) Office of Planning and Urban Development, the State Local Government Relations Unit and the (then) Department of Recreation and Sport.

It has now been almost nine months since the completion of that consultancy, and almost eight months since the department was established. It is appropriate at this junction to review the department's performance in light of its (the department's) objectives, the appropriateness of those objectives and the economic reform agenda of this Government.

III The terms of reference for the current Ministerial Review are quite distinct from that of the previous consultancy and represent a logical extension to that investigative analysis of structural options. This review aims to examine in close detail the outcomes of the previous consultancy and initiate further modifications where necessary, to ensure the department delivers the best results for South Australia.

Under the terms of reference governing this Ministerial Review, the consultant(s) will provide advice to the Minister for Housing, Urban Development and Local Government Relations on:

1. the adequacy of, and desirable changes to, the policy and management objectives, and the performance against those objectives;
2. the appropriateness and effectiveness of the management arrangements within the portfolio, with particular regard to the functions and staffing levels of the Department of Housing and Urban Development, the South Australian Urban Land Trust and the South Australian Housing Trust and associated agencies;
3. any other matter relevant to achieving optimal outcomes for portfolio programs.

IV There are three reasons for this Government's decision to publicly call for consultants to conduct the Ministerial Review:

1. Government Management Board Policies and Guidelines 05 prescribes that expressions of interest be sought for all consultancies of this nature.
2. By adopting this practice, this Government has ensured local consultants (the previous consultants, were based in Sydney) had an opportunity to compete for this assignment.
3. The task currently in hand is not only quite distinct from that which faced the previous consultants, but the environment in which that consultancy was conducted has altered profoundly. There has been a change of Government and a revision of Government priorities. The value of seeking an independent and fresh perspective in these circumstances is of great importance.

V In the order of $60 000.

VI (a) Senior officials representative of the key agencies within my portfolio.
(b) No.

VII The Minister has and will continue to receive advice on all aspects of this consultancy from a small reference panel representative of the private and public sectors.

VIII These funds will be provided by HUD. There will be no diminution of effort or responsibility in other program areas.

CONSUMER LEGISLATION

23. **The Hon. C.J. SUMNER:**

1. Has the Attorney-General established a review of consumer legislation in South Australia?
2. If so, who are the members of the review team, what are its terms of reference and when is it anticipated that its report will be completed and made public?

The Hon. K.T. GRIFFIN: The replies are as follows:

1. Yes. A review of the consumer affairs legislative framework was established on 27 January 1994 and was announced publicly at that time.

2. Members of the Review Team: Jenny Olsson (Chair), Bronwyn Blake, Kaye Chase, Susan Errington, Tony Lawson, Robert Sidford, Robert Surman and Stephen Trenowden.

Terms of Reference: The review will be undertaken in partnership with industry and consumer groups, and will include the requirements to:

- monitor changes in organisational structures which may impact on the administration of various Acts, e.g., location of tribunals and reflect these changes in the various Acts;
- advise on the development and implementation of mutual recognition, codes of conduct and coregulation in various industries;
- advise the Commissioner for Consumer Affairs on the appropriate role and function of a legal policy and advisory service in the organisation;
- review legislation and policy models and procedures in other jurisdictions;
- advise the Commissioner on appropriate changes to the investigation and prosecutorial practices of the organisation.

Anticipated completion date: Reporting will occur during the review, as each statute is considered. Completion of the overall review is expected to occur within six months of commencement.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Education and Children's Services (Hon. R. I. Lucas)—

Electricity Trust of South Australia Superannuation Scheme—Actuarial Valuation of Fund Liabilities as at 30 June 1993.

Regulations under the following Acts—

Industrial and Commercial Training Act 1981—Electrical Tradesperson (Powerline).

State Supply Act 1985—Forwood—Exempt Company.

By the Attorney-General (Hon. K. T. Griffin)—

Industrial Relations Advisory Council—Report 1993.

Rules of Court—Magistrates Court Act 1991—Magistrates Court—Civil—Personal Injuries—Notice of Claim.

Regulations under the following Acts—
Fisheries Act 1982—
River Fishery—Murray Cod.
Lakes and Coorong Fishery—Murray Cod.
General—Murray Cod—Fines.
Summary Offences Act 1953—
Road Block Establishment Authorisations.
Dangerous Area Declarations.
Workers Rehabilitation and Compensation Act 1986—
Hearing Loss.
Assessment of Non-Economic Loss.

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

Reports, 1992-93—
South Australian Local Government Grants Commission.
South Australian Waste Management Commission.
Parliamentary Committees Act 1991—Response to Report 'AIDS: Rights, Risks and Myths'.
Regulations under the following Acts—
Renmark Irrigation Trust Act 1936—General.
Urban Land Trust Act 1981—Modbury Heights Land.
Planning Act 1982—Crown Development Report—Victor Harbor Primary School.
Corporation By-laws—City of Tea Tree Gully—
No. 1—Permits and Penalties.
No. 2—Streets and Public Places.
No. 3—Parklands and Reserves.
No. 4—Swimming Centres.
No. 5—Garbage.
No. 6—Dogs.
No. 7—Animals, Birds and Bees.
No. 8—Caravans.
No. 9—Flammable Undergrowth.

DISORDERLY BEHAVIOUR

The PRESIDENT: On Tuesday 22 February 1994, the Hon. George Weatherill asked me a question about the behaviour of people outside the Parliament House building. I have met with Sgt. John Wallace and a constable from the Hindley Street Police Station, the Speaker and the Clerks from both the Legislative Council and the House of Assembly. Sgt. Wallace agreed that there was a problem and sought further information from those present. He said that the Hindley Street Police Station did not have sufficient personnel to patrol the area in question on a regular basis but that whenever a complaint was received police were dispatched as soon as possible.

Because of restrictions on police patrols, it was agreed that the police on duty in Parliament House could inspect the area in question on a random basis and prior to members and staff leaving the Parliament after a day's sitting. It was recommended at this meeting that the lighting of the Parliament House facade be improved, more especially the south-west corner of the building and Old Parliament House. Sgt. Wallace undertook to contact the Adelaide City Council regarding illumination ratings and the possible positioning of lights to obtain the maximum benefit. The matter has been discussed at a monthly meeting of the ASER Security Group, which consists of tenants of the buildings on North Terrace as well as police officers. As members will appreciate, after hours entrance to Parliament House can now be made through the south-eastern front door, which may be preferable to the south-western side door.

WOMEN, STATUS

The Hon. DIANA LAIDLAW (Minister for the Status of Women): I seek leave to make a ministerial statement about the status of women.

Leave granted.

The Hon. DIANA LAIDLAW: As Minister for the Status of Women, I am honoured and challenged by the clear mandate that has been given to this Government by the women of South Australia. Women are saying that they want a Government which is in tune with and responsive to the issues and concerns that face women in the 1990s. They want Government policy and programs which are representative of those issues and concerns. They want tangible expressions of commitments to equality, participation and representation. Today I wish to outline two initiatives the Government has taken that are fundamental to this agenda.

In line with our election commitment, Cabinet has endorsed the establishment of a Women's Advisory Council, comprising up to 14 members who will provide a direct channel of advice to Government through myself as Minister for the Statues of Women. Appointments for terms of one or two years will be made to the council by the Governor in Executive Council, and I am currently calling for expressions of interest from women across South Australia. In recommending the appointments to the council, it is my firm intention to ensure that there is a balance of skills and expertise, interests and backgrounds which will reflect priority areas in tune with the Government's broader program. The membership of the initial council will focus on: first, women and representation; secondly, women and the economy; thirdly, women and violence; and, fourthly, women in rural and regional areas.

The operations of the council will be organised to ensure that there are clear outcomes in terms of timely and responsive advice. In that respect, I am delighted that Ms Dianne Davidson has agreed to be nominated as Presiding Member of the council. Her experience as a noted viticulturist and business consultant and as a wife and a mother of a young daughter, and her long time commitment to improving the status of women will be invaluable in her role of chairing the council—the peak advisory body for women in South Australia.

The second initiative endorsed by Cabinet is the establishment of an Office for the Status of Women which will report directly to me. The office will operate as an independent unit located within the Department for the Arts and Cultural Development. Ms Jayne Taylor has left the position of Women's Adviser to the Premier, and that position has been abolished.

Funding and corporate support for the Women's Information and Policy Unit will be transferred to the Office for the Status of Women. Ms Linda Matthews has been appointed Acting Director of the office for an initial period until mid-May 1994. The creation of the Office for the Status of Women will significantly upgrade the strategic position of women's policy advice within Government—an important and long overdue initiative, because the general structure of women's policy advice has remained virtually unchanged since it was established in the late 1970s.

As a Government of the 1990s, we must acknowledge that being strategic is about providing:

1. a structure whose work program is in concert with the broader Government program;

2. a structure that can respond quickly and coherently to Government decision making;

3. a structure which is focused on the future and which is ready to make a contribution as agendas develop;

and

4. a structure which is linked directly into Cabinet through a Minister with specific portfolio responsibility.

I am pleased to inform members that the Government has determined from the outset the Office for the Status of Women will work in this way. Also, I have ensured that there will be ongoing commitment to the involvement of the office in a three month strategic planning process being prepared for Cabinet. No longer will the role of the office be confined to sighting and commenting on relevant submissions to Cabinet just days before they are considered by Cabinet. In addition, Cabinet has agreed that an assessment will be made of advice mechanisms across Government—

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —under the leadership of Ms Linda Matthews. The assessment, which is due to be completed by mid-May, will look at the structure and functions of women's policy advice deployed across Government, including the relationship between the Women's Advisory Council and the new Office for the Status of Women. It will make recommendations about how the Government can achieve a more effective and coherent policy advice system for women, and it will review those functions which are funded by Government through grants attached to the Women's Information and Policy Unit in terms of giving effect to Government policy.

Finally, I am on public record as acknowledging the important contribution Ms Taylor and her predecessors in the Women's Adviser role have made to the women of South Australia in setting the agenda. However, future challenges for Government in advancing the status of women are in demonstrable action. The Government is confident that the initiatives I have outlined will achieve such action, and in the process help to realise our goal to ensure women participate fully and equally in all spheres of our society. We are confident the initiatives outlined are in tune with the concerns of the broad cross-section of South Australian women.

QUESTION TIME

MAGISTRATES

The Hon. C.J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a question about resident magistrates.

Leave granted.

The Hon. C.J. SUMNER: Since the late 1970s, a system of resident magistrates has been in place in major country centres in South Australia—Mount Gambier, Port Augusta and Whyalla—and it has been argued that a resident magistrate could also be placed in the Riverland. The system of resident magistrates, which was instituted by the Labor Government in the late 1970s, operates in this State and virtually all other States of Australia.

In addition to providing an enhanced service to country people, it also provides a service indirectly because of the presence of the legal profession and legal practitioners in those cities. Certainly, if there are not resident magistrates in those cities, then there will in all probability be a decline in the number of legal practitioners and therefore a decline in the service available to country people.

I should say that at the last election the Liberal Party made much of its support for country areas and was reasonably vocal in its criticisms of the former Government in that respect. Mr President, now comes the test for the Brown Government in this respect: will it support what it said prior to the election or will it let this issue go by?

The magistrates who have been engaged and appointed over the past six or seven years—and it may even be a little longer than that—have all undertaken to do country service, that is, to be a resident in one of these cities. It is a specific undertaking that all those magistrates have given. Indeed, at the time of their appointment a letter was written by me to them confirming that undertaking, and I am sure that the Attorney-General would be aware of that.

Although the Courts Administration Authority, and in particular the Acting Chief Magistrate, has now sought to throw some doubt on the cost benefits of resident magistrates, there is no doubt that the last time that an analysis was done on the cost benefit of resident magistrates they were certainly cheaper than the alternative which is being proposed, that is, the servicing of these country areas by circuit.

It is no secret that the Chief Justice has long been opposed to resident magistrates and indeed attempted, while I was Attorney-General, to have resident magistrates removed. I regard the arguments put forward by the courts to oppose resident magistrates as quite spurious and without foundation.

The Hon. R.I. Lucas: Is that your opinion?

The Hon. C.J. SUMNER: That is how I regard it, yes.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: Undoubtedly, yes.

The Hon. L.H. Davis: They're looking all surprised behind you.

The Hon. C.J. SUMNER: I wouldn't have thought so. As I said, that is particularly in the light of the fact that virtually every other State in Australia seems to be able to operate a system of resident magistrates. Now it seems that with a new Government, albeit with a commitment to enhancing country services, the Courts Administration Authority and the Chief Justice have taken the opportunity to test the new Attorney-General on the topic, having been told quite clearly by the former Government that the abolition of the resident magistrates system was not on.

Of course, there is now in place an independent courts administration which is a result of legislation introduced by me and passed by the Parliament and which was the subject of considerable comment, including referral to the Legislative Review Committee.

One of the points that the current Attorney quite rightly made at that time is how you reconcile the independent courts administration proposal with ministerial responsibility. However, the argument was resolved after submissions from the Chief Justice in a way which affirmed the principles of ministerial responsibility for the expenditure of funds. The independent courts administration did not therefore mean that decisions would be made by the new authority without the responsible Minister being informed and playing some part in it. Indeed, instructions can be given under the Public Finance and Audit Act to the Courts Administration Authority if necessary. There is control by the Government over the budget of the Courts Administration Authority, and these mechanisms can be used to ensure ministerial responsibility.

However, this issue highlights the problem of whether in practice we will be able to achieve ministerial responsibility for the operation of the courts while still having an independent courts administration. I regard this matter as a test of that situation, which was fully debated and raised quite properly by the Attorney-General when in Opposition.

If this test case means that conflict between the independent courts administration and ministerial responsibility cannot be resolved, then perhaps the Parliament may have to look at the legislation again. I note that in another place the Hon. Frank Blevins, the member for Giles, has introduced a Bill to deal with it. So, my questions to the Attorney-General are as follows:

1. Does he support the decision of the independent Courts Administration Authority to abolish the system of resident country magistrates?

2. What representations has he made to the Acting Chief Magistrate, the Chief Justice or to the Courts Administration Authority in relation to this matter and, if such representations were made in writing, will he table those representations?

3. Has the Attorney given consideration to giving directions to the Courts Administration Authority under the Public Finance and Audit Act to continue the system of resident country magistrates? If he is not prepared to give such directions, what other action does he intend to take to ensure that the service to country people is maintained?

4. Will the Attorney-General make representations to the independent Courts Administration Authority to defer implementing this decision while the Bill to deal with the issue is before the Parliament?

The Hon. K.T. GRIFFIN: The Liberal Party remains concerned to ensure that a good service is provided to country people. Of course, one of the issues that arises out of this is whether or not it will get a better service in terms of quality of justice compared with the service that country people have had in the past. The difficulties have arisen very largely because the previous Government introduced the Courts Administration Authority legislation. The then Attorney-General was pushing for it quite strenuously, and if you check the *Hansard* you will see that I expressed a great deal of concern about the extent to which a Government of the day would be able to exercise what might be regarded as appropriate authority to deal with a number of the issues that face a Government in providing services.

At the time I can remember specifically raising the issue of the location of courts: whether there would be a court at such and such a place and who would have control over the decision as to where a court should sit. That probably was satisfactorily resolved under the Act. The difficulty, though, is whether you then move on to the point of giving directions about how the court is to be provided at a particular location: whether it is by way of resident magistrate, circuit court judge or resident judge, or whatever, or whether it is by way of the circuit magistrates.

I know that the argument has been raging for the past 20 years about whether or not a good service is provided by resident magistrates and whether it was fair and reasonable, in attempting to get the best possible service for provincial centres, that we should require magistrates to serve in a country location. If you look at it objectively, what does the undertaking mean? The undertaking is that a magistrate, when appointed, will be required to serve in a country location for two years: not for an indefinite period but for two years. So, what you have in a country location if the magistracy seeks to compel adherence to the conditions of the undertaking by the Government is a significant turnover of magistrates every two years.

One must ask: what level of permanency does that give, if you have a magistrate who is living in a centre for two years and then comes back? There is no permanency in the real sense of that arrangement. You have other pressures, such as the magistrate up in the Iron Triangle who comes back to Adelaide every weekend, and that is the magistrate's choice and, of course, is at the magistrate's expense. But that is peripheral to the major issue. So, notwithstanding the undertaking to go to the Iron Triangle for two years, which the magistrate is presently serving out, the magistrate is not there on a full-time basis all the time. The magistrate is commuting, in effect, between—

The Hon. C.J. Sumner: He is there. He is there full time for the whole of the week.

The Hon. K.T. GRIFFIN: Then what is different if you have a circuit magistrate who is there for the week?

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: They will be there for as long as the work is required. The Attorney-General brings into play this rather spurious furphy that, if the magistrates visit rather than live there, somehow or other there will be a decline in the number of legal practitioners.

The Hon. C.J. Sumner: Undoubtedly.

The Hon. K.T. GRIFFIN: It does not follow logically. If you have the same number of cases—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Only one has written: Clive Kitchen from Port Augusta is the only one. But if you look at it objectively, you have the same number of cases. What does it matter? Presumably, you have the same number of hearing days; you certainly have the same support staff there.

The Hon. C.J. Sumner: More of the hearings will be brought to Adelaide. That is what will happen in future. You know that.

