LEGISLATIVE COUNCIL

Tuesday 10 April 1984

The PRESIDENT (Hon. A.M. Whyte) took the Chair at 2.15 p.m. and read prayers.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner):

Pursuant to Statute—

Financial Institutions Duty Act, 1983—Regulations—Local Government Finance Authority.

By the Minister of Ethnic Affairs (Hon. C.J. Sumner):

Pursuant to Statute—

South Australian Ethnic Affairs Commission—Report, 1982-83.

By the Minister of Health (Hon. J.R. Cornwall):

Pursuant to Statute—

Food and Drugs Act, 1908—Regulations—and Yoghurt—Vendors and Bread—

Planning Act, 1982—Crown Development Reports by South Australian Planning Commission on—

Proposed erection of a single unit timber classroom at Spalding Primary School.

Proposed borrow pits for Yunta to Frome Downs Road, Far North.

Proposed borrow pit.

Proposed changerooms and toilet block for Coober Pedy Area School.

Proposed borrow pit, Hundred of Pendleton.

Proposal to divide an existing allotment, part Section. 1884, Hundred of Kanmantoo.

By the Minister of Health, on behalf of the Minister of Agriculture (Hon. Frank Blevins):

Pursuant to Statute—

Meat Hygiene Act, 1980—Regulations—Fees for Licence to Slaughter.

QUESTIONS

MEDICARE

The Hon. M.B. CAMERON: I seek leave to make a short explanation before asking the Minister of Health a question about Medicare.

Leave granted.

The Hon. M.B. CAMERON: Reassuring noises have come from both the Federal Minister for Health and the State Minister of Health about the fact that the 1 per cent levy on income tax that has been applied in order to finance Medicare will not inflate. The reassurance from the Minister has been all through that, in fact, the 1 per cent levy will be constant. In the *News* 'Money Magazine' today is an article by a financial adviser who, under the heading 'Seeing a gain in Medicare', writes:

The introduction of Medicare is an important event for all Australians with implications in terms of both living costs and standards of health care. However, a leading Melbourne stockbroker, J.B. Were, believes it also presents interesting investment opportunities by identifying companies which will benefit from the increasing demands levels in the medical services field.

According to Were, OPSM Industires represents a likely major beneficiary of Medicare as over 85 per cent of its profits are generated in the supply of optical goods mainly under prescription from ophthalmologists. The potential can be illustrated by their experience under Medibank.

Medibank was introduced on 1 July 1975, and in the following 12 months OPSM's sales rose a staggering 41.8 per cent. While the boost from Medicare is not expected to reach such high levels, Were says there is no doubt that sales will grow strongly in 1983-84 and 1984-85 . . . According to Were the Medicare boost is only an additional plus on top of a future which already looks bright.

Will the Minister indicate whether or not the Federal Minister has given any sort of guarantee that the 1 per cent levy will remain constant? Does the Minister believe that the costs of goods and services supplied under Medicare will not inflate to a level that requires an increase in the 1 per cent levy, both in the near future and later?

The Hon. J.R. CORNWALL: The question of the 1 per cent levy is very much a matter for the Federal Government. I have difficulty enough in coping during pre-Budget times with the areas for which I am directly responsible in South Australia. I am not privy to the discussions of Federal Cabinet or the Federal Ministry. Therefore, anything that I say has to be circumscribed by those remarks.

The Hon. M.B. Cameron: You indicated earlier that a 4 per cent rise was what you expected in hospital bed occupancy. Is that correct?

The Hon. J.R. CORNWALL: If the honourable member wants to ask another question, I would be pleased to answer it. I do not believe that that interjection was encompassed in anything said in his explanation or original question. The sums done originally by people like John Deeble concerning the 1 per cent income-related levy indicated that it would be adequate for the projected expense of running a universal health insurance scheme. It is important that members be aware that the 1 per cent levy does not cover anything like the total cost of the health system. There was in place, under the Fraser Government and the five consecutive Fraser health schemes, a great deal of public funding. There has always been a very large component of public hospital funding, for example. I cannot bring to mind the exact figures, but more than 50 per cent of the total health bill in Australia was being met from general revenue during the years of the Fraser Government and more than 50 per cent of the total health bill in Australia continues to be met from general revenue after the advent of Medicare.

The 1 per cent levy raises a substantial amount of money in order to replace a number of other avenues of income. There is no such thing as a free lunch and there is no such thing as a free health insurance scheme. So, the 1 per cent levy is income related and is equitable. The levy could be kept at 1 per cent, regardless of whether or not the total cost of health care went up or down, expressed as a percentage of the gross national product, or any other way one likes to do it. The levy could be kept at 1 per cent. For example, if it was raising $600 million a year and the total cost of delivery of the system was $1 300 million (these are purely figures for the sake of the exercise and are in no way to be interpreted as being figures representing the total health cost in Australia) and suddenly the total went from $1 300 million to $1 600 million, and the 1 per cent only brought the $600 million component up to $700 million, then one could find the additional money out of general revenue. One could do that by cutting spending in other areas and transferring it to the health lines, by increasing taxation (whether income tax or other forms) or by increasing the Medicare levy.

I believe that the question as to whether the levy goes up or down is really irrelevant in the general argument. The far more important question that was raised by the Leader of the Opposition is whether or not we can contain health costs and whether or not we can keep that cap on in a situation where technology (in medicine and in hospital areas) continues to burgeon. That is the question that we face, and it is one of the reasons why section 17 and the one remaining guideline have been put in place. That is the reason why the matter has been of considerable dispute as far as diagnostic specialists in the Eastern States are concerned. They did not like the idea of having their unfettered

powers to earn as much as possible circumscribed. That has been the nub of the dispute: it is about containing costs.

To suggest that the bonanza will occur because of over-utilisation or abuse by patients, as the Leader of the Opposition inferred in his question, is to misrepresent the position and, quite frankly, to insult all of those pople who enter the system and use it because they have genuine need. OPSM did so very well following the introduction of Medibank because a large number of low income earners out in the community needed spectacles and did not have access to them previously. If as a result of Medicare (the reintroduction of a universal health insurance system) that 10 per cent of the population who previously could not afford health insurance make more use of the system, that is a matter that will have to be looked at or adjusted when the occasion arises. At the moment, to start sparring with shadows or jumping over them is quite premature.

INCEST

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

Leave granted.

The Hon. K.T. GRIFFIN: On 27 March this year the Attorney-General wrote to me with a reply to a question that I raised in Parliament on 6 December 1983 during debate on the Classification of Publications Act Amendment Bill. The topic of those questions was 'Incest'. The Attorney-General's letter states:

On 6 December 1983 you asked a question in Parliament requesting information on how the Classification of Publications Board classifies material describing incestuous behaviour, because on referring to the standards referred to as an annexure in the Classification of Publications Board's Annual Report you could find no specific reference to incestuous behaviour.

The Board considers that incestuous pictorial material is not obvious and depends upon accompanying written material. Therefore, the Board classifies incestuous material according to its guidelines for written material. You will see that, in the annexure to the report on standards for witten material, material devoted to 'relished' descriptions of incest or promoting it is classified Category 2.

At the present time, therefore, the publication would be classified Category 2 unless it is such that the Board would refuse classification as in the case for instance if children are involved. Notwithstanding this, I have forwarded an extract of the *Hansard* of 6 December last (which refers to your question and my response to the Calssification of Publications Board) drawing attention to this particular area of concern.

Incest is a crime. It was the justification raised in the axe murder case three years ago. It was the subject of a State-wide incest phone-in in March 1983, which brought to the surface a mass of concern about incest and the effect on families and children. There have been numerous experts who have prepared reports or made comments on the subject. The Classification of Publications Act contains a provision that the Board must take into account, among other things, any representations by the Minister.

In the light of the action of the Attorney-General in forwarding a copy of the *Hansard* of 6 December to the Board, I ask the following questions:

1. Did he express any view to the Board as to whether or not pornographic material involving incest should be in category 2 or refused classification and, if he did, what was that view?

2. If he did not, will the Attorney-General now express a view on whether such material should be refused classification and ensure that the Board is aware of that view?

The Hon. C.J. SUMNER: I did not express a view. I made known the views of the honourable member on this topic but, obviously, the Classification of Publications Board is aware of my concern about it because I wrote to the Board on the matter. The situation, unfortunately, is not as simple as the honourable member might like to make it out to be. It is virtually impossible to indicate, in purely pictorial material, whether activities are incestuous. It has to be accompanied by some written material. If it involves incestuous behaviour affecting people under 16, then clearly it will be refused classification in the same way that child pornography is refused classification. However, we have to be clear and careful that we do not say that all descriptions of incestuous behaviour will be refused classification. It may be that, with written material particularly, we are talking about a description that is an integral part of a novel or literary work. It would clearly be absurd and would be censorship of the grossest and worst kind for the Classification of Publications Board to suggest that, in connection with a literary work where there is a description of incest, it should be refused classification.

The Hon. K.T. Griffin: My question related to pornographic material.

The Hon. C.J. SUMNER: It did not say that.