The Hon. K.T. GRIFFIN: It will not happen. Why should it happen if all the witnesses are in Port Augusta, Port Pirie or Whyalla? It would be a severe dereliction of duty for a magistrate to refer everything back to Adelaide.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Significant cases. You have that problem to some extent—

The Hon. C.J. Sumner: There will be no magistrate in place to hear restraining orders.

The Hon. K.T. GRIFFIN: That can be dealt with urgently. You introduced legislation, and we passed it, that you can have telephone orders.

The Hon. C.J. Sumner: I know. It was a good idea.

The Hon. K.T. GRIFFIN: Fine. That deals with your problem.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Now we have some concessions. Mr President, the fact of the matter is that there is a controversy about it, as to whether or not—

The Hon. C.J. Sumner: You agree with the decision?

The Hon. K.T. GRIFFIN: I have reservations about it. I know what the perception is among country people. In Mount Gambier, the *Border Watch* is expressing concern, although it has changed its tack in the way in which it is approaching it. Local practitioners of the Regional Lawyers Association have said that it is prepared to support the proposition. The local member (Harold Allison) supports the proposition.

The Hon. R.R. Roberts: That's a surprise.

The Hon. K.T. GRIFFIN: He is the local member. He has won 82 per cent of the vote. When he went in it was a marginal seat. It has not done him any good to stand up and be counted on some of these issues? Look at Frank Blevins up in Whyalla. He was hanging on to his seat by a mere hair's

breadth. What has he done to serve the Iron Triangle? Not much, except to raise a question about this particular issue.

The Hon. Anne Levy: Don't be so ignorant.

The Hon. K.T. GRIFFIN: I am not ignorant, because he has not done much for the Iron Triangle.

Members interjecting:

The Hon. K.T. GRIFFIN: Mr President, you could write on a postage stamp what the Hon. Mr Blevins has done for his electorate. If one makes a comparison between the Hon. Graham Gunn, the Speaker: he is all over the place in his electorate, always serving his constituency.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. Roberts: You are not making another run for the leadership, are you?

The Hon. K.T. GRIFFIN: Mr President, the fact of the matter is I have concerns about ensuring that there is a good level and a good quality of justice in—

The Hon. C.J. Sumner: Do you support the decision?

The Hon. K.T. GRIFFIN: It is not for me to support it or refuse it. You know that. The Chief Magistrate has put to me a proposition which he is implementing. He has indicated—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: I have had discussions with him about the reasons for it. He has put it to me and you have a copy of that. The other fact of the matter is that there are six magistrates who remain with that undertaking. One of them has gone off on stress leave so we have five left. We cannot possibly maintain the pool because there are no vacancies. The previous Government took the decision that there ought to be a reduction in the magistracy of two, so we do not have that pool which, in the longer term, will service this circuit requirement. All that I ask is that members consider seriously what is going to deliver the best form of justice. There are some very good arguments in favour of what the Chief Magistrate is proposing, but I have indicated that I want to ensure that there is a good level and a good quality of justice delivered in these locations. The assurance which the Acting Chief Magistrate has given is that that will be the case and he has undertaken that in the implementation of this he will keep me informed. I am sure that members opposite, as well as my own members, will keep me informed if there are particular problems in the administration of it.

The Hon. R.R. Roberts: It is too late.

The Hon. K.T. GRIFFIN: It is not too late because you still have a pool of five magistrates. There are no more new magistrates coming on in the next—

An honourable member interjecting:

The Hon. K.T. GRIFFIN: Your leader asked the question—

The Hon. R.I. Lucas: And he keeps interjecting.

The Hon. K.T. GRIFFIN:—and everyone keeps interjecting. Do you want the answer or not?

The Hon. Anne Levy: You do not have to fill three pages of *Hansard* with the answer. Just give the answer and sit down.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: I was giving the answer; but if members keep interjecting we will be here all day. Mr President, I have not considered directions under the Public Finance and Audit Act. I doubt if that is possible, but I will examine the legislation. I have had some discussions with the Chief Magistrate and with the Chief Justice. I have reservations about it, but there are also some good arguments in favour of it and I am prepared in the circumstances not to intervene.

The Hon. C.J. Sumner: They probably would not do it.

The Hon. K.T. GRIFFIN: Well, they would do it. I am prepared to allow the matter to proceed as it is for the time being, and we can make an assessment of the quality of service in 12 months time.

SELLICKS HILL CAVES

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister representing the Minister for the Environment and Natural Resources a question about the future of the Sellicks Hill quarry cave.

Leave granted.

The Hon. CAROLYN PICKLES: Independent reports commissioned by the Ministers responsible for the Department of the Environment and Natural Resources and the Department of Mines recommended that a moratorium be placed on blasting within 15 metres of the cave until underground investigations are completed, new data assessed and a decision made on the long-term future of the cave. This advice was ignored, however, by the Minister for the Environment and Natural Resources when he overturned a State Heritage Authority order and gave the go-ahead for mining to continue at the cave site.

I am informed that this decision has been publicly criticised by the member for Kaurna and that the Minister has ignored the views of his own Party's environment committee. My question is: on what grounds did the Minister ignore the advice to assess the value of the Sellicks Hill quarry cave, and will he reverse his decision as a matter of urgency before any further damage is done to the underground system?

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

HINDMARSH ISLAND BRIDGE

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

Leave granted.

The Hon. R.R. ROBERTS: Last week, the Minister announced that we will probably go ahead with the erection of the Hindmarsh Island bridge. On that occasion, she referred to the imposition of a $5 toll, which I understand will be discriminatory in that it will not apply to permanent residents of the island or those attending to business on the island but to visitors. Some of my constituents in that region have asked me a number of questions which concern them. I understand that, once the bridge is built, the question will be asked whether the bridge will be controlled by the local council, thus becoming a local road, or whether it will be deemed to be part of a highway with its maintenance and upkeep becoming the responsibility of the Government. My questions are:

1. Do we actually have the power in this State to impose a toll on a bridge; if so, who will collect the toll and who will pay the wages of the toll keepers?

2. If there is a shortfall in the difference between the cost of running the system and the toll collections, will the Government make up that shortfall; if it is cost neutral, will the Minister consider not having a toll at all?

The Hon. DIANA LAIDLAW: The honourable member has asked a series of questions, but before I address those I want to take issue with the reference to the $5 toll. My press release and my earlier submission to Cabinet, which was approved by Cabinet, made no reference to the cost of a toll. The press release stated:

> In an effort to control access to the island and the Coorong area, the Government will support a toll for visitors to Hindmarsh Island following discussions with interested parties.

During the press conference, when asked about what value the toll could be, I indicated that Mr Sam Jacobs had canvassed the issue of the toll in his report and that in subsequent discussions with him he had suggested to me that up to $5 would be appropriate in his view. For some reason, since that press conference, $5 has become the magic figure with no flexibility at all and with no reference being made of 'up to $5', which was the suggestion given to me by Mr Jacobs and the advice that I provided to the press conference.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: So is this issue that we have inherited, thanks to you. The figure that we would be looking at is up to $5.

The Hon. L.H. Davis: The Barbara Wiese memorial bridge.

The Hon. DIANA LAIDLAW: No, John Bannon's memorial bridge and perhaps Barbara Wiese's as well.

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: Yes, that is coming. You will have what is appropriate by the end of the week. So, the figure that is being considered is up to $5, and this matter will be discussed with the relevant parties, including the local council.

It is possible in terms of this discussion that the toll could be collected either by the council or a private contractor or there could be a system where one purchases a ticket, as under the STA Crouzet system. There would be no labour costs involved in that sense; there could be franchise agencies, such as that which the STA uses.

In terms of how such a toll would be collected, I refer to a Cabinet submission of 7 December 1992 by the former Minister of Transport Development (Hon. Barbara Wiese) when she canvassed the issue of a toll in the context of a tripartite agreement, which Cabinet approved at that time. In that submission the Minister states:

> An alternative fallback position for Government—

in relation to the tripartite agreement—

> in the event that any special council rate is declared *ultra vires* or the Government otherwise fails to receive adequate contributions through lack of development or other causes would be to implement a system of tolls on use of the bridge. For strategic reasons of preserving this option—

so, in 1992, the former Government wanted to preserve the option of a toll notwithstanding the tripartite agreement that it was about to enter—

> the proposed tripartite agreement preserves ownership of the bridge in Government whilst sheeting home financial responsibility for maintenance to the council.

That answers the honourable member's question in respect of who will control the bridge. The former Government, as part of the tripartite agreement, agreed that the ownership would be preserved in the Government. The submission continues:

> A toll system would require legislation and entails a number of practical issues relating to methods and costs of collection and whether island residents should receive concessions.

As I have indicated, the Liberal Cabinet has agreed that the toll would apply to visitors and that island residents would not be subject to the toll, although of course residents of all new developments would be subjected to the levy as part of the tripartite agreement. The submission continues:

> However, a benefit would be that casual visitors to the island who probably constitute a significant proportion of travel to and from the island would contribute whereas they would not contribute under the currently proposed arrangements—

those arrangements being the tripartite agreement. The submission continues:

> It is possible that either council or the private sector could be contracted to implement a toll scheme. A net return to Government of less than $1 per vehicle crossing would probably yield a higher contribution than the current proposal involving council and developers.

That is the end of the reference in that submission by the Hon. Ms Wiese, former Minister of Transport Development.

Clearly, a toll was considered by the former Government, and that option was preserved by the former Government notwithstanding the tripartite agreement that the Government subsequently negotiated. The former Government considered that either the private sector or the council could implement the toll system, and those options could continue to be the options that we will discuss with council.

In terms of the figure of $1 that the former Government considered, I repeat that it was seen that that figure would probably yield a higher contribution than the current proposal involving the council and the developers. In terms of the toll, what we have indicated that we would seek to implement, or certainly support, is that we would use that toll not only to help offset the cost of the bridge but for environmental management purposes on the island.

Members will recall that the SDP, which was approved late December, provides for most of the southern end of the island to be a conservation zone, but we also need the means to administer that conservation zone. As one who loves the Coorong, I am keen to see in the future more strict administration of the Coorong area to protect it from environmental vandalism and damage. So, a toll would be used for the management of that area for the benefit to the public.

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

Leave granted.

The Hon. M.J. ELLIOTT: In the ministerial statement given by the Minister for Transport on 15 February in relation to the Hindmarsh Island bridge, the Minister noted that the Government had inherited a series of contractual obligations—and some other people noted there was nothing particularly new in that information. During that ministerial statement, the Minister also said, in part:

> Reference is made by Mr Jacobs in his report to advice from the Crown Solicitor that the outcome of Mr Bannon's negotiations with Westpac is a Government undertaking to build a bridge and to accept the responsibility for the up-front costs of such a bridge. The Crown Solicitor has advised that this is a binding obligation for breach of which the State would be likely to incur liability to Westpac.

A little later in the same statement, the Minister said:

> . . . Mr Jacobs has advised the decision not to proceed with the bridge will have a number of consequences including the following:
> · the State will face substantial claims for damages for breach of contract by Westpac, Binalong, the bridge contractor and possible claims by purchasers of allotments in stage 1 of the Binalong development.

She noted that those possible claims could amount to about $10 million. On the same day, the Minister was asked a question about the bridge. In her answer, she said:

> . . . Westpac has indicated that it would be interested in litigation and may well do so even with the current bridge project going ahead because of the delays that have occurred since former Premier Bannon announced that the former Government would proceed with this bridge.

I understand that the answer that the Minister gave in relation to the question is factually incorrect—at least at this stage—because Westpac is not in a legal position to take up litigation, and that could happen only if Binalong went broke. I understand that it is not in a legal position to initiate any litigation at this stage. That is the advice that I have. In either regard, in the light of some proposals to solve the Hindmarsh Island bridge dilemma, the choice of words used by the Minister are important. While it is clear that the Government has legal obligations in relation to the bridge construction, there are two matters which need to be addressed: first, whether there has been a clear indication from involved parties that they would, indeed, go to court; and, secondly, whether these obligations might be waived in some circumstances.

A proposal that has been put to me is that, if the Binalong development was to proceed with the planning requirement for bridge construction being waived, which is the major impediment that it faces, if two ferries were installed, with residents gaining priority access, and if no new developments on the island were approved—and three other marina developments are now planned—this package would maintain and even enhance the value of the Binalong development and would suit both Binalong and Westpac. Also, the interests of the bridge builder would be much smaller by comparison, such that it could be bought out. The alternative to that is a protracted confrontation which will be costly to all involved. That is why the choice of words is important.

Will the Minister indicate whether she has personal knowledge in relation to each of the interested parties as to whether they have indicated an intention to litigate? Can she indicate which parties and whether they have a negotiable position? Is the Minister aware whether any Government members have had initiated or currently have threats of litigation in relation to any personal comments they have made on this issue?

The Hon. DIANA LAIDLAW: In relation to the second question, the answer is 'No'. With regard to the first question, I have not spoken to all parties involved with this bridge, so therefore I do not have personal knowledge of these matters. What I do have is advice from Mr Sam Jacobs, and this was exactly the reason why he was appointed for this task: so that he could speak to all the parties involved in this mess to find out what the funding and contractual arrangements and, therefore, the obligations were for the Government. It was for that reason that he was engaged in this project. It is his assessment that the State will face, as the honourable member noted in reference to my ministerial statement, substantial claims for damages for breach of contract by Westpac, Binalong, and the bridge contractor and possible claims by purchasers of allotments in stage 1 of the Binalong development.

The Hon. M.J. ELLIOTT: As a supplementary question, will the Minister please answer the question, that is, does she have any personal knowledge of any of these parties threatening litigation as distinct from an obligation existing, which nobody has denied?

The Hon. DIANA LAIDLAW: I did answer the question. With respect to Mr Jacobs' report, I said that the State will face substantial claims for damages for breach of contract by Westpac, Binalong, and the bridge contractor and possible claims by purchasers of allotments in stage 1 of the Binalong development. In addition, I have spoken with Mr McDonald, who has been engaged by Westpac, because I wanted to explore this option of the barrage bridge link to see whether—after we had received initial reports from Connell Wagner, which was engaged as the management consultant to do an engineering study of this barrage bridge link—this option would meet Westpac's legal needs and suit its purposes in terms of a bridge to Hindmarsh Island. It is a bridge that we are obligated to build following the discussions and agreements reached between the former Premier (Mr Bannon) and Westpac. We are obligated to build a bridge. We have sought to explore that option in terms of the barrage bridge link. That option did not meet with Westpac's expectation or needs, and I was told at that stage that, if we did not proceed with the bridge as proposed and as it claims was promised by Mr Bannon, an uninterrupted bridge, then we would still face the substantial litigation as outlined by me in this place arising from Mr Jacobs' report.

COURT SECURITY

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about guns.

Leave granted.

The Hon. A.J. REDFORD: Mr President, as—

The Hon. T. Crothers interjecting:

The Hon. A.J. REDFORD: Wait and listen and then you can make your comment. It has come to my attention that on Saturday 12 March 1994 the solicitor acting on behalf of a Mr Perre, the man who has been charged with the murder of a police officer in relation to the NCA bombing, was stopped by police some time after Mr Perre's appearance in court that morning. The police discovered that he had in his possession a loaded .38 calibre pistol. The pistol was loaded with ammunition which could not be purchased in Australia and which was not target ammunition. I understand that the solicitor in question is a member of a pistol club. I also understand that the solicitor in question had attended court in relation to Mr Perre's appearance and had also previously attended upon Mr Perre in the City Watch-House.

This obviously raises important and serious questions concerning court and prison security, particularly in cases of this kind which everyone here would agree are of a most serious nature. My questions to the Minister are:

1. Can the Minister confirm that a gun was not taken into either the court or the City Watch-House, particularly when one has regard to the nature of the offence with which Mr Perre has been charged; and

2. If in fact it cannot be confirmed that he did not take a pistol into court or to the watch-house, will the Minister consider reviewing court and watch-house security arrangements?

The Hon. K.T. GRIFFIN: I am certainly not aware of the details of this matter, but I will undertake to refer that part of it which relates to the City Watch-House and to the police alleged detection to the Minister for Emergency Services and bring back a reply.

In respect of the court security aspect, obviously it is a matter of concern if there is some inadequacy in the court

security system, but I will have some inquiries made about the general question of security and in relation to this particular matter and bring back a reply.

MAGISTRATES COURT

The Hon. ANNE LEVY: I seek leave to make a brief explanation—and it will be brief—before asking the Attorney-General a question about toilets in magistrates courts.

Leave granted.

The Hon. ANNE LEVY: Last week the Attorney very kindly organised for a number of members of Parliament and their staffs to visit several centres in Adelaide concerned with his portfolio, and amongst these was the temporary Magistrates Court in the old tram barn in Angas Street. I realise this is a temporary habitation only and that eventually the magistrates will return to their former building.

Whilst viewing this building we were able to visit an area which was not a public area but where the magistrates themselves and their staff and other court officials work, and wandering down the passages I noticed there were doors labelled 'Male magistrates toilet' and 'Male clerks toilet', and a bit further on 'Female magistrates toilet' and 'Female clerks toilet'. Upon making inquiries as to why the male magistrates and clerks could not pee together and why the female magistrates and clerks could not likewise share the one toilet, I was told, 'Oh, it has always been like this': that the magistrates and clerks have never peed together.