The Hon. K.T. Griffin: It did say that.

The Hon. C.J. SUMNER: So, one has to be careful about how one decides whether or not something should be refused classification. That is one example in the literary area where I have indicated that care needs to be taken. I did not specifically express a view, but I was concerned about the question the honourable member raised. For that reason I referred the matter to the Board and asked it to consider the comments made in this place. If material is incestuous and pornographic in the sense of hard-core pornography, my own view is that it probably ought to be refused classification. Guidelines would have to be worked out as to when it is appropriate, as we are talking of printed material and not just pictorial material. That is where the difficulty comes in, because it may be at that point that one phases into literary works. For that reason I have referred the matter to the Board for its consideration.

The Hon. K.T. GRIFFIN: In the light of that, will the Attorney-General now express that view more precisely in respect of pornographic material involving incest to the Classification of Publications Board, as is his opportunity under the specific provisions of the Act?

The Hon. C.J. SUMNER: To ensure that the Board is fully informed, I will do what I did on the previous occasion, namely, to send the Board a copy of the question and the answer.

MODERN GREEK STUDIES

The Hon. C.M. HILL: I seek leave to make a short statement before asking the Minister of Ethnic Affairs a question on modern Greek studies at our South Australian universities.

Leave granted.

The Hon. C.M. HILL: The previous Government in 1982 endeavoured, and supported the section of the Greek community who were endeavouring, to secure a course in modern Greek studies at the Flinders University. That Government was unsuccessful in its attempt to help the Greek community with regard to this discipline. However, a university in New South Wales and another in Victoria have now obtained Federal aid to implement this course, and studies are being offered at those universities. Prior to the last election the Minister of Ethnic Affairs made the following promise:

A Labor Government would support the introduction of a course in modern Greek studies at Flinders University.

As about 16 months has passed since that promise was made, can the Minister say what he has done to honour his promise that he would support the introduction of this course?

The Hon. C.J. SUMNER: The Government has supported the introduction of a course in modern Greek studies at Flinders University, and has backed up that support with strong representations to the Federal Government about the matter. That is what this Government undertook to do prior to the last election. I have written to the Federal Minister for Education conveying to her the views of the South Australian Government and of the Greek community in this State. I received a reply from her indicating (as I recollect, because it has been some time since I received that letter) that the matter would be considered in the context of future priorities for funding. As the honourable member has raised this question I will, once again, pursue the matter with the Federal Minister. During the past 12 months I have made the South Australian Government's views about this matter known to the Federal Minister, and I will inform her of those views again.

TRANSPLANTATION LEGISLATION

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Health a question about transplantation legislation.

Leave granted.

The Hon. L.H. DAVIS: Nearly 12 months ago the Transplantation and Anatomy Act passed this Parliament with the support of all Parties. At present in South Australia there are more than 200 patients on dialysis and nearly 200 persons who have received kidney transplants. However, I understand that the legislation, which was passed by this Parliament 12 months ago, is yet to be proclaimed. I further understand that nurses in some, if not all, teaching hospitals are refusing to be involved in organ retrievals from beating heart donors until this legislation is proclaimed. The failure to proclaim this legislation has had several important consequences. First, the standard of kidneys is likely to be lower if they are not retrieved from a beating heart donor, as is provided for in the legislation.

Secondly, a recipient of a kidney that is not from a beating heart donor is much more likely to require dialysis treatment for four to six weeks after an operation at a cost of $150 to $200 a day. In other words, the failure to proclaim this legislation is probably costing the taxpayers of South Australia tens of thousands of dollars. Lastly, it can be argued that the proclamation of the legislation will facilitate kidney donations. Therefore, my questions to the Minister are as follows: first, in view of the fact that similar legislation is operating in other States can the Minister advise why the Transplantation and Anatomy Act has not been proclaimed in South Australia? Secondly, can the Minister say when the Act is to be proclaimed?

The Hon. J.R. CORNWALL: The basic problem has been that we have not had the regulations, primarily because as an active Government we have had a relative shortage of staff in those areas where—

The Hon. L.H. Davis: That is disgraceful!

The Hon. J.R. CORNWALL: You people were heavily into small government and were always railing about it. We inherited a situation where those areas had been run down.

The Hon. L.H. Davis: That is an important matter.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: We inherited a combined deficit of $60 million on the Consolidated Account: it was twice that on the Recurrent Account. It has been difficult in those circumstances to build the numbers up again adequately, and it has meant that in the business of Government in those nitty gritty areas—I admit freely, and I know that my colleague the Attorney-General would be happy for me to admit freely—it has been difficult to find sufficient staff to prepare regulations at the rate that would be ideal. However, I am happy to tell the Council that the appropriate regulations under the Transplantation and Anatomy Act are very close to being completed. I hope that they will be promulgated next month: indeed, I hope that they may be promulgated in time for Kidney Week in the second week of May. Also, *apropos* the remarks about the shortage of donors, that is an area in which the Hon. Mr Davis would do well to tread gently.

The Hon. L.H. Davis: I did not say that there was a shortage of donors, if you had listened to me.

The Hon. J.R. CORNWALL: I said that the area of donors is a sensitive area in which the Hon. Mr Davis would do well to tread gently. We are looking at a variety of schemes, the major one of which is to add to the form of the driving licence so that once we computerise to that over the three ensuing years all the people in this State who have licence renewals will be given the opportunity to sign a donor card. That is one of several options being examined. I can assure the honourable member, other members of this Council, and the public of South Australia that we will do everything responsible to expedite the numbers of donors who might become available for kidneys and any other relevant organ.

AUSSAT SATELLITE

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Education a question about the use of the Aussat satellite for the education of children in remote areas.

Leave granted.

The Hon. PETER DUNN: The Aussat system will use two similar satellites to be launched from American space shuttles, the first in July 1985 and the second about three months later. Each satellite will have 15 transponders, some of them high powered (that is, 30 watts) and some low powered (12 watts). Of the 30 transponders available it is expected that 25 will be busy by the end of 1986. Television networks are expected to make up about 70 per cent of the use of the system in the first year or so. Other major users are expected to be Telecom (one transponder), the Department of Aviation (two transponders) and the Australian Associated Press (one transponder or more). The annual lease of a high powered transponder will cost more than $3 million, while the low powered transponder will cost nearly $2 million for full time use, but less for part time use.

Long distance education rates will get a 20 per cent discount. For connection to Telecom's telephone network via Aussat of a remote user, the cost of constructing the necessary ground-station will be about $20 000. However, the user will be charged only the standard Telecom connection fee up to $1 350. Additional Aussat information is as follows:

Functions of the national satellite system: The system will complement the terrestrial system operated by Telecom. Typical expected uses include the distribution of television and radio programmes by the ABC and commercial operators; the provision of telephone, TV, and radio services to the remote areas of Australia; voice and data services for the Department of Aviation; and a range of services for organisations such banks, mining companies, education departments, police and other public sector organisations.

In respect to customer earth stations the following information is provided:

These are relatively simple providers of limited voice and data facilities for use by private networks which may be established by organisations not connected to the normal telephone system. Typical users could be remote mining sites, organisations such as the Royal Flying Doctor and School of the Air and private sector organisations.

My questions are as follows:

1. Will the Minister of Education determine from his Federal counterpart whether there will be made available to children now living in remote areas who receive their education through the School of the Air or similar agencies the facilities that Aussat could offer: that is, television out-television back; television out-voice back; voice out-voice back; and/or any other combinations?

2. If the Aussat facility is available, what percentage of the education programme could reasonably be expected to be transmitted through the satellite?

3. Does the Minister intend to facilitate the purchase of the receival and transmitting equipment to educational users when Aussat comes into use?

4. What approaches have been made to Aussat or the ABC to use spare transponder capacity for educational purposes?

The Hon. C.J. SUMNER: I will refer the honourable member's questions to the Minister of Education and bring back a reply.

SEX EDUCATION

The Hon. ANNE LEVY: I seek leave to make a brief statement before asking a question of the Minister representing the Minister of Education about sex education.

Leave granted.

The Hon. ANNE LEVY: It was reported last week that the Queensland Government was eventually getting around to providing some sex education for the children of Queensland and was, I think, appointing 12 teachers to cover the entire Government school population in that State, and that the classes planned were to be after school classes and not part of the normal school curriculum. Obviously, this situation contrasts with the situation in South Australia where sex education forms part of the health education syllabus, and is taught in many Government schools. Also, there are sex education courses in South Australian schools operated by the Family Planning Association and by the Family Life Movement.

There is provision in our regulations for any parent to opt the child or children out of the sex education section of the health education course should the parent so wish. My question relates to the situation in South Australia that would make interesting comparison with the Queensland situation. Can the Minister say how many Government schools are teaching the sex education part of the health education syllabus in South Australia this year? Can he further advise how many schools use the Family Planning Association or the Family Life Movement for these courses? Further, can he say how many children were opted out of these courses by their parents last year or this year: for whichever year the data is available?

The Hon. C.J. SUMNER: I will try to obtain an answer to the honourable member's questions.