The Hon. R.I. Lucas: Did you have a Minister's toilet?

The Hon. ANNE LEVY: This is not a public area.

The Hon. R.I. Lucas: Did you have a Minister's toilet?

The Hon. ANNE LEVY: I am talking about the magistrates. It is not a public area.

Members interjecting:

The PRESIDENT: Order! This is a brief explanation.

The Hon. ANNE LEVY: It will be, Mr President, if you can keep the Government benches a little quieter. I also noticed whilst walking around the public areas of the Magistrates Court that there were a lot of mothers with young children, many of them crying and many of them obviously needing attention. There was no private area where mothers could take their children and there were no child-care provisions at all where the children could go while the mothers went into court either as defendants, supporters, spouses or witnesses. My question is: will the Attorney-General ensure that, when the Magistrates Court is completed at the old address in Victoria Square, money is saved by combining the male magistrates and male clerks toilets and likewise combining the female clerks and female magistrates toilets, thereby halving the number of toilets required? The money saved could then be spent providing within the Magistrates Court proper child-care facilities, which would be of inestimable benefit to the many mothers with young children who obviously spend a great deal of time in the corridors of the Magistrates Court.

The Hon. K.T. GRIFFIN: I am pleased that the honourable member was one of those who did participate in the tour of the various agencies for which I have some responsibility. It was a non-political opportunity for members of all Parties and I am pleased that they did participate.

The Magistrates Court, as the honourable member says, is in temporary premises. I and the Liberal Government, of course, had nothing to do with the move from the old building to the temporary building. This was done three or four years ago by the previous Government, and I was not aware even at that stage of what the planning was for facilities, but it was certainly the previous Government that put the court there at a cost well in excess of $1 million.

Work on the old Magistrates Court building, which was destined for substantial upgrade, was put on hold by the previous Government. We are seeking to get it into the list of priorities for court buildings. My view is that certainly there ought to be adequate facilities for women and children in particular—particularly mothers with young children—as there ought to be facilities to ensure that witnesses are kept separate from defendants.

I am not aware what the arrangements were for separate facilities for magistrates and staff in that building. Of course, Ministers have en suite bathroom facilities in their offices, and one might say there is some distinction there. I am not deriding it: I regard it as a serious question. I will refer it to the Courts Administration Authority, which is substantially independent, and I will bring back a reply answering in full the matters that the honourable member has raised.

GAMING MACHINES

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a ministerial statement on the subject of gaming machines made by the Deputy Premier and Treasurer today in another place.

Leave granted.

STATE BANK

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a ministerial statement on the subject of the corporatisation of the State Bank made today by the Deputy Premier and Treasurer in another place.

Leave granted.

GROYNES

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister for the Environment and Natural Resources a question about groynes.

Leave granted.

The Hon. BERNICE PFITZNER: These groynes are not the human anatomical sort: they are low walls built out into the sea to prevent erosion of the foreshore. Approximately 18 months ago I visited Southend and met with the residents in the area with regard to erosion of their beach at Southend and their concern that the caravan park was under dire threat of being completely eroded. At that stage the residents suggested that groynes be placed to alleviate the problem. I understand that this strategy was not supported by the Coastal Management Branch.

The Environment, Resources and Development Committee tabled on 10 February a report which looked at this problem and which stated that history shows that considerable erosion has occurred to the dunes near the Lake Frome drain outlet, with the dune front receding approximately seven metres in the past 100 years; in recent times the erosion has become a major concern. Further, a portion of the town caravan park is now vulnerable to erosion.

There is a disagreement between the Coastal Management Branch and the South-East Water Conservation Branch as to

the cause of the accelerated erosion at Southend. In 1985, the South-East Drainage Board and the Coastal Protection Board built a trial rock training wall, and another in 1988. Recently the council erected a small trial groyne, which was greatly discouraged by the Coastal Protection Board. A sand replenishment program was initiated by the Coastal Management Branch and to date this has cost $152 000. This program has been strongly criticised by the community and the Millicent council.

The Coastal Management Branch and the then Minister of Environment and Planning undertook to review the protection strategy for Southend in 1992. This review was deferred for a number of reasons and a new survey was scheduled for October 1993; this has not been completed. A report stated that erosion will result in the loss of the caravan park and toilet blocks in five to 15 years. The training walls and beach replenishment strategy do not appear to be successful and are proving rather costly. My questions to Minister are:

1. Will the Minister take up the committee's recommendations to construct a groyne field to the east of the caravan park, that the council's small groyne be lengthened and that the length of the eastern training wall be slightly reduced—a recommendation that the residents suggested to me long ago?

2. In view of the ERD Committee's statement that it is unfair to expect this small community to have its viability as a tourist destination threatened while bureaucracies debate about who is responsible for reparation of the problems at Southend, will the Minister also take up the other recommendation that a working party be established consisting of representatives from the Coastal Management Branch, the South-East Water Conservation and Drainage Board, the Millicent council, the Southend Progress Association and the Department of Marine and Harbors to formulate a solution to the foreshore erosion problems that exist at Southend?

3. If the recommendations are taken up, how will they be financed?

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

CONSTITUTION (MEMBERS OF PARLIAMENT DISQUALIFICATION) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Constitution Act 1934. Read a first time.

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

That this Bill be now read a second time.

This Bill deals with two matters concerning the disqualifications of members of Parliament. Following the 1992 High Court decision in the case of *Sykes v Cleary and Others* concerns have been expressed regarding the interpretation of sections 17 and 31 of the Constitution Act 1934, particularly as to how they impact on members who have acquired or used a foreign passport or travel document.

Section 17 of the Constitution Act 1934 provides:

> If any member of the Legislative Council. . .
> (b) takes any oath or makes any declaration or act of acknowledgment or allegiance to any foreign prince or power; or
> (c) does, concurs in or adopts any act whereby he may become a subject or citizen of any foreign State or power. . .
> his seat in the Council shall thereby become vacant.

Section 31 similarly provides for vacation of House of Assembly seats but there is an additional proviso, namely:

> (d) becomes entitled to the rights, privileges or immunities of a subject or citizen of any foreign State or power.

In *Sykes v Cleary & Others* the High Court was asked to determine if two candidates, both naturalised Australian citizens, were capable of being elected as members of the House of Representatives while, by operation of the law of Switzerland and Greece, they remained citizens of Switzerland and Greece respectively.

Section 44 of the Commonwealth Constitution provides:

> Any person who:—
> (i) is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power. . .
> shall be incapable of being chosen or of sitting as a Senator or a member of the House of Representatives.

The High Court interpreted this provision as requiring a candidate who is an Australian citizen and also a citizen of a foreign country by operation of the law of the foreign country to take reasonable steps to renounce that foreign nationality.

The South Australian provisions are not in identical terms to Section 44(i). However, the decision in *Cleary* has resulted in an examination of the effect of sections 17 and 31 of the Constitution Act.

The South Australian provisions apply not to candidates but rather to persons who are already members of the Legislative Council or House of Assembly. A member's seat becomes vacant only if the person while a member pledges allegiance to a foreign power or does, or concurs in or adopts any act whereby he may become a subject or citizen of any foreign State or power, or, in the case of a member of the House of Assembly, becomes entitled to the rights, privileges or immunities of a citizen of a foreign state. Thus, sections 17 and 31 of the Constitution Act 1934 do not prevent a person who holds dual citizenship from becoming a member of Parliament but once elected a member must not become a citizen of another country.

It may be that a member who sought a foreign passport or who travelled on a foreign passport is in breach of these provisions. The sections can, however, be read down, and one would expect that they would be read down so that these actions did not fall within them. It may be argued that the mere obtaining of a passport (which is only a request by a State to permit persons to travel freely) does not constitute a relevant act. Nevertheless the point is, at least, arguable and the Government believes the issue should be clarified.

This Bill accordingly amends sections 17 and 31 to make it clear that a member's seat is not vacated because the member acquires or uses a foreign passport or travel document.

Section 31 is further amended by deleting paragraph (d). The Government does not believe that a member should be at risk because of the operation of a foreign law. It is a different matter if the member takes some positive action to become a citizen of another country, and paragraphs (b) and (c) will continue to cover this.

The second aspect of members' qualifications dealt with in this Bill is the disqualification of members entering into

contracts and agreements with the Government. Sections 49 to 54 of the Constitution Act, 1934 are repealed.

Section 49 of the Constitution Act at present provides, *inter alia*, that any person who directly or indirectly, for his use or benefit or on his account, undertakes, executes, holds or enjoys in the whole or in part any contract, agreement, or commission made or entered into with or from any person for or on account of the Government shall be incapable or being elected, or of sitting or voting, as a member of Parliament during the time he executes, holds or enjoys any such contract, agreement or commission or any part or share thereof, or any benefit or employment arising from the same. As an aside, Mr President, I should say that the Constitution Act was obviously written before the days of inclusive language.

Section 50 of the Act renders void the seat of any member of Parliament who so enters into, accepts, undertakes or executes any such contract, agreement or commission and section 53 provides that any person can take proceedings in the Supreme Court or any other court of competent jurisdiction to recover the sum of $1 000, plus costs to be forfeited by the member. Section 51 contains a list of exemptions from the application of sections 49 and 50. Because of the provisions of sections 49 and 50, there are a number of contracts, agreements and commissions which members of the public can enter into with or accept from the Government, but if entered into or accepted by a member of Parliament, he or she could lose his or her seat in Parliament.

The exemptions in section 51 were last amended in 1971 to ensure that members of Parliament were not prevented from doing business with SGIC when it commenced operations in January 1972. The amendments also extended the exemptions to, *inter alia*, the TAB, the Lotteries Commission, the State Bank, mining royalties and the Housing Trust. During the debate on these amendments some members mentioned difficulties these provisions of the Constitution Act had caused them, including not being able to purchase a clock that had been replaced by a more modern one in Parliament House and not being able to enter into contracts with the then Highways Department for acquisition of land for road widening.

The scope of the provisions is unclear. The uncertainty is a cause for concern, especially as disqualification is automatic. Further, members may, on occasion, be unaware or forgetful of the effects of section 50. The provisions prevent members from entering into transactions which are totally innocent and the Crown Solicitor is frequently called upon to advise SACON in the provision of office equipment and facilities to members of Parliament. Attendance at State sponsored refresher courses and participation in rural assistance schemes are other areas in which the Crown Solicitor has provided advice recently.

The provisions have their origins in the House of Commons (Disqualification) Act 1782, the purpose being to exclude those who contracted to supply goods to government departments and who might therefore be under the influence of the government. The UK provisions were repealed by the 1957 House of Commons (Disqualification) Act. A House of Commons select committee had found that there was no evidence of corruption in the previous 100 years. The select committee pointed out the extreme difficulty of drafting satisfactory provisions to cover all the possible contractual arrangements in which a member may theoretically become subject to the influence of the Government. The select committee pointed out that the House has inherent power to regulate the behaviour of its members, and any member who abused his or her position could be dealt with by the House itself by way of contempt proceedings.

The Western Australian Parliament is the only Australian Parliament to have followed the lead of the House of Commons. It did so following reports of the WA Law Reform Committee and a joint select committee. In accepting the idea that contracts with the Crown should not any longer be disqualifying, the select committee recommended the formation of a Standing Privileges Committee of the Parliament which would be authorised to investigate and report on any allegations of transgressions.

The provision in the Commonwealth Constitution disqualifying members who have a direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than 25 persons has been considered for reform on several occasions. The Joint Parliamentary Committee on Pecuniary Interests of members of Parliament in its 1975 report observed that the apparent prevention of conflict of interest situations derived from this provision may prove to be illusory. It did not recommend changes to the Constitution, but recommended the establishment of a register of pecuniary interests of members of Parliament.

A committee of inquiry, chaired by the Hon. Sir Nigel Bowen, in its 1979 report *Public Duty and Private Interest* concluded that the constitutional provisions are inadequate to cope with the many conflict of interest situations which arise in the Federal Government. The committee recommended that the relevant sections of the Constitution be reviewed.

The Senate Standing Committee on Constitutional and Legal Affairs in its 1981 report *The Constitutional Qualifications of members of Parliament* recommended that the Constitution should be amended to allow the Parliament to legislate without restriction over the whole area of conflict of interest. This would ensure that the standards set would remain relevant to prevailing social and economic conditions. This recommendation was supported by the Australian Constitutional Convention. More recently the Constitutional Commission recommended that, subject to any law on conflict of interest, the existing constitutional disqualification provisions should apply to any person who has any direct or indirect pecuniary interest in any agreement with the public service of the Commonwealth otherwise than as a member in common with the other members of an incorporated company consisting of more than 25 persons.

As mentioned earlier, the House of Commons select committee pointed out the extreme difficulty of drafting satisfactory provisions to cover all the possible contractual arrangements in which a member may theoretically become subject to the influence of the Government. The Government has come to the same conclusion as the House of Commons select committee. The Government has also considered whether some provision should be included in the members of Parliament (Register of Interests) Act 1983 specifically requiring the disclosure of contracts with the Crown. Once again devising a provision that satisfactorily covers the contractual arrangements that should be disclosed has not proved possible and the Government believes that such a provision is, in any event, unnecessary in light of section 4 of the Members of Parliament (Register of Interests) Act 1983. The section sets out specific information which must be disclosed by members and then provides in subsection 3(g)

that members of Parliament must include in their returns under the Act the following information:

. . . any other substantial interest whether of a pecuniary nature or not of the member or of a member of his family of which the member is aware and which he considers might appear to raise a material conflict between his private interest and the public duty that he has or may subsequently have as a member.

The inclusion of this information in the register will enable members to determine whether any action need be taken in relation to the member and, if so, what action should be taken.

The repeal of sections 49 to 54 will remove a great deal of uncertainty in members' dealings with the Government and will eliminate the possibility that a member could become disqualified from sitting in Parliament by mere inadvertence or where no real conflict of interest in involved.

This Bill leaves untouched section 45 of the Constitution Act which provides that a person cannot be chosen or sit as a member if he or she holds any office of profit or pension from the Crown, during pleasure. The UK and Western Australian Parliaments both changed their office of profit provisions when they dealt with contracts with the Crown. They did this by listing all the offices that members of Parliament could not hold. This is a substantial exercise and in view of the fact that section 45 has not caused the trouble that sections 49 and 50 have caused is not an exercise that needs to be undertaken at this time. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title is formal

Clause 2: Amendment of s. 17—Vacation of seat in Council

Section 17 of the Constitution Act 1934 currently provides at paragraphs *(b)* and *(c)* that the seat of a member of the Legislative Council becomes vacant if the member 'takes any oath or makes any declaration or act of acknowledgment or allegiance to any foreign prince or power; or does, concurs in, or adopts any act whereby he may become a subject or citizen of any foreign State or power'. The clause adds a new subsection declaring that a seat of a member is not vacated because the member acquires or uses a foreign passport or travel document.

Clause 3: Amendment of s. 31—Vacation of seat in Assembly

Section 31 is the counterpart of section 17 for the House of Assembly. It contains provisions corresponding to paragraphs *(b)* and *(c)* of section 17 but has a further provision (paragraph *(d)*) providing for vacation of the seat of an Assembly member who 'becomes entitled to the rights, privileges, or immunities of a subject or citizen of any foreign state or power'. The clause deletes this paragraph and adds a new subsection declaring that a seat of a member is not vacated because the member acquires or uses a foreign passport or travel document.

Clause 4: Repeal of ss. 49 to 54

This clause provides for the repeal of the following sections of the Constitution Act 1934:

Section 49—Disqualification of persons holding certain contracts

Section 50—Avoidance of seat of members accepting or holding certain contracts

Section 51—Exemptions

Section 52—Condition to be inserted in all public contracts

Section 53—Sitting in Parliament whilst disqualified (that is, under section 49 or 50)

Section 54—Limitation of actions.

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

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

Adjourned debate on motion of Hon. R.I. Lucas:

1. That a select committee of the Legislative Council be established to consider and report on:

(a) the extent and nature of the negotiations by the Government and West Beach Trust which led to a long lease of West Beach Trust land to Tribond Developments Pty Ltd, an agreement for that company to redevelop the Marineland complex and a Government guarantee to the financier of that company for the purposes of the redevelopment;

(b) the extent and nature of negotiations between the Government, West Beach Trust, the Chairman of West Beach Trust and Tribond Developments Pty Ltd (and such other persons as may be relevant) and the events and circumstances leading to the decision not to proceed with the development proposed by Tribond Developments Pty Ltd, the appointment of a receiver of Tribond Developments Pty Ltd, the payment of 'compensation' to various parties and the requirement to keep such circumstances confidential;

(c) all other matters and events relevant to the deterioration of the Marineland complex and to proposals and commitments for redevelopment;

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

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

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

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

5. That the evidence to the Legislative Council Select Committee on the Redevelopment of the Marineland Complex and Related Matters be tabled and referred to the select committee.

(Continued from 9 March. Page 191.)

The Hon. ANNE LEVY: The Opposition opposes this motion in the strongest possible terms as being the greatest waste of time on the part of members of Parliament and, thereby, an unnecessary cost for the taxpayers of this State. The motion of the Government is to establish a select committee virtually the same as the select committee that existed in the previous Parliament, looking at the matters concerned with Tribond Developments and the proposals to redevelop the Marineland complex.

That committee heard a great deal of evidence which was all heard in open hearing with any member of the public able to attend and, indeed, many did, including those with particular interests in some of the issues which were raised. The evidence was public. It is available. I would support any motion to have it tabled in the Council so that anyone who is not aware that it is public evidence would have it drawn to their attention by having it tabled in the Council. There is no question of any of it being secret or not being available to anyone who is interested. Mr Acting President, the pile of documents is an enormous one. There are thousands and thousands of pages of documents which come from various Government agencies and other sources. There are thousands of pages of evidence.

Only three of the members of the previous committee are still members of Parliament. The other two were the Hon. Mr Gilfillan and the Hon. John Burdett; neither of whom is with us and able to be part of any reconstituted select committee. The three previous members who are still members of

Parliament could serve as members of a new select committee but I feel it would be grossly unfair on the other members of Parliament appointed to the select committee in that they would have weeks of work merely to read the available documents. There would be an enormous amount of work for any research officer appointed to the committee. I doubt whether the previous research officers are still available and any new ones would have to spend weeks and weeks acquainting themselves with the documents. The select committee had almost finished, though the various topics—

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: Stop interrupting. Part of the report had been drafted and was being debated and argued about by members of the committee. Any new research officer obviously could not pick up where the previous one left off. He or she would have to go back to square one and read those thousands and thousands of pages of documents, evidence and transcripts before they could—

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: A research officer cannot work off summaries. Anyone worthy of their salt if they are research officers must go back and do the research by reading all the documentation.

The Hon. R.I. Lucas interjecting:

The ACTING PRESIDENT (Hon. T. Crothers): Order!

The Hon. ANNE LEVY: Mr Acting President, it would be an enormous task both for the members of Parliament not previously on the committee and for any research officer. Any new members of Parliament would have to spend a great deal of time or, if they did not, the witnesses would all have to be requested to come and give evidence again for the benefit of these new members. The alternative is that the select committee members would not do their job. They would not familiarise themselves with the material and would go along with the word of the Minister of Education or whoever they happened to feel may have a grasp of the issues from their point of view and follow blindly, thereby completely dishonouring their membership of the select committee by not doing any work.

I suggest that it would be grossly irresponsible for any member of this Council to vote for the establishment of this select committee if they are not prepared to be on it themselves. There would have to be two new members who would be totally unacquainted with all the evidence. No member should vote for this motion unless they are prepared to be one of those two members and can guarantee that they will undertake all the work which is required. It is not a question of covering up anything. The evidence is public evidence.

The Hon. R.I. Lucas interjecting:

The ACTING PRESIDENT: Order!

The Hon. ANNE LEVY: The evidence is all public evidence. It can be tabled in the Council. It is obvious from the deliberations which the committee has had that the findings will consist of a majority and a minority report. It does not matter who is the fifth member of the committee, who chairs the committee, it is quite obvious from the deliberations which have taken place that there will be a majority and a minority report. It was a politically motivated select committee in the first place. The findings will obviously be highly political. The impartial, non-judgmental initial draft reports from the previous research officer were not acceptable to certain members of the committee because they were not sufficiently political in their approach. Some members of the committee wanted the drafts changed to reflect a more party political line. I predict that if this motion is passed it will take an enormous amount of work and time of members who are conscientious. It would be totally irresponsible for people to vote for such a committee and not be prepared to be conscientious members of the committee and fully familiarise themselves with all the evidence.

I would totally support any motion for tabling all the available evidence and documents in the Parliament so that any member of the public who is interested in what may have happened four or five years ago can inform themselves if they so wish. The matter, as far as public interest is concerned, is now right out of date. I doubt whether there would be more than a handful of people in this State who are the slightest bit interested in what may or may not have happened some eight years ago. The effort involved in producing a report, in familiarising oneself with the evidence, is just not worth it.

As I say, those who may still have some vague interest can have access to all the evidence and documents. It seems an utterly pointless waste of time for both a research officer and five members of Parliament, who could be doing something far more productive and worthwhile, and more contemporary and concerned with issues which now face the taxpayers of South Australia, rather than turning back the clock eight years and reinvestigating what happened in 1986, 1987 and 1988. No-one is interested any more. It is totally pointless to spend that time and money.

As a member of this Parliament, I am far more interested in getting on with something far more relevant to South Australia today. I would certainly welcome committee work, as I have none at the moment, which is relevant to the issues that face South Australia today rather than waste time raking over this old material in which no-one has the slightest interest today.

Members interjecting:

The Hon. ANNE LEVY: I wish members opposite could control themselves. Obviously, they do not like what I am saying and are provoked into making pointless and irrelevant interjections. It would greatly assist the procedures of this Council if, collectively, they could agree to let the debate proceed without repetitive interjections reiterating the same futile point numerous times. It is not a clever, witty or instructive point that members opposite are trying to make. They seem to feel that constant repetition will turn something into a fact, whereas of course it remains as erroneous and irrelevant the twenty-fifth time it is uttered as it was the first time.

The Hon. R.I. Lucas: Why won't you let the report be tabled?

The Hon. ANNE LEVY: There was never an agreed majority report. Certain chapters were agreed by the committee. As I said, I would be happy for those to be tabled in this Council, and I would support any motion to that effect.

The Hon. R.I. Lucas: And the majority chapter?

The Hon. ANNE LEVY: There was never a majority chapter.

The Hon. R.I. Lucas: Yes, there was.

The Hon. ANNE LEVY: There was not.

The Hon. R.I. Lucas: You know there was.

The Hon. ANNE LEVY: You know there was not.

The ACTING PRESIDENT (Hon. T. Crothers): The honourable member will resume her seat. I realise that I am only the Acting President and that as such I do not have the powers of the President, but let me appeal to members' better instincts, not their baser instincts. There is a speaker on her feet. She is entitled to be heard. In my view, interjections are part of the set-up. However, I think they can be taken to a

point where they become repetitive. I ask all members to give the speaker an opportunity to be heard. Then, if any member wishes to contribute further to this debate, they may do so at the appropriate time. I thank members for their indulgence.

The Hon. ANNE LEVY: Thank you, Mr Acting President. In responding to the inane interjection, I remind the—

The ACTING PRESIDENT: I have requested that there be no interjections, and I ask the honourable member not to respond to any interjections, if possible.

The Hon. ANNE LEVY: If I am not to respond to an interjection, I can inform the Council as to what happened during the proceedings of the select committee without divulging the contents, which of course it is not permissible for any member of the select committee to do until the select committee reports. Numerous chapters of the report were written and agreed upon. One chapter on which the research officer brought a draft report was not agreed upon by the members of the committee. The majority wished to play Party politics and have that chapter altered. The majority mapped out what it felt should be the contents of that chapter. The research officer undertook to rewrite the chapter in that form, but the rewritten form was never brought to the members of the committee to be accepted or rejected by a minority or a majority; it was never considered by the select committee.

If the Leader opposite feels it is so important, I would be happy for both the original and the revised chapter to be tabled in this Parliament. I would be very happy for that to happen so that members of the public could see what the impartial research officer proposed as the chapter and the revised version which for Party political purposes certain members of the committee insisted should form its basis. I am more than happy to have both versions tabled in this Parliament. Let the public be aware of that, if that is the point which the Leader is trying to make with his interjections. At least that would not involve hundreds and hundreds of hours of work on the part of a research officer and members of Parliament to obtain a report on something that is way out of date, and it would prevent people wasting their time on these activities instead of getting on with something more important and relevant to the people of South Australia.

The Hon. J.F. STEFANI secured the adjournment of the debate.

WILLS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 March. Page 192.)

The Hon. C.J. SUMNER (Leader of the Opposition): The Opposition supports this Bill. With a couple of exceptions, it is the Bill that was in a state of preparation when I was Attorney-General. The drafting instructions for it had been approved by the former Labor Government, the Bill had been drafted and it was the subject of consultation with interested parties. The Bill that is presented is essentially the same as that which was approved by the former Government with the exception that the former Government approved a proposal for the making of a statutory will by persons who do not have testamentary capacity: that is, people who may be suffering from a mental disability or who, for some other reason, possibly dementia because of age, do not have the capacity to make a will.

The idea was that a court or some other tribunal (perhaps the Guardianship Board or the current tribunal which deals with guardianship matters) could make a will on behalf of a person who did not have the capacity to do so. I think the power to do this was to be vested in the Supreme Court. No other State in Australia has moved on this issue, although the New South Wales Law Reform Commission did recommend it and it has been in existence in England for some time. As I have said, the former Labor Government approved the drafting of a Bill, including the provision for the making of a statutory will, but the current Government has decided not to go ahead with it. I do not intend to move an amendment; I merely make that point.

The other matter that is not being proceeded with is the effect of divorce on wills. The previous Government's position on this was that in this State the situation is quite certain, namely, that divorce has no effect on the validity of a will, and we decided not to alter that—at this stage at least. The current provisions in South Australia at least have the advantage of certainty. The situation is clear and, with adequate information out in the community, it ought not to cause problems, because at the time of divorce people can consider whether or not they want the will to be altered. However, I note that the Government intends to monitor that matter, and I also understand that on that point in South Australia we have not had many complaints about injustice being caused by divorce not having any effect on the validity of a will.

So, in the absence of complaints and, given that the situation in South Australia is at least certain, I support the Government's proposal not to move on that, and indeed that was the previous Government's position as well. No doubt it can be monitored, and it might be an area where consideration can be given to ensuring that the public is well informed about that provision, possibly by information that is disseminated at the time that people get divorces, perhaps through the Family Court or some body of that kind. I do not know what information is given on this issue to people, but it is something the Government might like to consider taking up with the Family Court or counselling services to see what information on this topic is given to people who are in the process of getting divorced.

The Hon. K.T. Griffin: Victoria indicated a week or so ago they were going to legislate that divorce revokes the will, but I haven't seen the policy.

The Hon. C.J. SUMNER: Well, I'm not sure about the policy of that. I think it is a matter of whether you leave it up to individuals to make their minds up. I would have thought the matter could have been dealt with by information. That is just a suggestion that I put to the Attorney-General and the Government to consider what information is available to citizens and, if they are of the view that the information at the present time is inadequate, to do something about providing better information to the people. That is something the Government might like to take on board.

On the question of statutory wills, all I can ask the Government to do is some more work on this topic, given that it had been approved by the previous Government. What I am particularly interested in is checking with the United Kingdom. I understand some information has been obtained in the United Kingdom, but it might be that further information can be obtained. If someone happens to be going to the United Kingdom from the Attorney's department, he might consider asking them to have a look at the operation of this provision in the United Kingdom.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I'm not sure whether I got the honourable member's interjection as to whether he said he was going to go himself or whether he said I could go myself. I would certainly support the latter proposition, if he would be prepared to make a financial contribution to enable me to do it. Levity aside, I would only ask the Government to consider monitoring that position, as it seems, within similar jurisdictions, it is only in England that this provision for statutory wills exist, and that some further examination of that should be carried out before a decision is made on the matter.

The Hon. R.D. LAWSON: I support the Bill, and I will make only a couple of remarks in support. The Leader of the Opposition in this place has just commented on the approach that the Attorney has adopted to statutory wills. In his second reading speech, the Attorney said that the Government had that matter under consideration. From my own experience, I believe there would be an advantage in having a provision for statutory wills in South Australia. I can recall at least one sad case in which it would have been of particular advantage if the court had the power to make a will on behalf of a minor. The facts in the case were these: a child aged about five years was severely injured in a traffic accident. The child was mentally disabled by her injuries. Her home life was unsettled. She lived with her mother and several brothers and sisters. There were various fathers of these children. The biological father of the injured girl had no association with her at all, other than the fact of his fatherhood.

As a result of her injuries, the child received a substantial award for damages, several hundred thousand dollars. Those funds were held by the Public Trustee. The child's mother died in tragic circumstances when the child was only about 10 years old. She was cared for by her sisters. When the girl was about 16 years of age she died. Of course, she had made no will; she did not have the capacity to make a will. Under the provisions now to be enacted, she would have been able to make a will if she had had the appropriate mental capacity. But under the rules as to intestacy, the substantial estate of this girl passed to her biological father; he was entitled to the whole $750 000. He almost fell off his bar stool in a remote Queensland hotel when he received the news of his windfall. The surviving brothers and sisters, especially the sisters who had cared for this girl, were left in straitened circumstances. The biological father was greatly enriched.

One of the sisters was able to make a claim under the Inheritance (Family Provision) Act because she had rendered services to the deceased, and a substantial award was obtained for her. The fact is that, had there been power of curial intervention to ameliorate the rules as to intestacy, that result, which I think most members would regard as unjust, would not have occurred. So, I urge the Government to do as the Attorney has suggested in his second reading speech and keep the matter under examination.

The Hon. C.J. Sumner: Why aren't you moving an amendment now?

The Hon. R.D. LAWSON: I do not propose to move an amendment now.

The Hon. C.J. Sumner: We did have drafting instructions, so maybe we could get ahead and do it.

The Hon. R.D. LAWSON: I will await the results of the trip to London.

Members interjecting:

The Hon. R.D. LAWSON: I will see the results of that. There are other provisions of the Bill which warrant the support of members. I commend the new approach to section 8 of the Act which in effect does away with all the arcane rules which have hitherto governed the formal execution and validity of wills. The books are full of cases on the subject, and it is entirely inappropriate to be litigating such matters as whether or not the testator had placed his or her signature on the appropriate place in the document.

The only other matter that I wish to mention in supporting the Bill involves the provisions of clause 7, which deal with amendments to section 12 of the principal Act. The new section 12 will empower the judges of the Supreme Court to make rules of court authorising the Registrar to exercise the powers of the court under this section. At present applications for probate under section 12 are heard by judges, and a considerable body of judicial learning and authority has been built up on the appropriate circumstances in which that beneficial section is to be applied.

This new formulation of the rules under section 12(2) and (3) will undoubtedly lead to further judgments of the court. It is my hope that the judges will not delegate immediately to the Registrar the power to determine applications for probate under section 12 until the judges have themselves laid down some ground rules from which the legal profession and others concerned in these matters will gain some appreciation of the appropriate interpretation to be accorded to the new sections. I commend the Bill.

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

PARLIAMENTARY COMMITTEES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 March 1994. Page 195.)

The Hon. C.J. SUMNER (Leader of the Opposition): The Opposition supports this Bill. I have had a long interest in the parliamentary committee system since I entered Parliament, but in particular whilst in Opposition between 1979 and 1982, and again from 1983 onwards. In 1983 the Labor Party came to office with a proposal to upgrade the committee system of the Parliament, and one of my rare mistakes during the tenure of office that I had as Attorney-General was that I proposed in 1983 to deal with this proposal to upgrade the committee system by the establishment of a joint select committee of the Parliament, that is, a committee with both Legislative Councillors and House of Assembly members on it. As I said, that was a great mistake on my part. I should have introduced legislation to upgrade the committee system without the joint committee proposal.

However, I thought, in perhaps my relative naivety at that time, that there might be some enthusiasm in the Parliament to upgrade the committee system and that people might have had an interest in seeing the procedures of Parliament becoming more effective. Regrettably, that joint committee, which sat from 1983 to 1985, did not report: it ground to a rather dismal end, principally because the Liberal members in the House of Assembly did not want a new committee system introduced.

There was some support in the Legislative Council at that time for an upgraded committee system: the Hon. Mr De Garis had support for a committee system which went back some considerable time. Indeed, I think even the current Leader of the Government in the Council, the Hon. Mr Lucas,

supported an upgraded committee system. However, I regret that it was undermined principally by Liberal members in the House of Assembly, and regrettably the committee did not report. As I say, I regret that that occurred and I now regret that I decided to try to achieve this reform by the joint committee process. Had I been faced today with that situation, there is no doubt that I would have ignored the committee process and just introduced the Bill.

The Hon. K.T. Griffin: Do a Martyn Evans!

The Hon. C.J. SUMNER: I was just getting onto Mr Evans, the new Federal member for Bonython, because I am pleased to say that in—

The Hon. R.D. Lawson: He just got there.

The Hon. C.J. SUMNER: It was pretty convincing in the end when the preferences were distributed. However, that is irrelevant to the point I am trying to make.

In 1989 the proposals to upgrade the committee system were revived with some prompting from the then member for Elizabeth, Mr Martyn Evans, who following the 1989 election assumed a more important role and position in the Parliament than that which he had had hitherto. As a result of the encouragement from Mr Evans, I was able to convince the Labor Caucus to revive the proposal for an upgrading of the parliamentary committee system, and I am pleased that that eventually occurred with the passage of the Parliamentary Committees Act 1991.

It did take a somewhat longer time than I had anticipated to put the new committee system in place. For some reason, debate about committees in this Parliament has often been accompanied by resistance to change: that resistance, which Liberal members in the House of Assembly exhibited from 1983 to 1985, was also reflected to some extent in my own Party between 1989 and 1993. However, as I said, in 1989 as a result of the view taken by Mr Evans on the committee system and the acceptance of the propositions by the Labor Government, the Parliamentary Committees Act 1991 was eventually passed, and I think it was quite a significant piece of legislation in terms of the running of the Parliament.