DRUGS

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking a question of the Minister of Health on the subject of market research on drug related issues.

Leave granted.

The Hon. R.I. LUCAS: On 26 October last year during the Appropriation Bill debate I put a series of questions to the Government on a survey of drug related issues. Some five months later I received the answers and, amongst those answers, it shows that, first, the survey cost to the Government and taxpayers was $32 000 and, secondly, that the contract was given to Mr Rod Cameron's ANOP Market Research Company without any other firm in South Australia or Australia being asked to tender for that particular contract. Most honourable members are aware that Mr Rod Cameron's ANOP company has enjoyed over many years a very close association with the ALP.

The PRESIDENT: That is not in any way explanatory to the question.

The Hon. R.I. LUCAS: I accept your ruling, Mr President. Nevertheless, the contract went to ANOP run by Mr Rod Cameron. Also, the Attorney in his response to those questions refused to provide a copy of the questionnaire used in the survey funded by taxpayers' money and, secondly, in response to the question of whether the Attorney would provide a copy of the results, the Attorney stated:

All studies are made available at the Health Promotion Services for consultation by those who wish to read them. As with normal practice, some are not released until after a campaign has been run.

My questions to the Minister are:

1. Why won't the Minister provide to Parliament a copy of the questionnaire used in the taxpayer funded survey on drug related issues?

2. Are the results to all questions now available to members at the Health Promotion Services (wherever that section is)? If not, why not?

3. Was any question included in the questionnaire related to the personal approval of the performance of the current Minister of Health?

The Hon. J.R. CORNWALL: I cannot understand the question of why I will not provide a copy of the questionnaire and other results of all questions that are currently available to the Health Promotion Services. They are available not only to the Health Promotion Services unit but also to every member of Parliament and to every member of the public in South Australia. The results of that ANOP survey have been published. The survey is a public document, and is available to the Hon. Mr Lucas. It is available to any member.

The Hon. R.I. Lucas: Why did you say 'No'?

The Hon. J.R. CORNWALL: I have not said 'No'.

The PRESIDENT: Order! The Hon. Mr Lucas can ask a supplementary question.

The Hon. J.R. CORNWALL: It is about time that we had the politics of laughter in this Chamber, because, frankly, the performance of people like the Hon. Mr Lucas is absurd. The ANOP survey is a large document (I forget how many pages it covers, it would be about 30 or 40 pages) and was tabled by me as Minister of Health on the day that I introduced the second reading of the Controlled Substances Bill which, from memory, was late in November or early December last year. It is available for the Hon. Mr Lucas, for the Leader of the Opposition, for you, Mr President, and for any member of the media: it has been a public document in this State for five months.

The Hon. R.I. LUCAS: I wish to ask a supplementary question. Can the Minister explain why his Leader in this Council, in response to my question whether he would provide a copy of the questionnaire used, in a letter dated 20 March, some three months after the supposed tabling of everything in December, answered 'No'.

The Hon. J.R. CORNWALL: I have great difficulty in keeping my hands on all the vast areas that come within my own portfolio. As far as possible I try never to wander

across the boundaries into my colleagues' areas, because to do so can do nothing but create disputes and ill-feeling.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: That is a very firm policy to which I adhere on almost all occasions. The last thing I want to do is stray into the territory of the Attorney-General.

EMERGENCY MEDICAL TREATMENT OF CHILDREN

The Hon. R.J. RITSON: I seek leave to made a brief statement before asking the Minister of Health a question regarding the emergency medical treatment of children.

Leave granted.

The Hon. R.J. RITSON: Section 3 (1) *(c)* of the Emergency Medical Treatment of Children Act, 1960-1971, provides that operations can be performed on children without the consent or against the wishes of parents if such an operation is essential in order to save the life of a child, other conditions being attached. At a recent weekend convention of the South Australian Medico-Legal Society, I was approached by a practising lawyer who drew my attention to this section of the Act and expressed the view that there are circumstances in which failure to perform treatment may lead to very grave disabilities—brain damage, loss of limbs, etc.—but that those conditions are not necessarily always life-threatening and that surgeons attempting to protect children from very grave permanent disability do not enjoy the protection of the Act. The lawyer thought that those doctors should be protected by the Act. Does the Minister consider that this matter is food for thought? Will he take wide advice and consider amending the Act accordingly?

The Hon. J.R. CORNWALL: I thank the honourable member for that question. It is topical and important. I am trying to recall where I recently saw a proposal that some of the things applying under the Emergency Medical Treatment of Children Act should be expanded to cover adults. For the life of me, I cannot think where it was—whether in a piece of proposed legislation being drafted or a document that has passed through my hands. It is certainly something that I have been responsible for getting started in the Health Commission area.

There is a very good public document in circulation on informed consent, which I commissioned and of which Mr Ian Bidmeade, the Senior Legal Services Officer with the South Australian Health Commission, is the principal author. If the Hon. Dr Ritson does not have a copy of that, I commend it to him. If he contacted my office, we would be delighted to supply him with a copy. In turn, I would be delighted to have some input from him. This document is out for discussion at the moment. It covers very comprehensively and intelligently a number of these very important fields.

Regarding the matter of extending consent under the Emergency Medical Treatment of Children Act into those areas where there are not life-threatening but may well be quality of life-threatening situations, I would be pleased to take that on forthwith and refer it to senior people in the medical, para-medical and legal professions. If it is felt desirable, then, in turn, I would hope to have appropriate legislation drafted.

ANSWERS TO QUESTIONS

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question regarding answers to questions.

Leave granted.

The Hon. R.I. LUCAS: This question is in some way supplementary to that which I previously asked the Minister of Health. On 20 March, on an Attorney-General's Department letterhead signed personally by the Attorney-General, I received a reply to a question which, in part, stated:

> Dear Mr Lucas, The following are replies to the questions which you raised in the Legislative Council on 26 October last year. The sequence and numbering follows that recorded in *Hansard.*

In relation to the question, 'Will the Minister provide a copy of the questionnaire used,' which I put to the Minister of Health, the answer is 'No', with no explanation whatsoever being given. The Minister of Health has indicated today—and when he checks it he may wish to change his answer—that everything was available in November or December last year.

The Hon. J.R. Cornwall: The ANOP survey was published and tabled in this Parliament.

The Hon. R.I. LUCAS: We are talking about the questionnaire. I know that I should not respond to interjections, but the Minister well knows that sometimes reports need not give the precise form of questions asked; they can sometimes summarise the general nature of the questions without providing the exact terms of the words used. Did the Attorney-General or his office consult with the Minister of Health or his advisers in relation to the drafting of the reply to my questions of 26 October? Does the Attorney-General still adhere to the response that he gave me by way of letter on 20 March this year?

The Hon. C.J. SUMNER: During the conclusion of the debate on the Appropriation Bill last year, the honourable member asked me a number of questions. I think that there were 40-odd that I recall. Those questions were not all within my area of Ministerial responsibility—some of them were, but many were not. The questions ranged over the responsibility of many Ministers of the Government. Of course, in compiling the response that I gave to the honourable member by letter, I consulted with other departments.

Quite clearly, it would have been impossible for me to answer, or take responsibility for answering, all those questions on my own, because many of them were not within my area of responsibility and I would not have been aware of the answers to the questions posed by the honourable member. I think that some confusion is developing in the honourable member's mind about this matter. As I understand it, the Hon. Dr Cornwall said that the results of the ANOP survey were tabled in this Council when he introduced the Controlled Substances Bill. That is the case as I understand it. The results of the survey have been made available to the Parliament and the public. In fact, I seem to recollect seeing some press consideration of the survey results. The ANOP survey results have been tabled and are available to the public, as I understand it. What has not been made available (and I indicated in my letter that it would not be made available) is the questionnaire.

The Hon. R.I. Lucas: Why not?

The Hon. C.J. SUMNER: Once again, that is a matter that is not within my area of responsibility but, as I understand it, it is not usual for questionnaires to be made available in a report of this kind. The report on attitudes, which was done by ANOP, has been made available. Obviously, I have not seen the questionnaire, so I do not know. The answer to the honourable member's question is: yes, the results of the survey have been made known publicly.

The Hon. M.B. Cameron: This is open government!

The PRESIDENT: Order!

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: I am not aware what magic there is in the questionnaire being made available. I do not know whether the Health Commission has the questionnaire.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: It may have. Obviously, I do not know whether it has it.

The Hon. R.I. Lucas: What are you hiding?

The Hon. C.J. SUMNER: Nothing at all.

The Hon. R.I. Lucas: Well, release it.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am attempting to provide some response to the honourable member. I said—

Members interjecting:

The PRESIDENT: Order! Members opposite will have time to ask supplementary questions, if they wish.

The Hon. C.J. SUMNER: In compiling the answers to those questions, I drew a distinction between the report (which I understand has been tabled) and the questionnaire. The report has been tabled. The response that I gave regarding whether the questionnaire would be tabled was based on information provided to me to the effect that the questionnaire would not be provided.

The Hon. R.I. LUCAS: I desire to ask a supplementary question. Will the Attorney-General obtain from the relevant department the answer to the following question: was any question included in the questionnaire relating to the personal approval of the performance of the Minister of Health?