I am somewhat bemused these days by the talk about accountability from members of the Liberal Party, and in particular their espousal of the committee system as a means of accountability, when it was Liberal members substantially who undermined the proposals I had for an upgraded committee system in 1983. But that is history. We now, I believe, have a good structure in place in this Parliament for parliamentary committees set up under the Parliamentary Committees Act 1991. That is something that I am pleased about personally, because my initial interest and enthusiasm for an upgraded parliamentary committee system was eventually put into effect, and, of course, I acknowledge the role that the former member for Elizabeth, Mr Evans, played in that and the role that the Labor Caucus also played in giving support for it.

The current Bill adds to the four committees that were established in 1991 a Statutory Authorities Review Committee in the Legislative Council, and reconstitutes a Public Works Committee as a standing committee of the House of Assembly.

It is fair to acknowledge that the Liberal Party has had a policy for some considerable time to have a Statutory Authorities Review Committee in the Legislative Council. It was a matter that the Party proposed at the last election and, in fact, I think it proposed it at previous elections and on previous occasions had introduced legislation to establish a Statutory Authorities Review Committee in the Legislative Council.

However, I think it is important to point out that under the committee proposals put forward by the former Labor Government and enshrined in the Parliamentary Committees Act 1991 it was clear that the Economic and Finance Committee had jurisdiction to look at statutory authorities. So, statutory authorities were not excluded from review by the previous legislation, either from the Economic and Finance Committee or, indeed, from its predecessor, the Public Accounts Committee.

Therefore, if we are talking about accountability, I think it is worth remembering that there is nothing new in statutory authorities being subject to the oversight of the Parliament through a committee. What is new in this is that there will be a specific committee to do it and, indeed, a committee of this Legislative Council.

The Bill also reconstitutes a Public Works Committee. Before the Parliamentary Committees Act 1991 came into being there was a Public Works Standing Committee. However, the previous Government decided to abolish that committee and to enable public works to be looked at either by the Economic and Finance Committee or, if it were a public work relating to something that occurred within the environment and development area, within the purview of the Social Development Committee, or indeed the Legislative Review Committee—perhaps the construction of courts or whatever—it was those committees that could look at those public works and make recommendations in relation to them.

It was possible for the Government to refer public works to any of those existing committees. However, there was not an up-front need for all public works over a certain amount to be automatically referred to a parliamentary committee.

That was the situation which existed with the old Public Works Committee and that is the situation which this Bill reinstitutes by way of the Public Works Committee. So, all public works that exceed a cost of $4 million will have to be referred to the Public Works Committee prior to the work proceeding. I think with the old Public Works Committee all public works in excess of $500 000 had to be referred.

The Hon. K.T. Griffin: It was subsequently increased to $2 million.

The Hon. C.J. SUMNER: But now that is being increased to $4 million. However, the principle is the same as that which existed under the old pre-1991 Public Works Committee and which was abolished by the Parliamentary Committees Act 1991. However, again, I make the point that that did not mean that public works were excluded from the scrutiny of the Parliament: public works could still be scrutinised by the Parliament under the former Labor Government's proposals for parliamentary committees, but there was no obligation on the Government to refer to a committee public works that exceeded a certain cost.

However, in terms of accountability, I think that under the Parliamentary Committees Act statutory authorities could be looked at by a committee of the Parliament and public works could be looked at by the Parliament. However, the new Government has decided to address these two topics by constituting committees of the Parliament to deal with them specifically and the Opposition raises no objection to that principle. As I said, it was part of the Government's proposals in the election campaign.

The only other point I would make of a general nature is that I personally did not think that the Public Works Committee was a particularly useful committee of the Parliament. I

know people have different views about this. I understand that the current Premier served on the Public Works Committee and thinks that it was a committee of great importance. My own view was that it was not a great deal of use to the Parliament, and whether it is really justified in being re-established I would have to query. However, it is certainly not a query that I take to the point of opposition, given that it is a Government proposal which has been the subject of discussion and consideration and, indeed, which was included in its policy before the election.

However, it may be that the Public Works Committee will have to adopt a more critical approach to public works than did the old committee. My recollection of it is that while it made perhaps some minor recommendations for change it never really came down with recommendations to oppose a public work or to change it substantially. Essentially, the Public Works Committee was a rubber stamp for the Government and for the proposals that the Government put forward.

Some people may have a different view about it, but that was the view I formed—not that I was ever a member of the committee—and it was a view that I think was fairly common around the Parliament. I merely make the point that it may well be that the Public Works Committee will have to be a somewhat more critical committee than the old Public Works Committee if it is to do its work effectively.

In relation to the specifics of the Bill, I raise the following points that I would like the Attorney-General to examine. I note that a State instrumentality no longer includes a body whose principal function is the provision of tertiary education. That means that the universities are excluded. They are not excluded from the current Act and were not excluded during debate on this topic in 1991. Why are they now excluded?

It seems to me that they are bodies established by State legislation and that, as the State Parliament has responsibility for them through that legislation, they should not be excluded from the purview of the new Statutory Authorities Review Committee. I would like the Attorney-General to comment on that issue when the time comes. However, unless I am persuaded otherwise I will be moving an amendment to remove that exclusion. There is no basis for removing the universities from the purview of this legislation. As I said previously, the Liberal Government made much of accountability, and here it is removing one avenue of accountability from Parliament. Unless any good reason can be put to me on this topic I will be moving an amendment to reinstate the tertiary education statutory authorities. I really do not see the basis for having them removed, because they are authorities established by reason of legislation passed by this Parliament, therefore they should—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: It is not a Government but it is certainly a statutory authority. It receives public funds, to an enormous amount, not necessarily from the State, although there is small State funding in tertiary funding for some specific projects. Basically it is Federal funding—but it is Federal funding that arrives through the State, and I do not think that you can say—

The Hon. K.T. Griffin: It does to TAFE but, as I understand it, it does not to the universities.

The Hon. C.J. SUMNER: Whether it arrives through the State or directly to the universities is really not to the point, in any event. There is a Tertiary Education Office somewhere in the State system. The State Minister for Education and Children's Services has a lot to do with the universities and they are established by State legislation, they are funded substantially by taxpayers funds through the Commonwealth Government and, in my view, unless the Attorney can convince me otherwise, I do not see why they should be excluded. The other point that I make on exclusions somewhat amazes me, I must say.

I cannot imagine the Attorney-General agreeing to something like this when he was sitting on this side of the House; that is, that the Government has the power to exclude—listen to this, members opposite, and the Hon. Mr Irwin, who I know has spruiked about these sorts of things hundreds of times before—to exclude any other body by regulation from the ambit of the definition. So, we have the Liberal Party talking about accountability and then providing 'That is okay, unless it is a body that we do not want to be accountable, in which case, we will get rid of it.' So, under this provision, the things members opposite complained about before, the State Bank, the SGIC and a whole bunch of statutory authorities, could be excluded from the jurisdiction of the Statutory Authorities Review Committee.

That is a major reduction in accountability, make no mistake about it, and Liberal members opposite who have carried on about this issue in the past should note that it is a major reduction in accountability, because under the current Act, the Parliamentary Committees Act 1991, there is no power to exclude, so the current Economic and Finance Committee had power to look at any statutory authority. This Bill says 'You can look at any statutory authority except tertiary education institutions or any institutions that we the Government do not want you to look at.'

The Hon. J.C. Irwin interjecting:

The Hon. C.J. SUMNER: We know the argument about disallowing regulation, but on this point—

The Hon. J.C. Irwin: You and the Democrats can do that, can't you?

The Hon. C.J. SUMNER: At the current moment perhaps we can, but the point is the principle. I have heard the current Attorney-General in this Chamber year after year after year prattling on about not excluding things by regulation. I have absolutely no doubt in my mind that, were the Attorney-General to be in my position now, the first amendment he would move to this Bill would be an amendment to delete the provision relating to the exclusion of authorities by regulation: absolutely no doubt whatsoever that that would be his first amendment. I think it is worthwhile noting that the Labor Bill introduced in 1991 contained no provision for exclusion, and this is one area, given that this is a Parliamentary Committees Act, an Act which gives parliamentary committees authority, where it ought not to be within the power of Government to exclude certain authorities from the purview of the Parliament.

It is wrong in principle. In fact, if there is one area where a Government regulation excluding a body from Parliament's scrutiny is offensive, it is in this area. There may be other areas where it is legitimate for Government by regulation to exclude certain bodies from the effects of legislation, and I am sure the Attorney-General will be able to point to some. But what we are dealing with here is a situation that actually does go to the root of parliamentary supremacy. We are setting up committees of the Parliament to look at activities of Government, and then the Government is saying, 'However, we want the power to exclude certain authorities from the Parliament's oversight.' That is quite wrong.

It is offensive in principle, in my view, and it certainly undermines the talk which has come from the Government about enhanced accountability. These provisions detract from accountability. These provisions detract from the supremacy of Parliament. These provisions give to the Government—the Government, mind you—in the face of Parliament, the power to exclude certain authorities from parliamentary scrutiny. That simply should not be acceptable. I am surprised that it got through in this form in the Liberal Party room: very surprised that people who have listened to these debates over the years would have acceded to the Attorney-General's blandishments in this way, and I am particularly surprised at the Attorney-General, who I have absolutely no doubt would not have seen a provision like this go through the Parliament in a fit when he was in Opposition, and I am sure everyone here who had to put up with his discussions on these topics over the past decade or so would absolutely agree with me when I make that point.

So, I will be moving amendments to delete that clause relating to exclusion by regulation and I may be moving one relating to the tertiary education exclusion, unless I am convinced otherwise. Another point I think needs to be looked at is in the proposed definition of 'statutory authority'. There is a new provision, and where what I just dealt with potentially limited the power of the committee to some extent, new subclause (c) in the definition of 'statutory authority' means that the parliamentary committee, the Statutory Authorities Review Committee, will have jurisdiction over voluntary agencies, as I read it, provided that voluntary agency is one that is established as a body corporate, which many of course are, under the Associations Incorporation Act.

The definition states that 'statutory authority' means a body corporate that is established by an Act, and lists a number of things, then says (a) (b) or (c), which provides:

. . . is financed wholly or partly out of public funds.

So, if you have a body that is established under the Associations Incorporation Act which is a voluntary organisation but which receives public funds, it comes clearly within the purview of the Parliamentary Committees Act. I am not saying that that is a bad thing necessarily, but merely point out to the Parliament that this could be the effect of the legislation. I believe that that is a broader scope for the committee than the scope that what will be the 'old' Economic and Finance Committee had. I know in the past—

The Hon. K.T. Griffin: I have always had that debate about whether it is 'by' or 'under' an Act. If it was 'under' an Act, certainly, your proposition would prevail, but I would have thought that 'by' an Act means that it is actually established by reference specifically in that Act.

The Hon. C.J. SUMNER: That may be.

The Hon. K.T. Griffin: We'll have a look at it.

The Hon. C.J. SUMNER: I am merely raising the point. If the Government wants to give the parliamentary Statutory Authorities Review Committee power over all bodies that are incorporated or established as a body corporate, then there may be some merit in that. I was going on to say that there have been examples in the past where public moneys have been given to incorporated organisations for a whole range of purposes. There have then been arguments about whether or not those funds have been properly used. There have sometimes been arguments about whether the Government has adequate powers to call those bodies to account for the expenditure of the funds etc. We have had arguments before. The Christies Beach shelter is one famous example of a sad, long ago memory. I think some of the housing cooperatives, for example the Port Adelaide Housing Cooperative, were the subject of debate in this Council. I only raise those two matters because they are matters that the then Liberal Opposition took up as examples: in one case of where funds had not been used properly and in the other case the Opposition was opposed to the defunding of the Christies Beach shelter. That may not have been an incorporated body so it would not be picked up by the definition, in any event.

There have been other examples of moneys being given to incorporated bodies and not properly accounted for. As a matter of policy I have an open mind on the issue. I have no doubt that if all the voluntary associations in the community knew that they were about to come under this Act if they received any public funds then they might not be happy about it themselves. I make the point that I keep an open mind on the policy. It may be that the Attorney-General is right and that the Bill does not in fact pick up bodies like that but I think it could be looked at. In relation to exclusions, a council or other local government authority is excluded from the definition of 'statutory authority', and I ask why that is the case.

Why ought not a parliamentary committee have the authority to look at the finances of a council or other local government authority? I have not checked the definition in the current Bill. The Attorney-General might like to do that for me and check whether or not that is a further limitation on the powers that the committee currently has. But I do not see why State Parliament, which passes the Local Government Act whereby local government authorities are constituted, ought not to have a power to look at the finances etc. of councils or other local government authorities. I have raised the question of tertiary education and the exclusion by regulation.

The other issue that the Attorney-General might like to look at in the definition of 'statutory authority' is whether a Minister who is constituted as a body corporate under legislation, and some Ministers are constituted as a body corporate under legislation, are in fact picked up by the definition of 'statutory authority'. A Minister is a person appointed by the Governor and it may well be—and there may not be anything wrong with this—that the definition of 'statutory authority' is sufficiently broad to pick up a Minister who is established as a body corporate, as some Ministers are, under legislation. The Attorney-General may wish to look at that. Subject to those issues I support the Bill.

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

REAL PROPERTY (MISCELLANEOUS) AMENDMENT BILL

In Committee.

(Continued from 10 March. Page 217.)

The Hon. K.T. GRIFFIN: It is appropriate that I make a few observations on some of the issues that have been raised so far. The Hon. Michael Elliott raised some issues and I can put his mind at rest about those. He raised concerns about the Strata Titles Act which is amended in part by this Bill. Living in a strata titled unit involves living more closely with people than is the case in living in an ordinary house. Living in strata titled units involves living within a set of

rules about what can and cannot be done, particularly in relation to the outside appearance of the unit and on the common property. Some people find this sort of living does not suit them. A prospective purchaser of a strata titled unit is able to access a variety of information concerning the unit group concerned. Copies of the articles or the rules of the strata corporation, minutes of meeting, copies of insurance documents etc. are all available to the prospective purchaser.

Both my office and the Lands Titles Office receive daily inquiries concerning strata living and I believe inquiries receive helpful advice. The Legal Services Commission and the community legal centres also provide advice. The Lands Titles Office is currently preparing a strata title manual which will provide assistance to those living in strata units. This should be available early next year. The Legal Services Commission is also involved in the preparation of an information booklet. Intractable disputes can be resolved by proceedings in the minor civil claims division of the Magistrates Court. I can indicate that the Government has no present intention of establishing a body to provide oversight in the area of strata titles. Sufficient information is available to assist people contemplating the purchase of a strata titled unit. The relationship between individual unit holders and the strata corporation are essentially private relationships in which the Government plays no part, in much the same way as relationships between neighbours are private relationships, so that when disputes arise about noise, encroaching buildings, overhanging trees etc. it is for the disputants to resolve the matter or go to court to seek a resolution. Unit holders have access to a court based dispute resolution basis in the event of disagreements which cannot be otherwise resolved.

The Hon. Mr Sumner has raised with me some concerns in relation to this Bill. They were actually drawn to his attention by the Law Society. I appreciate that there were some important concerns that had to be addressed. The concerns of the Law Society can be summarised as follows. As to concerns in relation to the variation or extinguishment of easements, proposed section 90b(3) allows the Registrar-General to dispense altogether with the consent of persons affected by a proposed variation or extinguishment of an easement if, in the Registrar-General's opinion, those person's interests will not be detrimentally affected.

The Law Society's concern was that this procedure would allow for the variation or extinguishment of an easement without notice. A related concern was that section 90b(4), which requires the giving of 28 days' notice to the proprietor of a dominant tenement, is expressed not to limit the generality of section 90b(3), thus allowing for extinguishment without notice where no-one who is interested is detrimentally affected.

With respect to concerns regarding the powers of the Registrar-General, the proposed amendment to section 220(9) effectively allows the Registrar-General to elect to give no public notice whatsoever when dispensing with production of a duplicate instrument before registering a dealing affecting that instrument. This appears to ignore sound policy reasons for the current requirement for publication of notice. The Law Society's view is that the current requirement of advertisements in the *Gazette* and the newspaper should be retained. Some concerns were also raised with regard to the proposal to amend section 220(10) so as to permit the Registrar-General to deliver cancelled or obsolete documents to an appropriate person.

With regard to the division of land, the Law Society acknowledges that there has been consultation with the society and other conveyancing groups in relation to the proposed land division procedures but states that much will depend upon the format of the application for division contemplated by proposed section 223d. The Registrar-General and his officers have had further consultation with the Law Society since receiving these comments, and as a result I have had amendments prepared to meet the concerns of the Law Society. The amendments clarify the fact that the operation of the clause allowing for the dispensing of consent where interests are not detrimentally affected will not allow the Registrar-General to dispense with the consent of a registered proprietor in fee simple.

In relation to the advertising of a loss of an instrument, the amendments insert a provision to ensure that the loss of an instrument is advertised in a newspaper circulating generally throughout the State. The advertising will be required to be done by the applicant rather than the Registrar-General, as is currently the case. The Law Society has advised that it is satisfied that these amendments meet its concerns.

As to the other concerns of the Law Society, I advise that, in relation to returning cancelled or obsolete documents to appropriate persons, it is not considered possible to identify exhaustively the persons who fall into this category. In the normal course, it will be the registered proprietor, but there may be instances where some other person is the appropriate person. In relation to the keeping of records, I advise that as a matter of office practice the Registrar-General keeps a journal of all deliveries made, and each delivery must be signed for. There will therefore be a record of all persons to whom cancelled documents are returned.

The format of the application for division will be the subject of industry consultation. Already a draft form has been exposed for comment during industry seminars conducted by the Registrar-General's office. An application for division will be in a form approved by the Registrar-General, which will be gazetted. No forms under the Real Property Act are now prescribed forms which form part of the regulations; all forms are now in a form approved by the Registrar-General. I thank the honourable member for raising these concerns. As I have indicated, I advise that the Law Society is satisfied with the response that the Government has made to the matters raised.

Clause 1 passed.

Clause 2 passed.

New clauses 2a and 2b.

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

Page 1, after line 14—Insert new clauses as follows:

Interpretation.

2a. Section 3 of the principal Act is amended—

(a) by striking out the definition of 'lunatic' and substituting the following definition:

'mentally incapacitated person' has the same meaning as in the *Guardianship and Administration Act 1993*:;

(b) by striking out the definition of 'person of unsound mind'.

Lands granted prior to the day on which this Act comes into operation may be brought into operation under this Act.

2b. Section 27 of the principal Act is amended by striking out 'the committee or guardian of any lunatic or person of unsound mind, may make or consent to such application in the name of or on behalf of such infant, lunatic, or person of unsound mind' and substituting 'the administrator or committee of the estate of a mentally incapacitated person or the guardian of such a person, may make or consent to an application in the name or on behalf of the infant or mentally incapacitated person'.

I will move a number of amendments which deal with this same topic, and I will deal with those briefly now. The definition of 'person of unsound mind' is removed from the

Act because its meaning is included in the new definition of 'mentally incapacitated person'. The reference to 'committee' is retained in sections 27 and 244 of the Act because (a) it is possible that persons appointed as committees are still administering property on behalf of mentally incapacitated persons; and (b) it seems that the Supreme Court retains a residual common law jurisdiction to appoint a committee. The replacement of section 245 removes the power of the Supreme Court to appoint a committee for the purposes of the Real Property Act 1886. The Guardianship and Administration Act 1983 provides a cheaper and simpler procedure for the appointment of an administrator by the Guardianship Board.

The remainder of the amendments which I will move deal with the removal of terminology which is not considered appropriate in today's circumstances. References to 'lunatic' and 'idiot' are not considered appropriate; hence, we now use the phrase 'mentally incapacitated person'. I drew attention to these matters during my second reading speech. I have been instructed to include these matters in the Bill as they were not the subject of the Bill as introduced, but I think it is a useful updating of the legislation to deal with these matters in contemporary language.

In moving this amendment, I ask the Attorney-General to indicate, if he has not already done so in response to my second reading speech, what proposals the Government has to go through legislation and update the wording in this area of mental incapacity. Given that a review has been done of all legislation dealing with discrimination on the ground of age, for instance, I wonder whether the Government will have some procedure for dealing with the definitions and language involving mentally incapacitated persons in legislation that is on the statute books in South Australia.

The Hon. K.T. GRIFFIN: I indicate support for the package of amendments to be moved by the shadow Attorney-General and Leader of the Opposition. They are consistent with my view and that of the Government that the words 'lunatic' and 'idiot' are not consistent with modern language. So, I indicate support for all the amendments.

Regarding the broader issue of other legislation, I am informed that, when Parliamentary Counsel reviews legislation for the purpose of amendment or to enact new legislation, these sorts of issues are always addressed.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: I agree, but I have not had an opportunity to inquire about the specific process Parliamentary Counsel might use in relation to this. It may be that because the statutes are all on computer base it might have a search facility which can pick up all this. I will undertake to address that issue, because it is appropriate that there be changes and that the statutes not contain outdated language. There was a proposition—and I think there still is—that the whole of the Real Property Act should be rewritten into modern language. That is a mammoth task, and of course it would be a field day for lawyers as well as creating some other difficulties. But nevertheless it is an issue that is on the agenda. I think it was on the agenda of the previous Government, too, but it is not an issue that will be easily addressed in the context of some significant changes to language. Again, I repeat support for the amendments proposed by the Hon. Mr Sumner.

New clauses inserted.

Clauses 3 and 4 passed.

Clause 5—'Application of subsections 90b, 90c, 90d and 90e.'

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

Page 2—

Lines 21 to 24—Leave out subsection (3).

Line 25—Leave out 'Without limiting the generality of subsection (3), where' and inserting 'Where'.

Line 31—After 'easement' insert 'without the consent of a person required by subsection (2).'

Page 3, after line 16—Insert new subsection as follows:

(5a) The Registrar-General may dispense with the consent of a person required by subsection (2) (other than the proprietor of the dominant or servient land) if in his or her opinion the person's estate or interest in the dominant or servient land will not be detrimentally affected by the proposed variation or extinguishment of the easement.

These amendments are all related to each other. They relate to this issue of the variation and extinguishment of easements and ensure that the issues raised by the Law Society and by the Leader of the Opposition are adequately addressed in relation to the power of the Registrar-General to make changes without consent and without notice. As I indicated earlier, I understand that these are now agreed as appropriate by the Law Society, and I would hope, therefore, by the Leader of the Opposition.

The Hon. C.J. SUMNER: I accept that method of dealing with the matter. I have seen the amendments, and they were raised by me with the Attorney after the Law Society drew them to my attention. I support the amendments.

Amendments carried; clause as amended passed.

New clause 5a—'Acceptance of transfer.'

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

Page 5, after line 28—Insert new clause as follows:

5a. Section 96a of the principal Act is amended by striking out 'mentally defective person, the said statement shall be signed by his guardian or the committee of his estate or by a person appointed as such guardian or committee under section 245 of this Act' and substituting 'mentally incapacitated person, the transfer may be signed by his or her guardian or the administrator or committee of his or her estate'.

This is part of the package I have explained.

The Hon. K.T. GRIFFIN: The Government supports the new clause.

New clause inserted.

Clauses 6 and 7 passed.

Clause 8—'Powers of Registrar-General.'

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

Page 6, after line 6—Insert paragraph as follows:

(aa) by striking out from paragraph (5) ', lunacy, or unsoundness of mind,' and substituting 'or mental incapacity'.

The Hon. K.T. GRIFFIN: We support the amendment.

Amendment carried.

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

Page 6, lines 7 to 11—Leave out paragraph (a) and insert the following paragraph:

(a) by striking out from paragraph (9)—

'to make a declaration that the duplicate instrument has not been deposited as security for any loan, and is not subject to any lien other than appears in the register book, and shall give at least 14 days notice of his intention to register such transfer or dealing in the *Government Gazette* and in at least one newspaper published in the city of Adelaide:'

and inserting—

'to make a declaration in a form approved by the Registrar-General—

(a) that the duplicate instrument has not been deposited as security for the repayment of money;

(b) that the duplicate instrument is not subject to a lien (other than one appearing in the register book);

(c) that he or she has caused to be published in a newspaper circulating generally throughout the State an advertisement, in a form approved by the

Registrar-General, of his or her intention to lodge documents at the Lands Titles Registration Office in relation to a transfer or other dealing without production of the duplicate instrument;

(d) that he or she believes that the duplicate instrument has been lost or destroyed;

(e) as to such other matters as are required by the Registrar-General:'.

This amendment relates to the question of an advertisement that the loss of an instrument is to be advertised. That presently is the case, but the responsibility to advertise in the *Government Gazette* and a newspaper published in the city of Adelaide is that of the Registrar-General. The amendment continues the provision for advertising, but this is now to be the responsibility of the proprietor, and certain provisions are inserted to ensure that a declaration to that effect is lodged with the Registrar-General. But basically, again, it is a position that has been discussed with the Law Society and this amendment meets the issue which it raised.

Amendment carried; clause as amended passed.

Clauses 9 and 10 passed.

New clauses 10a and 10b.

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

Page 18, after line 33—Insert new clauses as follows:

Provision for person under disability of infancy or mental incapacity

10a. Section 244 of the principal Act is amended by striking out ', idiot or lunatic, the guardian or committee' and substituting 'or mentally incapacitated person, the guardian or the administrator or committee'.

Substitution of section 245

10b. Section 245 of the principal Act is repealed and the following section is substituted.

Court may appoint guardian

245. The court may appoint a guardian for an infant for the purposes of this Act.

The Hon. K.T. GRIFFIN: The new clauses are supported.

New clauses inserted.

Remaining clauses (11 and 12), schedule and title passed.

Bill read a third time and passed.

MOTOR VEHICLE INSPECTION

Adjourned debate on motion of Hon. Diana Laidlaw:

That the Environment, Resources and Development Committee be required to investigate and report on the issue of compulsory inspection of all motor vehicles at change of ownership.

(Continued from 10 March. Page 220.)

The Hon. SANDRA KANCK: I find this motion somewhat surprising, given the position that the current Government took on it when in Opposition. It seems to me that it is failing to really grasp the issue. I am concerned about an issue such as this, which I really think should be put out for public discussion via some sort of discussion paper prepared by the Minister's department. It seems to be sidestepping the issue to give it to a committee to look at. It might be of interest for the Minister to know that Democrat policy goes much further than this. We support roadworthiness inspections of vehicles for re-registration after five years of life of the vehicle, eight years and then every second year thereafter. What the Government appears to be proposing through this motion is much less than that which the Democrats would support. I will be very brief in this matter and say we will not support the motion. We believe that it should be going out for public comment via a discussion paper. So, when the vote comes, we will oppose the motion.

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

CORRECTIONAL SERVICES (PRISONERS' GOODS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 March 1994 . Page 214.)

The Hon. SANDRA KANCK: I will be extremely brief. I am aware that this Bill has been introduced to correct a loophole that has emerged, and it will simply restore things to the way they have always been. I would, however, be interested to hear the Attorney-General comment as to whether there is some possibility of perhaps the prisoners concerned being available when the parcels are unwrapped, or whether provision could be made for videotaping of all unwrapping of parcels so that prisoners have the right to see that this has been done properly. Apart from that question to the Attorney-General, we will be supporting this legislation.

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their contribution and the Leader of the Opposition for his indication of support. He has recognised that this is a matter that ought to be dealt with urgently to address a particular problem which has arisen. I also thank the Hon Sandra Kanck for her indication of general support.

It is my understanding that the present system which operates within prisons is that there is no immediate supervision of the opening of parcels by prisoners. I am told by the departmental officers that the current system of staff opening authorised parcels has been in operation for many years, with few, if any, complaints that prisoners' property has been tampered with or stolen.

The Bill relates to the need for authorisation of parcels received by prisoners and not the system of opening parcels that are received, and this legislation is really necessary to close a loophole which has been discovered and which is creating problems. If some videotaping was introduced to videotape the opening of all parcels there would certainly be some resource implications, because it would apply not only be at the main prison but in all the other correctional institutions.

It would be even more expensive to have prisoners present whilst all these parcels were being opened. It would mean a steady procession of people through the mail office, and that would be an impossible situation to resolve.

As I say, the information I have been given indicates that there has been little, if any, complaint about the existing system of the opening of parcels. The Government, as a matter of policy and also resource application, is not prepared to move to change what has been an acceptable system in the light of the loophole which has been discovered. So I can indicate that the Government does not propose to take any further the issue raised by the Hon. Sandra Kanck, and would hope, notwithstanding that, that the Bill would pass expeditiously.

Bill read a second time and taken through its remaining stages.

The Hon. M.S. FELEPPA: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

JOINT COMMITTEE ON WOMEN IN PARLIAMENT

Adjourned debate on motion of Hon. Diana Laidlaw:

1. That, in the opinion of this Council, a joint committee be appointed to inquire into and report upon the following matters—
   (a) the extent of any existing impediments to women standing for Parliament; and
   (b) what measures should be taken to facilitate the entry of women to Parliament.
2. That, in the event of the Joint Committee being appointed, the Legislative Council be represented thereon by three members, of whom two shall form a quorum of Council members necessary to be present at all sittings of the committee.
3. That a message be sent to the House of Assembly transmitting the foregoing resolution and requesting its concurrence thereto.

(Continued from 8 March. Page 178.)

The Hon. CAROLYN PICKLES: In supporting wholeheartedly the principle of the motion, I move:

Paragraph 1(a)—
After 'the' insert the words 'reasons and'.
Paragraph 1(b)—
Leave out this paragraph and insert new paragraphs as follows:
(b) strategies for increasing both the number of women and the effectiveness of women in the political and electoral process, and
(c) the effect of parliamentary procedures and practice on women's aspiration to and participation in, the South Australian Parliament.

I believe that these amendments make the motion stronger. They are essentially the same as those moved in the Federal Parliament in relation to the Standing Committee on Electoral Matters. The first amendment is important because I believe we must look at the reasons why women do not stand for Parliament. The second amendment deals with strategies to increase the number of women in Parliament and increasing their effectiveness in the political and electoral process. The third amendment deals with how the present parliamentary system may affect both women entering Parliament and a decision about even standing for Parliament.

At the outset, I must say that although I support the motion I could probably state the reasons right now why more women are not in Parliament and how we can get more women into Parliament. Simply, the political Parties must have a will to ensure that half the membership of Parliaments of Australia is comprised of women. If there is that political will, then I believe this will eventually be achieved. There has not been that political will to date.

I also think it is important for all members on both sides of the Chamber to look at these issues. For all those people who work in Parliament House, there are some important matters about women in the workplace which I hope we can address in these terms of reference and which, I believe, have been quite largely ignored up to now. I can recall a number of issues that I have raised, both in my Party room and in the Parliament, in relation to the women who actually work in this physical environment.

I hope that the political will is starting to emerge in the Labor Party. A meeting of Labor women parliamentarians was held last November, but unfortunately we in South Australia were unable to attend because of the election. That meeting highlighted work that has been going on in the Labor Party for more years than I care to remember. All Labor Party women members in this Chamber have worked diligently for the cause of women in our Party, as I am sure all women members opposite have in theirs. Nevertheless, it is always satisfying to have the seal of approval for our goals from the Prime Minister himself. At the opening of the conference on Women, Power and the Twenty-first Century in Melbourne on 3 December 1993, Paul Keating stated:

> This is a country which prides itself on its democratic institutions yet in the most important of those democratic institutions, the nation's Parliaments, men outnumber women seven to one, in the House of Representatives more than 10 to one. No doubt the aberration can be explained: but it cannot be justified. There are reasons, but we should not call them excuses.
>
> The ruling body of the nation should be representative of the people it serves. At present it is not. Parliaments make laws for all the people and its composition should as far as possible reflect that. At present it does not. In fact, it has been calculated...that at the present rate of increase it would take another 60 years to achieve equal representation of men and women in the Commonwealth Parliament.
>
> In the meantime Australian democracy is the loser...It is less that women have a right to be there than we have a need for them to be there...Equal representation of women and men strengthens the legitimacy of our decision-making process. More than that, it strengthens our capacity to make the right decisions.

I am sure that, irrespective of Party beliefs, all people present in the Chamber would concur with those remarks. However, I think we must recognise that not all women believe in affirmative action. This regrettably includes some women members of Parliament. I must say that I was a bit surprised to hear the Hon. Miss Laidlaw quote Margaret Thatcher, although she was certainly a very intelligent woman member of Parliament who achieved greatness in her own right. However, I do not think she ever really supported women very much, and I certainly do not believe she ever supported affirmative action.

It seems that closer to home the Thatcher clone (as she has been termed by some people), Senator Bronwyn Bishop, has strong views about this issue. I must say that I was very disappointed to read the following statements in the *Australian* of 17 March. Senator Bishop is purported to have said:

> I do not and never will believe in the principle of affirmative action...I believe it makes women permanent second-class citizens because it opens up the avenue of saying, 'You are only there because you had to have a woman.' I cannot believe that Australian women are so weak, insecure and lacking in ability that they have to be lifted up by somebody else.

I am sure that the Hon. Miss Laidlaw does not agree with those sentiments, as I know that she supports affirmative action.

As the Hon. Miss Laidlaw has noted in her speech, we have had the right to stand for Parliament for 100 years, but it took 65 years to get the first woman into Parliament. There have now been only 22 of us. Currently we have women holding 13 out of 69 seats, and that is actually the most women members that we have ever had.

A 1991 interparliamentary union survey showed that in 1991 women made up 11 per cent of the world's parliamentarians and men 89 per cent, using as a base single or lower Chambers of national Parliaments. By the 1993 survey this percentage had dropped to 10.1 per cent. In the Federal Parliament in 1991, the figure was 6.7 per cent and in 1993 it was 8.2 per cent, just behind El Salvador with 8.3 per cent.

In the South Australian Parliament women represent 19 per cent of the members, and to achieve 50 per cent we need to increase our number nearly threefold.

Much work has been done worldwide to explore the reasons for this gross gender imbalance in Parliament. However, I suppose that since it took 65 years for South

Australia to put a woman into Parliament we should perhaps concentrate on more recent historical matters.

Women are now aiming for economic independence and are saying that it is our right to be represented in Parliament in accordance with our representation in the State and in the country. It is ours by right and we are now claiming that right. The role of women in society has changed very rapidly in the past 20 years and, when I look at the good work that women have done in all spheres of life, I can only say that the sooner that right is realised the better.