The Hon. C.J. SUMNER: That is not a matter within my Ministerial responsibility.

The Hon. K.T. Griffin: He asked you whether you would consult.

The Hon. C.J. SUMNER: Just a minute. Obviously, I am not in a position to respond to that question. Rather than my consulting with anyone about this matter, I would have thought that the honourable member's question is a matter for response—

The Hon. R.I. Lucas: From the Minister of Health.

The Hon. C.J. SUMNER: The Minister of Health is here, that is correct.

The Hon. R.I. Lucas: I asked him, but he would not answer.

The Hon. C.J. SUMNER: I am not sure that the Minister did not answer it.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: There seems to be no point in my consulting with anyone about this matter, because the Hon. Mr Lucas has his avenues to deal with this topic by way of a question in this Council.

TIMBER SALES

The Hon. PETER DUNN: Has the Minister of Health, on behalf of the Minister of Forests, a reply to the question that I asked on 29 March about timber sales?

The Hon. J.R. CORNWALL: The Director of Woods and Forests visited two operating distributors. In Singapore, a large door contract for which a manfacturer has tendered was discussed. If the manufacturer wins the tender, the Singapore distributor will place that order along with his on-going furniture stock orders. In Kuala Lumpur, the distributor's radiata pine showroom and sales office was inspected and a useful order has since been received.

The South Australian Timber Corporation is exhibiting at the Singapore Homemaker's Fair in May. The business is not at this stage of such volume as to interfere with the local supply situation in Australia, but is a useful market base development for the future. The Director also attended the Asian-Pacific Forestry Commission's 12th meeting.

SCHOOL BUSES

The Hon. M.B. CAMERON: In the absence of the Minister of Agriculture, has the Minister of Health a reply from the Minister of Education to the question that I asked on 22 March about school buses?

The Hon. J.R. CORNWALL: The Education Department undertook to replace a Leyland Terrier bus with a reconditioned Bedford vehicle last year. However, this did not eventuate because it was hoped that a new Hino diesel would be available early in the 1984 school year as a replacement, and that it would also lessen the service difficulties being experienced with older buses. Unfortunately, the school was not advised of this intention. The Leyland Terrier that has been causing trouble was replaced with a Bedford diesel on Monday 2 April 1984. The other large Bedford petrol bus will be replaced with a new Hino diesel in May this year. The two smaller Austin petrol buses (Nos 725 and 743) will have to remain until new small diesel buses become available, probably in 1985, as part of the 1984-85 bus purchase programme. The other spare diesel bus (No. 713) will also have to remain at the school until 1985.

Service problems are accentuated because of the location of the school in relation to service centres. However, the garages have been made aware of the Education Department's expectations, and few maintenance problems have arisen this year.

POLICE INTERPRETERS

The Hon. C.M. HILL: I seek leave to make a short statement before asking the Minister of Ethnic Affairs a question about police interpreters.

Leave granted.

The Hon. C.M. HILL: Some time ago the Minister announced that he and his Government had accepted the recommendations of a committee inquiring into police interpreters. That committee had been sitting for some time, and the thrust of its recommendations, which the Minister accepted, was that the interpreters were to be independent of the Police Department. In the Minister's election speech of 16 months ago he stated that the Government would introduce legislation to ensure that a person has a legal right to an interpreter in police interrogations and court proceedings. Such an interpreter would be independent of the police. In view of the Attorney's announcement and the impression he gave abroad that this independent service was to be established, what has actually happened to date in regard to this matter?

The Hon. C.J. SUMNER: Discussions are proceeding with the Ethnic Affairs Commission and the Police Department, as I understand it, with a view to implementing the report of the police/migrant working party. I have instructed the Ethnic Affairs Commission to consult with my Department to prepare legislation in this respect. I do not know what has happened to that issue with the Commission.

The Hon. C.M. Hill: Like everything else.

The Hon. C.J. SUMNER: That is right—like everything else. The Hon. Mr Hill established the damned Commission.

The Hon. C.M. Hill: You as the Minister haven't done very much.

The Hon. C.J. SUMNER: The Hon. Mr Hill appointed the Chairman; the Chairman was not selected.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The Chairman was not selected by the selection panel, and the Hon. Mr Hill knows that.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am not casting aspersions on him.

Members interjecting:

The PRESIDENT: Order! I call the Hon. Mr Davis and the Hon. Mr Hill to order. I expect them to come to order. I do not expect the Attorney-General to use unparliamentary language or to shout, either. I draw the Attorney's attention to the time.

The Hon. C.J. SUMNER: There should not be interjections, either. Instructions have been given on both those matters. The honourable member appointed the Chairman of the Ethnic Affairs Commission, as I pointed out before. The Chairman was not selected by the selection panel, but nevertheless, for reasons of his own, the honourable member decided to appoint him.

The Hon. C.M. Hill: Answer the question.

The Hon. C.J. SUMNER: The answer is that those matters are in train: instructions have been given and legislation will be introduced on that topic. The honourable member need have no fear about that at all. The Police/Migrant Working Party's recommendations in this area will be implemented.

DENTISTS BILL

The Hon. J.R. CORNWALL (Minister of Health) obtained leave and introduced a Bill for an Act to provide for the registration of dentists, clinical dental technicians and dental hygienists; to regulate the practice of dentistry for the purpose of maintaining high standards of competence and conduct by persons registered under this Act; to repeal the Dentists Act, 1931; and for other purposes. Read a first time.

The Hon. J.R. CORNWALL: I move:

That this Bill be now read a second time.

It seeks to repeal the existing Dentists Act and replace it with legislation appropriate to the practice of dentistry in the 1980s and beyond. The fundamental purpose of the Bill is to ensure that the highest professional standards of competence and conduct are achieved and maintained, thereby ensuring that the community is provided with dental services of the highest order. Historians regard the early story of dentistry in South Australia as falling into two periods—one pre-dating and the other post-dating the inauguration of legislative control and official educational effort.

The Australian Dental Association's 1937 publication 'History of Dentistry in South Australia 1836-1936, observes:

> For the first four years following the proclamation of the State as a British province, there is no record of any established dental service. It would appear that, apart from the dilettante efforts of blacksmiths and others, the original settlers had to be content with such relief from the pains and aches of dental troubles as resident or visiting surgeons and apothecaries could effect by extraction of diseased teeth.

The 1840s onwards saw the arrival and establishment of dentists in South Australia. The 1890s were regarded as 'remarkable, for a large influx of dentists of all kinds—of good, doubtful and no qualification whatsoever—together with a marked increased in competitive advertising and intense price cutting.' This was largely attributed to the passing of the Dentists Act in Victoria.

The Government of the day in South Australia was asked to introduce similar legislation and, in 1901, a Bill was introduced. An election intervened, and a redrafted Bill of 1902 established a Dental Board and made dentistry in South Australia subject to Statute Law. South Australia in fact has the dubious distinction of being the last State to exercise statutory control of the practice of dentistry. It is perhaps a little surprising that South Australia was the last State, since the *Hansard* reports of the time indicate that dentistry was seen to be intimately connected with the maintenance of the good health of every human being. Indeed, the *Hansard* reports of July 1902 record the Hon. J.L. Parsons, in moving the second reading, as having said that:

> While in one sense men and women were little lower than angels, it was absolutely certain that in another sense they were neither more nor less than animals; and in order to maintain their life it was necessary that they should partake of food. In order that they might assimilate and derive strength from their food it was absolutely imperative that it should be masticated. In consequence, it might be said that the general health of the individual and the general virility of the community depended very much upon the chewing power of the individual and the community as a whole.

The debate continued, and South Australia ultimately had its first Dentists Act. The role and function of dental boards in monitoring dental qualifications and regulating the practice of dentistry has thus been long established.

However, the last three decades have seen dramatic developments which have had a marked effect on the practice of dentistry throughout the world. For example, fluoridation of drinking water and the personal application of fluoride in the form of toothpaste and mouthrinsing have had dramatic effects in the prevention of dental decay. Greater community awareness of personal dental hygiene has lead to a change in the level of oral health and the demand for particular types of preventive and restorative care. Advances in dental technology, the introduction of operative dental auxiliaries, the development of specialist disciplines within dentistry, the introduction of dental health insurance and prepaid dental programmes—all have had an effect on the practice of dentistry.

These factors, together with increasing numbers of practitioners, have resulted in members of the profession being faced with challenges to traditional ethics and procedures. The need has emerged for a review of the purpose of registration systems and a reappraisal of the role and functions of boards, to ascertain whether those systems, roles and functions can adequately keep pace with today's needs and problems.

Registration obliges practitioners to ensure, and entitles the public to believe, that certain standards of competence and ethics will be maintained. In effect, this requires members of the profession to be accountable to the public, as well as to their peers for their actions. It is not just a question, however, of establishment and monitoring of standards by the profession—it is a question of the public's confidence in the system.

Registration boards have an important role to play in the relationship between the public and the profession. They are, in a sense, the interface between the public and the profession. They must be responsive to community needs. By their action, or lack of action, they can have a major effect on the public image of the profession and the public's confidence in it.