I am sure that this parliamentary committee, which I hope all members will support, will address these issues because I think it is important to do so in order to work out how we redress this inequality. Public attitude has changed enormously in the past 20 years. Women candidates are now not only acceptable: they are also great vote winners and if there is anything a political Party takes notice of that is a vote winner.

Basic arguments put forward in support of women's increased representation in politics are concerned with democracy and egalitarianism, but they are also a challenge to the all-male decisionmaking of the past. I believe that women are aware of their own needs now more than ever in the past, and in my view more women in Parliament is the most efficient use of human resources.

It is important, too, that the committee looks at strategies of getting more women into Parliament. We need to see why they have not put themselves forward or been promoted, and we need to change this. I am sure that members on both sides would be able to count on the fingers of one hand, if that, the occasions on which women have been encouraged to stand for Parliament. I am hoping that our numbers in this Parliament will be increased at the forthcoming by-election, where the Labor Party has preselected a woman, and I know that my colleagues in this place look forward to the arrival of Carmen Lawrence in the Federal Parliament.

I believe also that we need to look at the whole structure of the Parliament, at whether in a twentieth century democracy the system we have now is an appropriate one or whether we continue to support a system invented by men to suit men's needs. I believe that many women would prefer to work in a forum that was more cooperative and constructive. We can work within the existing framework of the confrontationist Westminster system, and I am not suggesting we can change that; that is for a later debate. But perhaps we should attempt to modernise the approach that we have. I feel that this whole place is a bit like a men's club. That is what struck me when I first visited the South Australian Parliament back in the early 1960s: that this really was a very old fashioned place and very much a place that is physically designed for men.

The seats in the place are designed for people who are much taller than the majority of women; the seats in the committee rooms upstairs certainly have never been designed with women in mind. I think this committee should be looking at the physical aspect of the environment, the lack of women's toilets in this building and a number of other issues, and I would like to note at this point that you, Mr President, have initiated through your Government an improvement to the facilities in Parliament. I can only hope that when we are looking at these facilities we take into account that there are increasing numbers of women in this place and we can make proper provision for the women who work here.

The physical environment, as I have said, is off-putting and staid. The hours are long and not conducive to people with young families, unless you manage to have someone look after your children. The lifestyle of parliamentarians is not a particularly healthy one, both physically and emotionally. There is a different approach by women when they consider whether to enter Parliament. I know that when I made a decision finally to stand for a seat that it was clear I could win (I had had a couple of trial runs in the safe Liberal electorate of Bragg and it was quite clear I was never going to win that for the Labor Party), on the occasion that I stood for the Legislative Council, my family was grown up.

I think it would be very difficult for many women to make the choices about whether or not they should have the care of their children. It is invidious that women today still have to make those choices, and it is often not a choice that men even think about. When they are offered a chance to go into Parliament they often jump at it, whereas women often have to take a backward step and think about it twice. Those are issues that we should look at. Whilst it is probably not possible to have a child-care centre in this building as it exists at present, it is quite regrettable that with the numbers of younger members of Parliament coming in here there is not such a facility. I have heard some of the younger members of Parliament of both genders saying they would like to have some environment where they could bring their children and actually see them on the evenings of late night sittings. I think that is something we should be looking at as a committee and something that I would hope the Hon. Ms Laidlaw will support.

On many issues Australia can claim to be one of the leading countries in the world in terms of its commitment and action to promote the status of women. In South Australia in 1994 we celebrate the centenary of women's suffrage and note the work that has been done in the past by many women who have tried to ensure that women had a place in our society. However, we are very much behind in this Parliament, and I believe there is an urgent need to address this problem. I do not believe that this committee can solve it, but it can highlight the issues and provide stimulus for debate in the community and in the Parliament. Although I note that the committee will be constrained by numbers, I hope that all members of Parliament on all sides will be urged to give submissions to the committee, because I believe that their input will be very valuable.

I would like to think that in 100 years time some South Australian woman parliamentarian will be standing in this place and commenting on how much we did in 1994 to ensure that women took their rightful place in the decision making forums of this State and this nation. I urge members to support the amendments and the substance of the motion unanimously, and at least then we as a whole Parliament can have a better track record on voting for the rights of women than some of our forefathers did in the past when some of them voted against women having the right to vote and to stand for Parliament.

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

PETROLEUM (SUBMERGED LANDS) (MISCELLANEOUS) AMENDMENT BILL

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

STATUTES REPEAL (INCORPORATION OF MINISTERS) BILL

Returned from the House of Assembly without amendment.

ADMINISTRATIVE ARRANGEMENTS BILL

Returned from the House of Assembly without amendment.

PETROLEUM (SUBMERGED LANDS) (MISCELLANEOUS) AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

Owing to the fact that this has already been dealt with in another place, I seek leave to have the second reading incorporated in *Hansard* without my reading it.

Leave granted.

Petroleum exploration in South Australia is administered under three separate Acts:

1. The Petroleum Act 1940 applies to all onshore areas and the waters of a number of bays and gulfs including those of St Vincent and Spencer;

2. The Petroleum (Submerged Lands) Act 1982 applies to a narrow strip of offshore waters (the territorial sea) extending three miles seaward of the territorial sea baseline;

and

3. The Petroleum (Submerged Lands) Act 1967 (Commonwealth) applies to all waters outside of the three mile territorial sea to the limit of the continental shelf.

The arrangements made between the Commonwealth and the State for the administration of petroleum exploration in offshore South Australia provide that:

> 'the Commonwealth, the States and the Northern Territory should endeavour to maintain, as far as practicable, common principles, rules and practices in the regulation and control of the exploration for and the exploitation of the petroleum resources of all the submerged lands that are on the seaward side of the inner limits of the territorial sea of Australia'. (see the preamble to the South Australian Petroleum (Submerged Lands) Act 1982).

This Bill proposes one combined batch of complementary amendments to the South Australian Petroleum (Submerged Lands) Act 1982, following four separate sets of amendments made to the Commonwealth Petroleum (Submerged Lands) Act 1967 during 1987, 1988, 1990 and 1991. Similar complementary amendments have been enacted or are in the process of being enacted in all States and in the Northern Territory. Although a considerable number of amendments are involved, all are relatively inconsequential and are mainly aimed at the more efficient administration of the Act. The amendments proposed are complementary to the Commonwealth Act and are principally designed to:

1. Enable the level and form of fees provided for in the legislation to be established in regulations;

2. Abolish refunds of application fees for unsuccessful applications for various tenements under the legislation;

3. Enable the offering of a grant to renew a title to be made to persons who are the registered holders of the title at the time of the offer, whether they were the registered holders at the time of the application to renew the title or not, thereby enabling a transfer of the title to be registered between an application for renewal and the granting of that renewal;

4. Enable the Minister to grant an access authority to a holder of a special prospecting authority;

5. Abolish the requirement that the holder of a production licence spend a minimum amount, or recover production to a minimum value, during each year of the licence;

6. Ensure that any operations preparatory to, or knowingly connected with, petroleum exploration in the area to which the Act applies require approval under the Act rather than just petroleum exploration itself;

7. Ensure (consistently with other provisions of the Act) that the provision of false or misleading information in relation to dealings in petroleum titles is an offence only if the information is known by the offender to be false or misleading;

8. Replace the current discretionary requirements for exploration permittees, retention lessees, production licensees and pipeline licensees to take out insurance against potential liabilities which could arise from relevant operations with a mandatory requirement for such insurance;

9. Clarify that a report of operations under an access authority submitted by the holder of the access authority to an affected titleholder need only contain a summary of the facts ascertained from the relevant operations rather than a statement of all of the facts ascertained from those operations;

10. Extend the period of confidentiality for basic data recorded under speculative non-sole risk surveys from the present maximum of two years to a maximum of five years, at the discretion of the Minister;

11. Extend the application of certain provisions of the Act to provide for the release of information and materials such as cores, cuttings or samples furnished to the Minister under the Act prior to the commencement of the Petroleum (Submerged Lands) Act Amendment Act 1987;

12. Repeal provisions relating to the prosecution of offences to ensure that matters of prosecution are subject to our general State law;

13. Abolish the existing requirement that securities be lodged by exploration permittees, retention lessees, production licensees and pipeline licensees, as appropriate insurance will be mandatory.

In addition, there are many minor amendments that are a necessary consequence of the above amendments.

The provisions of the Bill are as follows:

Clause 1 is formal.

Clause 2 provides for commencement on a day to be fixed by proclamation.

Clause 3 amends section 18 of the principal Act by inserting new subsection (2). Section 18 makes it an offence for a person to explore for petroleum in the area to which the Act applies unless that person has a permit or is otherwise authorised by the Act to do so. New subsection (2) provides that a person is to be deemed to explore for petroleum if they do anything preparatory to, or knowingly connected with, exploration.

Clause 4 amends section 19 of the principal Act by striking out subsections (3), (4) and (5). Section 19 empowers the Minister to invite applications for exploration permits in respect of specified blocks. The invitation must be published in the *Gazette* and must specify a time within which applications must be made. Under subsections (3), (4) and (5), where no successful application is made in respect of any block specified in that invitation, the Minister can, after publishing a further notice in the *Gazette*, accept applications in respect of that block at any subsequent time. This amendment removes that power of the Minister.

Clause 5 amends section 20 of the principal Act by deleting the fee of $3 000 set by that section for an application for an exploration permit and substituting a power to set the fee by regulation. It also removes the existing requirement to refund nine-tenths of the application fee if the permit is not granted.

Clause 6 amends section 21 of the principal Act by deleting the existing requirement that a successful applicant for an exploration permit must lodge a security for compliance with the Act, regulations and permit conditions.

Clause 7 amends section 22 of the principal Act by striking out subsections (2) and (3). Section 22 empowers the Minister to invite applications for exploration permits in respect of specified blocks that were formerly subject to a lease, licence or permit. The invitation must be published in the *Gazette* and specify a time within which applications must be made. Under subsections (2) and (3), where no successful application is made in respect of those blocks, the Minister can, after publishing a further notice in the *Gazette*, accept applications for permits in respect of any of those blocks at any subsequent time. This amendment removes that power of the Minister.

Clause 8 amends section 23 of the principal Act by deleting the fee of $3 000 set by that section for an application for an exploration permit (in respect of surrendered, etc., blocks) and substituting a power to set the fee by regulation. It also removes the existing requirement to refund nine-tenths of the application fee if the permit is not granted.

Clause 9 amends section 24 of the principal Act by deleting the existing requirement that where the Minister offers to grant an exploration permit (in relation to surrendered, etc., blocks), the Minister must require a security to be lodged for compliance with the Act, regulations and permit conditions. This clause also repeals subsection (3) of section 24 as a consequence of the repeal of section 22(2) of the principal Act by clause 7.

Clause 10 amends section 25 of the principal Act by deleting the existing requirement that a successful applicant for an exploration permit (in relation to surrendered, etc., blocks) must lodge a security for compliance with the Act, regulations and permit conditions.

Clause 11 amends section 26 of the principal Act by deleting the existing requirement that an exploration permit only be granted (in relation to surrendered, etc., blocks) where security for compliance with the Act, regulations and permit conditions has been lodged with the Minister.

Clause 12 amends section 29 of the principal Act by deleting the fee of $300 set by that section for the renewal of an exploration permit and substituting a power to set the fee by regulation.

Clause 13 amends section 31 of the principal Act. New subsections (1) and (2) make it clear that where an application is made for the renewal of an exploration permit, the Minister can offer to grant that renewal to the person who is the holder of the permit at the time the Minister makes the offer, whether that person was the holder at the time of the original application or not (that is, a renewal can be granted whether the permit has been transferred since the original application for renewal or not).

In addition, new subsections (1), (6) and (7) and amendments to subsections 4*(b)* and (5) together remove the existing requirement that a successful applicant for renewal of an exploration permit must lodge a security for compliance with the Act, regulations and permit conditions.

Clause 14 repeals sections 35 and 36 of the principal Act and substitutes new sections 35 and 36. Both the repealed and the new sections provide for the declaration of a 'location' for the purposes of the Act where petroleum is discovered within an exploration permit area.

Under the repealed sections the location is determined by the nomination of a block within the permit area by the permit holder (or by the Minister if the permit holder fails to do so when requested) following the discovery. The location consists of the block nominated and all adjoining blocks that are within the permit area and not within another location. The location so formed must include at least one block in which petroleum was discovered.

Under the new sections the location is formed by the nomination of blocks within the permit area to which the discovered petroleum pool extends. The area is not restricted to a nominated block and surrounding blocks. A nomination cannot be made by a permit holder unless petroleum has been recovered from the petroleum pool to which the nomination relates, although it does not matter for that purpose whether the recovery from that pool took place within the permit area or not. Where separate petroleum pools are located in adjoining blocks within the permit area, the blocks relating to each pool can be nominated as one location. As under the repealed sections the Minister can make a nomination where the permit holder has failed to do so when requested. The new sections make it clear that the Minister may only declare a location if the Minister is of the opinion that the permit holder is entitled to nominate the block or blocks. New section 36 also empowers the Minister to vary a location (by adding or removing blocks) without the consent of the permit holder, provided that notice is given to the permit holder and any objections are considered by the Minister.

Clause 15 amends section 37 of the principal Act to strike out a reference to section 36 of the principal Act as a consequence of the repeal and substitution of that section by clause 14.

Clause 16 amends section 37a of the principal Act by deleting the fee of $600 set by that section for an application for a retention lease by a permit holder and substituting a power to set the fee by regulation.

Clause 17 amends section 37b of the principal Act by deleting the existing requirement that a successful applicant for a petroleum retention lease must lodge a security for compliance with the Act, regulations and lease conditions.

Clause 18 inserts new section 37ba. This new section provides that where an exploration permit holder applies for a retention lease under section 37a, but then transfers the permit before a decision has been made on that application, the transferee takes the place of the former permit holder for the purposes of the lease application.

Clause 19 amends section 37f of the principal Act by deleting the fee of $600 set by that section for the renewal of a retention lease and substituting a power to set the fee by regulation. In addition, subsection (4) is amended to make it clear that the Minister can continue to consider an application for renewal of a retention lease even if the lease is transferred after that application is made.

Clause 20 amends section 37g of the principal Act. New subsections (1) and (2) make it clear that where an application is made for the renewal of a retention lease, the Minister can offer to grant that renewal to the person who is the holder of the lease at the time the Minister makes the offer, whether that person was the holder at the time of the original application or not (that is, a renewal can be granted whether the lease has been transferred since the original application for renewal or not).

In addition, new subsections (1), (7) and (8) and amendments to subsections 4*(b)* and (6) together remove the existing requirement that a successful applicant for renewal of a retention lease must lodge a security for compliance with the Act, regulations and lease conditions.

Clause 21 amends section 39 of the principal Act. It makes a consequential amendment to subsection (1)*(a)* that reflects the lifting by new sections 35 and 36 of the previous restriction on the size of a location and clarifies who can apply to vary a production licence under section 39(2)*(b)*. It also makes it clear that the holder of an exploration permit who is the holder of a production licence may make certain applications whether that permit holder is the person to whom the production licence was originally granted or not.

Clause 22 amends section 39a of the principal Act. It makes a consequential amendment to subsection (1)*(a)* that reflects the lifting by new sections 35 and 36 of the previous restriction on the size of a location. It also amends section 39a to make it clear that where an application for a production licence has been made in respect of part of the area to which a lease relates, further licence applications can be made by the lessee in respect of the area to which the lease relates whether the lessee is the person who made the original application or not.

Clause 23 amends section 40 of the principal Act by deleting the fee of $600 set by that section for an application for a production licence and substituting a power to set the fee by regulation.

Clause 24 amends section 42 of the principal Act by deleting the existing power of the Minister to require an applicant for a production licence to lodge a security for compliance with the Act, regulations and licence conditions.

Clause 25 amends section 43 of the principal Act by deleting references to the security that the Minister can no longer (as a result of the amendments made by clause 24) require an applicant for a production licence to lodge under section 42.

Clause 26 inserts new section 43a. This new section provides that where an application has been made for the grant of a production licence under section 39 or 39a by the holder of an exploration permit or a retention lease, but the applicant transfers the permit or lease before a decision has been made on that application, the transferee takes the place of the former permit holder or lease holder for the purposes of the licence application.

Clause 27 amends section 45 of the principal Act by striking out references to section 36(1). This is a consequence of the repeal of section 36 and substitution of new section 36 by clause 14.

Clause 28 amends section 46 of the principal Act. Section 46 empowers the Minister to invite, by notice in the *Gazette*, applications for the grant of a production licence in relation to certain blocks. The notice must specify a period within which applications should be made. Where no successful application is made, subsections (4), (5) and (6)*(e)* currently empower the Minister, after publishing another notice in the *Gazette*, to accept applications in respect of that block at any subsequent time. This amendment removes that power of the Minister.

Clause 29 amends section 47 of the principal Act by deleting the fee of $3 000 set by that section for a production licence application (in respect of surrendered, etc., blocks) and substituting a power to set the fee by regulation. It also removes the existing requirement to refund nine-tenths of the application fee if the licence is not granted. This clause also alters a number of references to sections 46 and 48 as a consequence of amendments to those sections by this Bill.