To be effective, they must also be provided with legislative powers appropriate to deal with contemporary needs. The Government recognises that the current Dentists Act has long passed the stage where it is adequate to deal with contemporary dental practice. The Government came to office with a policy commitment to: undertake a comprehensive review of the Dentists Act; institute a system of peer review in consultation with the dental profession; and, register qualified and experienced dental technicians to supply dentures direct to the public. The Government acknowledges that the profession itself had recognised that the Act was in need of revision and had submitted proposals which were being reviewed. That review was brought to fruition

as a matter of priority, culminating in the Bill before us today.

The Bill will completely replace the existing Act. It will introduce reforms to the registration and disciplinary mechanisms of the present Act. A specialist register will be introduced. Provision will be made for the registration of clinical dental technicians, to deal directly with the public in the supply of full dentures, based on the recommendations of a Select Committee of the Legislative Council. Provision will be made for the practice of dentistry by companies, along similar lines to the recent provisions for medical practitioners.

To take some of the main features of the Bill in more detail, the first major provision envisages a restructuring of the Dental Board. The Board will consist of eight members, instead of five as at present. To give practical effect to the Government's and profession's acceptance of the legitimacy of the public interest perspective being brought to bear on the profession, the Board will include a legal practitioner and a 'consumer' member.

For the first time, a specific charter of powers and functions for the Board is defined in the legislation. Emphasis is given to the Board's role in maintaining high standards of competence and conduct. The Board is given power to establish committees to assist it in its functions. Important areas in which it is envisaged that committees will be formed are peer review and education and training. Provision is made for the expertise of the Board to be augmented by committee members who are not members of the Board.

An important public protection initiative in the Bill is the power for the Board to deal with situations where the competence of a registered person is in question. If the matters alleged in a complaint are established, the Board will be able to impose conditions on the practitioner's registration. Similarly, where a practitioner is suffering from mental or physical incapacity but refuses to abandon or curtail his or her practice, the Board may suspend registration or impose conditions on it. Another major and long-awaited initiative in the Bill is the establishment of a registration system for clinical dental technicians. As honourable members will recall, a Bill was introduced into Parliament last year in relation to this matter. In the event, it was referred to a Select Committee of the Legislative Council. The Select Committee was able to recommend substantial improvements to the original concept, and the Bill before honourable members today embodies the principles enunciated by the Select Committee.

A Dental Technicians Registration Committee is established, consisting of five members—a lawyer as Chariman, a 'consumer' and a dentist (all of whom shall be members of the Dental Board), together with two persons nominated by the Minister to represent the interests of clinical dental technicians. It will be the job of the Committee to consider and determine, on behalf of the Dental Board, applications for registration as clinical dental technicians. In order to be registered, it is envisaged that persons will have undergone a course of assessment to be conducted by the Department of Technical and Further Education, as recommended by the Select Committee. Registered clinical dental technicians will be confined to the fitting and taking of measurements or impressions for the fitting of dentures to a jaw in which there are no natural teeth or parts of natural teeth. A penalty of $5 000 is provided for a breach of that provision.

An important feature of the Bill is the restructuring of the disciplinary mechanisms. In a sense, the present Dentists Act is more advanced than some of the other, older established registration Acts, in that it does include a separate 'Statutory Committee' as a disciplinary mechanism. However, there is a need to update this mechanism, in terms of its membership and the sanctions it can apply. The Bill therefore provides for the establishment of a Professional Conduct Tribunal, a seven-member body, under the chairmanship of either a person holding judicial office under the Local and District Criminal Courts Act, a special magistrate or a legal practitioner of not less than 10 years standing. Provision is made for the inclusion of a 'consumer' member, as the Government believes it is particularly important for the community voice to be heard in this context. For the purpose of a hearing, the Tribunal shall consist of the Chairman and not less than two other members. If a dentist is the subject of the hearing, then the other members may only be dentists and the 'consumer' member. If a clinical dental technician or a dental hygienist is the subject of the hearing, then a clinical dental technician or a dental hygienist must be included as a member of the Tribunal for the hearing.

Complaints will initially be lodged with the Board, which may itself investigate the matter or, taking account of the seriousness of the matter, refer it to the Tribunal. The Tribunal will have a range of sanctions it can apply, including: reprimanding the registered person; imposing a fine of up to $5 000; imposing conditions restricting the right to practise; suspending the person for up to one year; or cancelling registration. There will be a right of appeal to the Supreme Court against a decision of the Tribunal. An important inclusion in the Bill is the power for the Board to require parties to appear before the registrar if it is satisfied that a complaint was laid as a result of a misapprehension or misunderstanding between the parties. This is essentially a conciliation clause, based on the assumption that some complaints are really the result of poor communication.

The Government believes the revised disciplinary mechanism will facilitate the handling of complaints, will encourage improved communication and will assist in maintaining positive relationships between the profession and the community. The Bill provides in similar fashion to the existing Act for the registration of dentists and dental hygienists. Qualifications for registration will be set out in the regulations. The scope of practice for dental hygienists will be covered by regulation as is the case under the existing Act. Provision is made for the continuing employment of dental therapists by the South Australian Dental Service in the provision of dental treatment to children. As is the present situation, registration is not required but qualifications and experience for such persons will be prescribed by the Minister.

A new provision is the establishment of a specialist register for dentists. At present, the register does not distinguish between 'ordinary' practitioners and specialists. However, it is recognised that that specialist disciplines have developed within dentistry. In addition, with the advent of dental benefits, the matter of recognising specialists has become increasingly important for payment of specialist benefit rebates to patients of specialists. Several States already have specialist registration and the profession is anxious that it proceed in South Australia. Under the proposals, branches of dentistry would be declared by regulation for the purpose of specialist registration. A specialist will be restricted to practising within his or her specialist branch, unless the Board has authorised the person to do otherwise. This discretionary power of the Board has been included following representations from some members of the profession who have done and wish to continue to do some general work, as well as specialist work.

It is also envisaged as covering a specialist in a country situation who may wish, or find it necessary, to undertake general work. The Government is confident that the Board will exercise its discretion judiciously. Also on the subject of registration, provision has been included to enable the

suspension of the registration of a person who has not resided in the Commonwealth of Australia for 12 months. This should assist in compiling a more accurate picture of the number of registered persons in the State. At the request of the dental profession, the Government proposes to allow the practice of dentistry by companies. Other States have allowed this to occur, but in contrast with the situation in other States, which do not have specific legislation dealing with the matter, the Government believes that safeguards to regulate such a practice by companies should be contained in the Dentists Act. The Bill makes provision accordingly, and also enables clinical dental technicians to practise as companies under similar conditions.

The provisions are similar to those recently enacted in relation to medical practitioners, and I shall deal with specific aspects in the explanation of clauses which follows. The attention of honourable members is particularly drawn to the provisions relating to the practice of dentistry by unregistered persons. The Government regards it as a serious matter, indeed, for unregistered persons to hold themselves out, or permit others to do so, as if they were registered under the Act. Substantially upgraded penalties, including imprisonment, are provided. Honourable members' attention is also drawn to a clause prohibiting dentists and clinical dental technicians from practising unless they are properly indemnified against negligence claims. The Government sees this as a protection for the practitioner and, more particularly, the public. Honourable members will note the regulation-making powers in the Bill and, specifically, the power to regulate advertising. This is a vexed area—it is an area I shall be discussing with the profession, with a view to arriving at a situation whereby the public may be provided with more information than is currently available.

In respect of each of the matters dealt with by the Bill, Parliament and the public are entitled to be informed of the directions which the profession is taking and the manner in which the Board approaches the interests of both the profession and the public. Accordingly, the Board will be required to prepare an annual report for presentation to the Minister of Health and for tabling in Parliament. By this means, it is intended that the community should be better informed about the manner in which the profession operates and the profession itself should become further accountable to the public. This Bill is the first major revision of the Act for many years. It embodies an awareness of public accountability as well as serving the purpose of proper regulation of dental practice. I commend it to the House. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 repeals the Dentists Act, 1931, and provides for the necessary transitional matters on commencement of the new Act. Clause 4 provides definitions of terms used in the Bill. Subclause (2) provides that the Act will apply to unprofessional conduct committed before its enactment. This is in the nature of a transitional provision. A practitioner who is guilty of such conduct cannot be penalised under the old Act after it has been repealed. This provision will ensure that he can be disciplined under the new Act. Paragraph *(b)* of the subclause ensures that a practitioner can be disciplined for unprofessional conduct committed outside South Australia. Clause 5 establishes the Dental Board of South Australia. Clause 6 provides for the membership of the Board and related matters. Clause 7 provides for the appointment of a President of the Board. Clause 8 provides for procedures at meetings of the Board.

Clause 9 ensures the validity of acts of the Board in certain circumstances and gives members immunity from liability in the exercise of their powers and functions under the Act. Clause 10 disqualifies a member who has a personal or pecuniary interest in a matter under consideration by the Board from participating in the Board's decisions on that matter. Clause 11 provides for remuneration and other payments to members of the Board. Clause 12 sets out the functions and powers of the Board. Clause 13 will enable the Board to establish committees. Clause 14 provides for delegation by the Board of its functions and powers to the persons referred to in subclause (2) *(a)* (i) and to a committee of the Board. Clause 15 sets out powers of the Board when conducting hearings under Part IV or considering an application for registration or reinstatement of registration. Subclause (4) gives a witness before the Board the same protection as he would have before the Supreme Court. This provision will give witnesses protection in relation to any defamatory statements that they might make in the course of giving evidence.

Clause 16 frees the Board from the strictures of the rules of evidence and gives it power to decide its own procedure. Clause 17 provides for representation of parties at hearings before the Board. Clause 18 provides for costs in proceedings before the Board. Clause 19 provides for the appointment of the Registrar and employees of the Board. Clause 20 requires the Board to keep proper accounts and provides for the auditing of those accounts. Clause 21 requires the Board to make an annual report on the administration of the Act. The Minister must cause a copy of the report to be laid before each House of Parliament. Clause 22 establishes the Dentists Professional Conduct Tribunal. Clause 23 provides for the membership of the Tribunal and related matters. There will be seven members of the Tribunal. Subclause (2) makes provision for the appointment of six of those members. Clause 24 (3) requires that a clinical dental technician shall be a member of the Tribunal when it hears proceedings against a clinical dental technician. Therefore to comply with this requirement the Minister will need to appoint a clinical dental technician as the seventh member of the Tribunal. There will be no clinical dental technician in existence during the initial period after the Act comes into force whilst those practising in that field gain the required qualifications. It is proposed that during this period a person will be appointed to represent the interests of the group practising in that field. Clause 24 provides for the constitution of the Tribunal.

Clause 25 provides for the determination of questions by the Tribunal. Clause 26 ensures the validity of acts and proceedings of the Tribunal and gives the members immunity from liability in the exercise of their functions and powers under the Act. Clause 27 provides for the disqualification of a member who has a personal or pecuniary interest in a proceeding before the Tribunal. Clause 28 provides for remuneration and other payments to members of the Tribunal. Clause 29 establishes the Dental Technicians Registration Committee and provides for its membership and other related matters. Clause 30 provided for procedures at meetings of the Committee. Clause 31 provides for the validity of acts of the Committee is certain circumstances and gives members immunity from liability. Clause 32 provides for the disqualification of a member of the Committee who has a personal or pecuniary interest in a matter under consideration by the Committee. Clause 33 provides for remuneration of and other payments to members of the Committee. Clause 34 provides that the function of the Committee is to consider and determine, on behalf of the Dental Board, applications by natural persons for registration or reinstatement as clinical dental technicians.

Clauses 35, 36 and 37 make it illegal for an unqualified person to hold himself out, or to be held out by another, as a dentist, a clinical dental technician or a dental hygienist, respectively. Clause 38 prohibits the recovery of a fee or other charge for the provision of dental treatment by an unqualified person. The effect of this is that fees charged by such persons may be paid but cannot be recovered in a court of law. A 'qualified person' is defined in subcluase (3) to be a dentist or a person who has qualifications recognised by or under an Act of Parliament. Clauses 39 and 40 provide for the registration of persons on the general and specialist registers. The qualifications, experience and other requirements for registration will be prescribed in regulations. Subclause (3) of clause 40 provides that a specialist may not, without the approval of the Board, provide treatment in any branch of dentistry in which he does not specialise. Clause 41 provides for the registration of clinical dental technicians. Subclause (2) confines their area of practice to fitting and taking measurements and impressions for fitting dentures to a jaw in which there are no natural teeth or parts of natural teeth. Subclause (3) provides that all applications by natural persons to the Board for registration as a clinical dental technician shall be dealt with on behalf of the Board by the Dental Technicians Registration Committee.

Clause 42 provides for the registration of dental hygienists. Subclause (2) provides that a dental hygienist may be restricted in his provision of dental treatment by regulation. Clause 43 provides for limited registration. Registration under this clause may be made subject to conditions specified in subclause (3). Subclause (1) will allow graduates, persons seeking reinstatement, other persons requiring experience for full registration and persons wishing to teach or carry out research or study in South Australia to be registered so that they may acquire that experience or undertake those other activities. Subclause (2) gives the Board the option of registering a person who is not fit and proper for full registration. He may be registered subject to conditions that cater for the deficiency. Clause 44 provides for provisional registration. Clause 45 provides for registration of companies on the general register of dentists or on the register of clinical dental technicians and provides detailed requirements as to the memorandum and articles of such a company. Clause 46 provides for annual returns by registered companies and the provision of details relating to directors and members of the company.

Clause 47 prohibits registered companies from practising in partnership. Clause 48 restricts the number of dental practitioners who can be employed by a registered company. Clause 49 makes directors of a registered company criminally liable for offences committed by the company. Clause 50 makes the directors of a registered company liable for the civil liability of the company. Clause 51 requires that any alterations in the memorandum or articles of a registered company must be approved by the Board. Clause 52 provides for reinstatement of registration. A person whose name has been removed from a register for any reason will not have a right to be automatically reinstated. Before being reinstated he must satisfy the Board that his knowledge, experience and skill are sufficiently up-to-date and that he is still a fit and proper person to be registered. The Tribunal may under Part IV suspend a practitioner for a maximum of one year or may cancel his registration. Subclause (3) of this clause provides that a practitioner whose registration has been cancelled may not apply for reinstatement before the expiration of two years after the cancellation. Clause 53 provides for the keeping and the publication of the registers and other related matters. Clause 54 provides for the payment of fees by dental practitioners. Clauses 55 to 57 makes provisions relating to the register that are self-explanatory.

Clause 58 will enable the Board to obtain information from dental practitioners relating to their employment and practice of dentistry. This information is considered important to assist in manpower planning of dental services for the continued benefit of the community. Clause 59 is a provision which will allow the Board to consider whether a practitioner who is the subject of a complaint under the clause has the necessary knowledge, experience and skill to practise in the branch of dentistry that he has chosen. This important provision will help to ensure that practitioners keep up-to-date with latest developments in their practice of dentistry. If the matters alleged in the complaint are established the Board will be able to impose conditions on the practitioner's registration. Clause 60 is designed to protect the public where a practitioner is suffering a mental or physical incapacity but refuses to abandon or curtail his practice. In such circumstances the Board may suspend his registration or impose conditions on it. Clause 61 places an obligation on a medical practitioner who is treating a dental practitioner for an illness that is likely to incapacitate his patient to report the matter to the Board.

Clause 62 empowers the Board to require a dental practitioner whose mental or physical capacity is in doubt to submit to an examination by a medical practitioner appointed by the Board. Clause 63 gives the Board the power to inquire into allegations of unprofessional conduct. If the allegations are proved the Board may reprimand the practitioner. However in a serious case it may take the matter to the Tribunal. Clause 64 gives the Board power to vary or revoke a condition it has imposed on registration or that is imposed by clause 3 of the Bill. Clause 65 empowers the Board to suspend the registration of a practitioner who has not resided in the Commonwealth for 12 months. Clause 66 makes machinery provisions as to the conduct of inquiries. Clause 67 provides that a complaint alleging unprofessional conduct by a dental practitioner may be laid before the Tribunal by the Board. The orders that can be made against the practitioner or former practitioner are set out in subclause (3). Clause 68 provides for the variation or revocation of a condition imposed by the Tribunal.

Clause 69 provides for a problem that can occur where a practitioner who is registered here and interstate and has been struck off in the other State continues to practise here during the hearing of proceedings to have him removed from the South Australian register. Experience has shown that these proceedings can be protracted. This provision will enable the Board to suspend him during this process. Clause 70 makes machinery provisions as to the conduct of inquiries. Clause 71 relaxes the rules of evidence in inquiries before the Tribunal and enables it to conduct its hearings as it thinks fit. Clause 72 provides powers of the Tribunal as to the taking of oral and other evidence. Subclauses (5) and (6) empower the Supreme Court to make necessary orders to enforce the powers of the Tribunal. Clause 73 provides for the assessment and payment of costs. Clause 74 is a rule-making provision. Clause 75 provides for appeals to the Supreme Court. An appeal will lie from the refusal of the Board to grant an application for registration or reinstatement or imposing a condition on registration. Appeals will also lie from orders of the Board or the Tribunal under Part IV.

Clause 76 allows orders of the Board or the Tribunal to be suspended pending an appeal to the Supreme Court. Clause 77 empowers the Supreme Court to vary or revoke a condition that it has imposed on appeal. Clause 78 requires dental practitioners to be properly indemnified against negligence claims before practising dentistry. Clause 79 makes it an offence to contravene or fail to comply with a condition imposed by or under the Act. Clause 80 requires a practitioner to inform the Board of claims for professional negligence made against him. Clause 81 provides for the service

of notices on practitioners. Clause 82 provides a penalty for the procurement of registration by fraud. Clause 83 provides that where a practitioner is guilty of unprofessional conduct by reason of the commission of an offence he may be punished for the offence as well as being disciplined under Part IV. Clause 84 provides for the summary disposal of offences under the Bill. Clause 85 is a provision relating to the employment by the South Australian Dental Service Incorporated by persons having experience and qualifications prescribed by the Minister. Clause 86 provides for the making of regulations.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 5 April. Page 3293.)