Clause 30 amends section 48 of the principal Act by deleting the existing power of the Minister to require an applicant for a production licence (in relation to surrendered, etc., blocks) to lodge a security for compliance with the Act, regulations and licence conditions. It also strikes out subsection (3) as a consequence of the repeal of section 46(4) by clause 28 of this Bill.

Clause 31 amends section 49 of the principal Act by deleting a reference to the security that the Minister can no longer (as a result of the amendments made by clause 30) require an applicant for a production licence (in relation to surrendered, etc., blocks) to lodge under section 48.

Clause 32 amends section 50 of the principal Act. It removes the fee of $300 set by that section for an application for more than one licence in exchange for an original licence and substitutes a power to set the fee by regulation. It also deletes the existing power of the Minister to require a person who makes such an application to lodge a security for compliance with the Act, regulations and licence conditions.

Clause 33 amends section 53 of the principal Act by deleting the fee of $600 set by that section for the renewal of a production licence and substituting a power to set the fee by regulation.

Clause 34 amends section 54 of the principal Act. New subsections (1), (2) and (3) and amendments to subsection (5) make it clear that where an application is made for the renewal of a production licence, the Minister can offer to grant that renewal to the person who is the holder of the licence at the time the Minister makes the offer, whether that person was the holder at the time of the original application or not (that is, a renewal can be granted whether the licence has been transferred since the original application for renewal or not).

In addition, amendments affecting subsections (6), (7)*(b)*, (8), (9) and (10) remove the existing power of the Minister to require an applicant for renewal of a production licence to lodge a security for compliance with the Act, regulations and licence conditions.

Clause 35 repeals section 56 of the principal Act, which specifies the works required to be carried out by the holder of a production licence during the first and subsequent years of that licence.

Clause 36 amends section 58 of the principal Act. Section 58 provides for the making of co-operative arrangements for the recovery of petroleum where a petroleum pool is located partly within one production licence area and partly within another (whether that other is within the area regulated by the principal Act or not). Where a petroleum pool extends from the area regulated by the principal Act into an area adjacent to Victoria or Western Australia that is regulated by the Commonwealth Petroleum (Submerged Lands) Act 1967, the Minister is currently required to seek the approval of the relevant Minister from the other State before approving an agreement or giving a direction under this section. The amendment requires the Minister to seek the approval of the Joint Authority under the Commonwealth Act (consisting of the Commonwealth Minister and the State Minister) before giving such an approval or direction.

Clause 37 amends section 63 of the principal Act by deleting the fee of $3 000 set by that section for an application for a pipeline licence and substituting a power to set the fee by regulation.

Clause 38 amends section 64 of the principal Act. New subsections (2) and (3) make it clear that where an application is made for a pipeline licence for the conveyance of petroleum recovered in a petroleum production licence area in respect of which the applicant is the licensee, the Minister may offer to grant that pipeline licence to the person who is the production licensee at the time of the offer, whether that person was production licensee at the time of the original application or not (that is, an application for a pipeline licence by a production licensee can continue to be considered whether the production licence to which it relates is transferred or not).

In addition, this clause deletes the existing requirement that a successful applicant for a pipeline licence must lodge a security for compliance with the Act, regulations and licence conditions. It also removes the requirement (in subsection (12)) that nine-tenths of the application fee be refunded if the pipeline licence is not granted.

Clause 39 amends section 67 of the principal Act by deleting the fee of $600 set by that section for the renewal of a pipeline licence and substituting a power to set the fee by regulation.

Clause 40 amends section 68 of the principal Act. New subsections (1) and (2) make it clear that where an application is made for the renewal of a pipeline licence, the Minister can offer to grant that renewal to the person who is the holder of the pipeline licence at the time the Minister makes the offer, whether that person was the holder at the time of the original application or not (that is, a renewal can be granted whether the pipeline licence has been transferred since the original application for renewal or not).

In addition, new subsections (1), (6) and (7) and amendments to subsections (4)*(b)* and (5) together remove the existing requirement that a successful applicant for renewal of a pipeline licence must lodge a security for compliance with the Act, regulations and licence conditions.

Clause 41 amends section 70 of the principal Act by deleting the fee of $300 set by that section for an application to vary a pipeline licence and substituting a power to set the fee by regulation.

Clause 42 amends section 77 of the principal Act by removing the power of the Minister, when considering whether to approve the transfer of a permit, lease, licence, pipeline licence or access authority, to require the transferee to lodge a security for compliance with the Act, regulations or permit (etc.) conditions.

Clause 43 amends section 78 of the principal Act by deleting the $30 fees set by that section for the alteration of certain particulars in the register of titles and special prospecting authorities and substituting a power to set those fees by regulation.

Clause 44 amends section 80 of the principal Act. Section 80 prevents certain dealings in relation to titles from having any force until those dealings are approved by the Minister and registered. At present an application for the approval of a dealing must be accompanied by an instrument evidencing the dealing and by an instrument setting out any particulars that are prescribed for the purposes of such an application. On approval and registration of the dealing a copy of the instrument evidencing the dealing is required to be retained by the Minister and made available for inspection in accordance with the Act. This amendment makes the lodgment of the second instrument—setting out prescribed particulars—optional, but provides that where such an instrument is lodged, only that instrument must be made available for inspection in accordance with the Act and not the instrument evidencing the dealing. The new requirements as to the lodgment of instruments do not apply in the case of a dealing approved before the commencement of this Bill. The amendment also provides that a failure to comply with the requirements relating to an application for approval do not invalidate a subsequent approval or registration of the dealing.

Clause 45 amends section 80a of the principal Act as a consequence of the insertion of new section 80(4a) by clause 44 of this Bill.

Clause 46 amends section 83 of the principal Act, which empowers the Minister to require information from certain persons concerning transfers or dealings in permits, leases, licences, etc. It is currently an offence under subsection (2) for such a person to furnish information that is false or misleading in a material particular. This clause amends subsection (2) to make it clear that it is only an offence if the person knowingly supplies that false or misleading information.

Clause 47 amends section 85 of the principal Act. Section 85 makes the register and instruments relating to applications under the Act open to public inspection. This amendment makes it clear that copies of instruments are in appropriate cases included for that purpose. It also deletes the fee of $6 set by section 85 for an inspection of the register or of these instruments and substitutes a power to set the fee by regulation.

Clause 48 amends section 86 of the principal Act by deleting the fees set by that section for the supply by the Minister of extracts from the register (or from other instruments), and for the supply by the Minister of certain certificates, and substituting a power to set those fees by regulation.

Clause 49 amends section 91 of the principal Act by deleting the various registration fees specified in that section and substituting in each case a power to set the fee by regulation. It also makes provision for fees paid in respect of the registration of the approval of instruments under section 91 as in force prior to the commencement of the Petroleum (Submerged Lands) Act Amendment Act 1987 to be taken into account for the purposes of determining other fees payable under the section.

Clause 50 amends section 96 of the principal Act by striking out subsection (6). That subsection currently provides that the conditions subject to which a permit, lease, licence, pipeline licence, special prospecting authority or access authority is granted may include a condition that the holder maintain (to the satisfaction of the Minister) insurance against liabilities or expenses arising out of work or anything else done in pursuance of the permit, lease, licence, etc. A new section relating to insurance—new section 96a—is inserted by clause 51.

Clause 51 inserts new section 96a. This new section replaces section 96(6) (which is struck out by clause 50). As under section 96(6), new section 96a(2) provides that a special prospecting authority or access authority may be granted subject to a condition that the holder maintain such insurance (against liabilities or expenses arising out of work or anything else done in pursuance of

the authority) as the Minister directs, although new section 96a(2) makes it clear that the Minister can alter such directions from time to time. In relation to permits, leases, licenses and pipeline licenses, however, new section 96a(1) automatically requires the holder to maintain such insurance as the Minister from time to time directs: there is no need for such a requirement to be made a condition of the permit, lease, etc.

Clause 52 amends section 110 of the principal Act by inserting a power to prescribe a fee to be paid on application for a special prospecting authority under that section.

Clause 53 amends section 111 of the principal Act. Section 111 empowers the Minister to grant access authorities to enable permit, lease or licence holders to carry out, in areas outside the permit, lease or licence area, exploration operations or operations related to the recovery of petroleum from the permit, lease or licence area. Such access authorities can also be granted to persons who hold similar titles in adjacent State or Commonwealth areas who wish to carry out such operations in the area governed by this Act.

This clause amends section 111 to empower the Minister to grant access authorities (in relation to the area governed by the Act) to holders of special prospecting authorities.

In addition, this clause amends subsection (11) of section 111 to vary the responsibility of the holder of an access authority to provide information where the access authority relates to an area that is subject to a permit, lease or licence held by another person. At present the holder of the access authority is required to provide that other person each month with a full report of operations carried out in that area during the month and of the facts ascertained from those operations. Under this amendment it is made clear that although a full report of operations is to be supplied, only a summary of the facts ascertained is required.

Clause 54 repeals section 113 of the principal Act. Section 113 sets the amount of the security (for compliance with the Act, regulations or permit, lease, etc., conditions) required to be lodged under various provisions of the Act and deals with a number of other matters relating to those securities. Since this Bill removes the requirement for a security to be lodged from all relevant provisions of the principal Act, section 113 is no longer needed.

Clause 55 amends section 117 of the principal Act, which empowers the Minister to release (in certain circumstances) information contained in applications, reports, returns or other documents, and other materials such as cores, cuttings or samples, provided to the Minister under the Act. This clause deletes the $15 per day fee that is specified in a number of instances for the provision of that information or other material and substitutes a power to set the fee by regulation.

This clause also amends subsection (4) to allow the Minister to extend the period before information or materials are released in relation to a block that was vacant at the time the information or material was supplied to the Minister to a maximum of five years (instead of two years as at present) where the information or material was collected for the purpose of the sale of information on a non-exclusive basis. It also amends subsection (5a) to correct an anomaly that arose when the principal Act was amended in 1987.

In addition, this clause extends the operation of certain amendments concerning the release of information and materials that were made by the Petroleum (Submerged Lands) Act Amendment Act 1987 to information and materials furnished to the Minister prior to the commencement of that amending Act. The 1987 amendments ensured that information in applications and accompanying documents supplied to the Minister could be released after specified periods and provided for the first time for the release of conclusions based on such information (after a specified time and after the consideration by the Minister of any objections to such a release). Under new subsections (10) and (11), such information provided to the Minister prior to the 1987 amendment will now be available for release in accordance with the provisions of the principal Act.

Clause 56 repeals section 132 of the principal Act, which makes special provision for the prosecution of offences against the Act. Section 132 specifies that offences against the Act that are punishable by imprisonment are to be indictable offences. It also provides that, despite being indictable offences, those offences can be dealt with in a court of summary jurisdiction where the Court, defendant and prosecutor agree that it is appropriate to do so. A lesser maximum penalty is then applicable. The classification of offences as indictable or summary, and the issue of where such offences should be heard, have recently been the subject of considerable amendment in relation to offences against South Australian law. The repeal of these specific provisions in section 132 will result in the application of those new general provisions to offences against the principal Act.

Clause 57 amends section 133 of the principal Act. Section 133 provides that where a person is convicted of an offence against certain sections of the principal Act, the court can, in addition to imposing a penalty, order the forfeiture of aircraft, vessels or other equipment used in the commission of the offence. The court can order the forfeiture of petroleum recovered or conveyed in the course of committing the offence or the payment of the monetary equivalent of that petroleum. At present section 133 only provides for these powers to be exercised by the Supreme Court on conviction of the offender by that Court. Under the recent amendments to South Australian law referred to above, however, the offences concerned will normally be dealt with by the District Court. This amendment therefore gives the District Court power to exercise these additional punitive powers.

Clause 58 amends section 137b of the principal Act by striking out a reference to the Australian Shipping Commission from a provision dealing with bodies corporate established for public purposes under a law of the Commonwealth. The Commission was converted into a public company under the ANL (Conversion into Public Company) Act 1988 of the Commonwealth.

Clause 59 repeals sections 138, 138a, 139 and 140 of the principal Act and substitutes new section 138. The sections repealed by this clause require the payment of, and specify the amount of, the annual fees payable in respect of permits, leases, licences and pipeline licences under the Act. New section 138 requires the payment of such annual fees in relation to permits, leases, etc., as are prescribed by regulation.

Clause 60 amends section 141 of the principal Act by deleting a reference to sections 138a, 139 and 140, which are repealed by clause 59.

Clause 61 inserts new sections 148a and 148b. Under section 142 of the principal Act a permit, lease or licence holder is (subject to the Act) required to pay royalty on petroleum recovered by that person in the permit, lease or licence area at the rate of ten per cent of the value of the petroleum at the well-head. Under section 146 the value at the well-head is such amount as is agreed between the permit (etc.) holder and the Minister or, in default of agreement within the time allowed by the Minister, an amount determined by the Minister. Under section 148, that royalty is payable not later than the last day of the royalty period following that in which the petroleum was recovered.

New section 148a provides that where the value of the petroleum has not been agreed by the parties or determined by the Minister under section 146, the Minister can determine a provisional value for the petroleum. That provisional value is then to be treated as the value of the petroleum for the purposes of the Act until an agreement is reached or a determination made under section 146.

New section 148b provides that where a provisional value has been set under new section 148a but a different value is subsequently agreed or determined under section 146, the change in royalty flowing from that change in value must be settled between the parties. If the agreed or determined value is higher than the provisional value set by the Minister, the increase in the royalty is payable by the permit (etc.) holder within 28 days. If the agreed or determined value is less than the Minister's provisional value, the difference in royalty must be deducted from any subsequent payment by the permit (etc.) holder. New section 148b also provides for the application of this scheme of payment adjustments where an error was made in the original calculation of the royalty due or in the procedures followed in calculating the value of the petroleum.

Clause 62 amends section 151 of the principal Act, the regulation-making power. The other clauses of this Bill delete the various fees currently specified in the principal Act and substitute in each case a power to set those fees by regulation. This amendment empowers the Governor to make regulations prescribing and providing for the payment and recovery of fees (and providing for the waiver or refund of fees or parts of fees in specified circumstances).

Clause 63 inserts a sixth schedule into the principal Act. This schedule deals with transitional matters.

Clause 2 of new sixth schedule: under section 35 of the principal Act a block from within a permit area in which petroleum has been found can be nominated to form the basis for the declaration of a 'location' for the purposes of the Act. Section 36 determines the extent of the location that may be declared on the basis of the nominated block. Clause 14 of this Bill repeals sections 35 and 36 and substitutes new sections 35 and 36, which provide in a different

manner for the nomination of blocks and the declaration of a location. This clause of the new sixth schedule provides that where a nomination is made before the commencement of this Bill but no declaration is made before that commencement, the nomination and declaration are to proceed as if this Bill had not been enacted. Once the declaration is made it is then to be treated as if it had been made under new section 36, as are all declarations that took place under the repealed section 36.

Under the new arrangements for the declaration of a location, the number of blocks forming the location will sometimes be less than would currently be the case under the principal Act. Where a permit is granted before the commencement of this Bill but the declaration is made after that commencement and the permit holder (or the holder of a subsequent lease) applies for a production licence under section 39 or 39a of the principal Act, that lower number of blocks could result in the payment of a higher rate of royalty than would have been the case if this Bill had not been enacted. This clause of the schedule therefore provides that the Minister can in these circumstances determine that, for the purposes of sections 39 and 39a, the location is to be treated as having the higher number of blocks.

Clause 3 of new sixth schedule: under section 80 of the principal Act an application for the approval of a dealing must be accompanied by certain documents. The amendments to section 80 effected by clause 44 of this Bill make the lodgment of one of those documents—an instrument containing particulars prescribed by regulation—optional, but provide that where such an instrument is lodged only that instrument is to be made available for inspection under the Act. This transitional clause provides that where, at the time that the first regulations for the purposes of section 80 (as amended) come into operation after the commencement of this Bill, a person has lodged an application but has not had it approved or refused, that person will be given time to take advantage of the amendment to section 80 and the new regulations if the person wishes to do so.

Clause 4 of new sixth schedule: new section 96a (inserted by clause 51 of this Bill) requires the holder of a permit, lease, licence or pipeline licence to maintain such insurance (against liabilities arising under that permit, etc.) as the Minister from time to time directs. This clause of the new sixth schedule provides that where an existing holder of a permit (etc.) maintains such insurance to the satisfaction of the Minister, any security that that holder previously maintained under the Act is discharged on the issue of a certificate by the Minister.

Clause 5 of new sixth schedule: new sections 148a and 148b (inserted by clause 61 of this Bill) empower the Minister to set a provisional value in relation to recovered petroleum for the purpose of calculating royalty payments. The amount payable is then adjusted when the actual value is agreed or determined. This clause of the new sixth schedule restricts the operation of these new sections to—

(a) royalty periods beginning after the commencement of the new sections;

or

(b) royalty periods beginning before the commencement of those sections if the value of the petroleum has not been agreed or determined for royalty purposes before that commencement.

The Hon. G. WEATHERILL secured the adjournment of the debate.

ADJOURNMENT

At 5.34 p.m. the Council adjourned until Wednesday 23 March at 2.15 p.m.