The Hon. C.M. HILL: I indicated last Thursday when speaking to this Bill that I supported the concept of the establishment of a universal superannuation scheme for local government. This Bill establishes the machinery for that to occur. Last week I indicated that further discussions were in train and would be held this morning. That has occurred, and I thank the officers and other gentlemen who came down to the Council to discuss the Bill and all its ramifications with members on this side. Those discussions have led to a better understanding of the measure. Further detailed debate, if that be necessary at any length, can and should be carried on in Committee. At this point, I support the second reading.

The Hon. L.H. DAVIS: I join with my colleague, the Hon. Murray Hill, in supporting the second reading of this Bill, which seeks to create a local government superannuation fund. It is a notable feat when some 130 councils can join together with unanimity and form such a scheme. Honourable members may be aware that the various councils and corporations in South Australia at present have various superannuation schemes. Obviously the proposed scheme has merit in the sense that a larger scheme has more purchasing power, the costs of administration are lower, and it will be of distinct advantages certainly to the smaller councils.

One may well argue that larger councils perhaps will not receive the same benefit out of this scheme. I understand that the total pool in the proposed local government superannuation fund is in the order of $15 million, and that some $4 million of this will be accounted for by the Adelaide City Council. It could be argued that a council such as the Adelaide City Council could stand alone and have its own scheme. Nevertheless, it appears that the Adelaide City Council is willing to join its metropolitan and country council colleagues in forming this very significant superannuation scheme. I understand that in time it will be the second largest superannuation scheme operating in South Australia, second only to the South Australian Superannuation Fund.

One of the merits of this superannuation scheme is that it will be administered by the private sector. Indeed, existing superannuation schemes of councils and corporations are administered by life insurance offices, and the proposal here is that that arrangement will continue with a lead superannuation fund manager and perhaps other superannuation fund managers assisting. Certainly, the scheme, as I have been told, is not over generous. It is a fairly standard scheme by private sector standards: namely, that there will be a maximum of seven times salary by way of benefit for someone who has served the maximum period; the maximum contribution by the councils will be 7.5 per cent; and employee contributions can range between 2.5 per cent and 10 per cent. The maximum employer contribution of 7.5 per cent in this proposed scheme is in sharp contrast to the State Superannuation Board arrangement, which requires Government (that is, the taxpayer) to fund the scheme in excess of 20 per cent of a public servant's salary.

I understand that the Local Government Association over many years, and in particular in recent months through its task force, has reached agreement on the nature, management and benefits of the fund. I am pleased, as I have said, that the Local Government Association is keen that the fund be administered by the private sector. One life office has been principally responsible for bringing the scheme together, with the assistance of other life offices, and I presume that when the Board is created those life offices that have had some association with local government in the past and in the creation of this scheme will continue to provide their expert advice in the management and development of the superannuation scheme.

The Board has equal representation from employers, employees and the Government. The employers provide two members of the Board; the Municipal Officers Association and the unions provide one each; the Government appoints the Chairman, and the Public Actuary also is on the Board. One can see that that Board represents a good balance and will be able to call on a wide range of expertise in this area.

Another attraction of this large fund is that not only is it providing benefits by way of lump sum and/or pension for retirees from local government but also it provides for increased flexibility of employment within local government.

The scheme provides for portability. It also provides vesting provisions. This is a commonsense development which encourages a career within local government so that people can move from one council to another without fearing a change in their retirement benefits. This is a feature which I commend and which I hope in time will become more common throughout industry. In conclusion, I would like to say, as did my colleague, the Hon. Mr Hill, that the Bill has bi-partisan support. It is for Parliament to formally approve this agreement which has been arrived at after long consultation with the full involvement and knowledge of about 130 councils in South Australia. I support the second reading.

The Hon. DIANA LAIDLAW: I, too, wish to speak briefly to the Bill. Its purpose is to amend section 157 of the Act and to provide a legislative framework for a single superannuation scheme for local government in this State. The Bill is the product of many years consultation and negotiation between individual councils, the Local Government Association, the Municipal Officers Association, the Australian Workers Union, the Department of Local Government and the Public Actuary's Office. These discussions and negotiations culminated in a task force report which, in turn, was accepted by a special meeting of the Local Government Association on 19 August 1983.

These consultations and negotiations were prompted by a high level of disquiet in local government circles that the multitude of schemes that were operated by individual councils and the discriminatory basis upon which many operated were not in the best interests of councils, their employees or harmonious industrial relations. Section 157 was inserted in the Act in 1972, only 12 years ago, to require councils to provide superannuation for their full-time officers and employees. As the section provided no absolute prescription of the level and type of superannuation that must be provided, a set of minimum standards and conditions

was formulated by the Public Actuary in 1973 and circulated to local government.

These standards allowed councils to divide employees into two classes, with class A comprising all male officer staff and other supervisory and managerial staff employed outside a council office, and class B comprising all female staff and outside staff but not supervisory or managerial levels.

The minimum standards required a lump-sum retirement benefit after 40 years service of three times the final salary of class A employees (the men) and only one times the final salary for class B employees (females). While I acknowledge that the Minister did not compel councils to divide employees into these two classes for the purposes of superannuation, about 60 per cent of council schemes currently do so on the ground of sex, and about 95 per cent do so on the grounds of type of employment.

As an aside, having related the conditions that currently operate, I would add that, if any honourable members harboured any doubt that discrimination against women and types of employment was not rife in our community, those honourable members should realise that the minimum standards were introduced only 11 years ago and they operate today—that should reinforce the fact that discrimination continues in many areas of government today, including local government. In addition to the fact that minimum standards for local government superannuation have discriminated between male and female officers and between administrative and outside staff, further sources of grievance have been the lack of portability when employees move between councils and the failure of various schemes to keep abreast with standards in other private schemes operating in this State, and also superannuation schemes for local government employees in other States.

The whole issue of local government superannuation came to a head on 29 August 1979 when the Branch Secretary of the Municipal Officers Association, Mr G.D. Maddocks, wrote to the then Minister of Local Government (Hon. J.C. Bannon) seeking his co-operation in conducting a survey of existing local government schemes. His letter states:

> We are endeavouring to establish realistic criteria for the purpose of designing appropriate minimum standards for local government superannuation. We need information as to the nature of present cover provided by local government councils to enable our calculations to be soundly based. The Local Government Office will also need such information to assess our subsequent proposals . . . We have designed a questionnaire form and would be pleased if you would ask the Local Government Office to conduct the survey. We will collate the information received and make the results available to the Local Government Office. Please advise whether you will co-operate with the Association in this way. A draft questionnaire form is attached.

A week later on 6 September 1979 Mr Bannon advised Mr Maddocks by letter that he was 'pleased to offer the services of the Local Government Office in the conduct of the survey'. The Municipal Officers Association survey was duly sent through the Local Government Office to all councils without any prior reference to the Public Actuary's Office to ascertain whether the information sought in the questionnaire would be what was required for a complete review of current arrangements, and without any prior reference to the Local Government Association itself. I suggest that in these circumstances it is not surprising that the Public Actuary in an interim report to the then new Minister of Local Government (Hon. C.M. Hill) on 17 January 1980 noted that the information supplied by the 88 councils that responded to the questionnaire was neither comprehensive nor reliable and thus of limited usefulness.

Similarly, it was not surprising that the Local Government Association reacted in very stern terms and, in a letter to the then Minister (Hon. C.M. Hill) of 18 January 1980 by the Secretary-General (Mr J.M. Hullick), wrote:

> The Local Government Association of South Australia, some years ago, established the South Australian Local Government Employees Superannuation Fund. This fund has operated for many years. During the period of the last 18 months, the trustees have been reviewing the superannuation arrangements contained within the trust deed with a view to bringing these arrangements more into line with modern-day business practice. In recent times, a complicating and disturbing new factor has entered the superannuation field: that of the trade union movement making a bid to take over the superannuation of employees. The Municipal Officers' Association of South Australia, the union which has coverage for professional officers in local government, is one of these unions making a bid for control of superannuation. The Local Government Association of South Australia considers this move to be highly undesirable for the industry.

Mr Hullick then asks for an urgent appointment with the Minister or senior executive officers of the Association in order to discuss the matter further. I have highlighted these background events and issues of correspondence and brought them to notice during the debate, because I believe that there is no doubt that, if Mr Bannon in 1979 had not responded with such haste and enthusiasm to the Municipal Officers Association questionnaire, this Bill enabling a common local government scheme in South Australia would have certainly been introduced in this Chamber well before now.

As it was, the former Minister's hasty action certainly got local government in this State offside, and it was suspicious for some time that any proposal was going to be a union takeover. It has taken four years since that initial reproach from the MOA to ensure that this Bill is before the Council now. It is regrettable that the suspicions and misunderstandings that the MOA circular generated have taken so long to be overcome.

I support the need for a new and improved superannuation scheme for local government in South Australia. Local government today is not only acknowledged as a very integral part of our three-tiered Federal system of Government, but has also over the past decade or so accepted far more responsibility for community services and for far larger and more complicated financial arrangements and budgetary processes. As a consequence, there is no doubt that for local government to attract and retain highly professional and qualified persons and to ensure that local government fulfils all the expectations of both the Government and the community it represents, one of the measures that is needed is a vastly improved superannuation scheme. One of the aspects of that scheme must be full portability of superannuation for staff moving between councils. As a natural progression, jobs in local government virtually require such moves. In general, I believe that the new superannuation arrangements provided in the scheme, which this Bill will facilitate, will have a positive long-term beneficial effect on the development of local government in this State.

The Bill is enabling legislation only. It provides for the later introduction of a scheme which has been agreed, I understand, between the Local Government Association, the Public Actuary, the councils, and the people they employ. I have read several redrafted versions of the scheme, and believe that it contains many commendable features—features which I would like to see introduced into the State employees superannuation scheme if and when this Parliament develops the courage to do so.

In the latest redrafted version I have seen, membership will be offered to all permanent full-time employees irrespective of sex or the type of employment in which they are engaged. Membership will also be available to part-time employees, and that is not a feature of the State superannuation scheme. In the latest redrafted version membership will not be compulsory, although there will be a requirement that each council offers employees the right to membership. It provides that employees' contributions will

range from 2½ per cent to 10 per cent, with employees having the right to choose the level that suits their circumstances at the time. If the circumstances change for the better or worse, the employee will be able to change the rate of contribution once during a financial year. Benefits will be determined on the average salary during the last three years of service, and not on the final salary. This will encourage older members of councils to consider working on a permanent part-time basis, and that should encourage the employment of younger people in local government.

In the latest redrafted version lump-sum benefits will be payable on death or total permanent disablement, although any of the lump sums will be able to be switched to a pension by approval of the board. The scheme provides a ceiling on the contribution of local councils at 7½ per cent, and will be operated by the private sector; I see that as a further advantage.

Despite my enthusiasm for all the above provisions, which I understand will be part of the superannuation arrangements, I have two reservations to which I refer, although I will raise questions about them during the Committee stage. My first reservation concerns the welfare of members of existing council schemes. In his second reading explanation the Minister said that members of existing council schemes will not be disadvantaged, and that they can either choose to remain at their present contribution levels and benefit entitlements, or transfer to the new contribution benefits with accrued benefits being preserved. Certainly, this statement seems to confirm TR6 in the copy of the scheme I have dated 15 March, which states:

> A person who has been transferred from a previous plan to the scheme and who has not elected to transfer to the benefits provided by the scheme shall be treated by the Board as an old benefits member and, notwithstanding anything else contained in these rules, he shall pay contributions to and be entitled to receive benefits from the fund in accordance with the provisions of his previous plan.

On the surface I suggest that this clause in the scheme, and the Minister's supporting statements, should be a sufficient safeguard to members of existing schemes. However, it is my view that these safeguards are not sufficient, because the Bill allows amendments to the scheme from time to time. As I indicated earlier, I will pursue this matter during the Committee stage. My other qualification to the scheme also refers to the Minister's second reading explanation, which states:

> The scheme will be administered initially by a life office appointed by the Board and the funds generated by the scheme will be invested by investment managers appointed by the Board with the approval of the Minister.

I will question the Minister during the Committee stage as to why it was considered that the qualification was needed initially in respect to the administration of this scheme. I intend, while pursuing those two aspects, to support the passage of the Bill with some enthusiasm, as I see it as a long overdue and much beneficial measure to local government in this State.

The Hon. J.R. CORNWALL (Minister of Health): I thank honourable members for their contributions to this debate. I get the impression that the Opposition is becoming involved in much ado about nothing. I point out, at the conclusion of the second reading debate, that this Bill is enabling legislation—no more and no less. It is not an attempt to define the benefits of the superannuation scheme. The benefits themselves are described in a document that must be laid before both Houses. If there is concern at that stage with any of the benefits, of course, either House will be able to move to disallow the scheme document.

The Bill is not Government legislation in the generally accepted sense. It is being introduced at the request and with the enthusiastic support of local government generally, and of the Local Government Association in particular. The Hon. Mr Hill has placed an amendment on file. Frankly, I believe that he knows not what he does. I do not think that the Hon. Mr Hill has any real idea of how far or what implications his amendment will have. At this stage I make very clear that the Government has no option but to strenuously oppose the Hon. Mr Hill's amendment. I believe that we should go into Committee, report progress very early, and seek leave to sit again to enable the Hon. Mr Hill to obtain more advice. Quite frankly, I think that in moving his amendment the Hon. Mr Hill is attempting to crack a very small nut with a very large sledgehammer.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Appointment, removal and salaries of officers.'

The Hon. J.R. CORNWALL: I understand that the Hon. Mr Hill, the mover of an amendment, is unavoidably absent from the Chamber attending an important Parliamentary committee. In the circumstances, I think it is highly desirable that the Committee should report progress and seek leave to sit again at a more appropriate time when the Hon. Mr Hill can be present.

Progress reported; Committee to sit again.

PLANNING ACT AMENDMENT BILL (1984)

Adjourned debate on second reading.

(Continued from 3 April. Page 3103.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition opposes this Bill, which is a clear attempt to take away property rights and the maintenance of property rights as a fundamental part of the law of this State. If property rights are to be interfered with, there has always been some relief to a citizen, either in the form of compensation or in some other way. This Bill is a clear attempt to deprive people of their property rights without appropriate consultation or due regard to the impact of this legislation.

It is clear to me from the many people who have approached me on this particular piece of legislation, from all sections of our society, that this Bill has not been properly discussed with the community. On that basis this Bill should be rejected. It goes deeper than that, because it is a clear attempt by the Government to correct one of its earlier moves to deprive people of property rights without consultation and without any attempt to provide compensation. That has always been an integral part of any move to deprive people of their property rights. Such compensation occurs in all legislation dealing with compulsory acquisition.

Under native vegetation control regulations the property rights that people have enjoyed in the past have been taken away without due consultation and without compensation. If the Government had not sought to circumvent both discussion with the people concerned and Parliament then this present problem would not have arisen, and I am quite certain that a mutually acceptable agreement could have been reached. I oppose this legislation as it presently stands. It seeks to make changes to the Planning Act which are unacceptable to the Opposition.

The Government has acted to head off the impact of litigation on land clearance, and the ramifications of this legislation will be widespread and totally unacceptable. Essentially, the Planning Act Amendment Bill seeks to effect three changes to the principal Act. First, it repeals the final clause of section 43 which provides a sunset provision requiring section 43, which deals with interim development control, to expire after two years. Secondly, the amendment

Bill seeks to lift penalties for cases where developments are carried out contrary to development controls and where development is carried out without the required consent of the Governor. Thirdly, and finally, the Government seeks to amend section 56, which provides for continued land usage even though that usage may be outside of current permissible usage.

It is this third aspect on which I wish to enlarge and about which I and the Opposition have the gravest concern. The Council needs to fully comprehend the implications of the changes proposed by the Government. They have resulted from a knee-jerk response to land clearance carried out on Kangaroo Island and to which the Government is opposed. This Bill is the epitome of the Big Brother, overkill approach of the Government.

The Minister for Environment and Planning, without effective consultation, imposed regulations over the clearance of native vegetation. Instead of achieving moderation in land clearance, the Government's jackboot style has only accentuated activity forcing farmers and others to make ambit claims for land clearance. These have resulted in greater pressures on native vegetation than before.

Having failed with his present jackboot approach the Minister is trying to put on a bigger size. Instead of kicking land clearers alone, a great many other potential and existing landowners will also be seriously affected. This is unacceptable. To date, landowners have been protected in the usage of land by provisions within the Planning Act which have allowed continued usage even where zonings or development provisions have changed. This provision was the basis of land clearance continuing even though the Government wanted to stop it. It is a fair provision, because landowners need some protection and section 56 has provided it. Now this has all been put at risk.

This Government has acted to totally undermine individual's property rights without due compensation. That action is wrong and wilful and must be rejected. In his second reading explanation on the Bill, the Minister stated that the philosophy of the Planning Act is different from the philosophy of the now repealed Planning and Development Act. The Planning Act seeks to control 'development' which includes changes in the use of land but not land use as such. The Government suggests that, as the Planning Act does not control 'use of land' but only changes in the use of land, the provisions of section 56 are not needed to protect existing use rights. The Government also stated that, to ensure that existing use rights extend only to the maintenance of existing activities on land and do not give the opportunity for further new development, the Government proposes the repeal of section 56 (1) *(a)*.

I do not support that view. The Minister in another place talked of 'intentions' and what the Planning Act is intended to do. Intentions are, however, quite irrelevant. The provisions, which are contained in the Act and which are capable of clear legal interpretation, as a recent court case has indicated, are relevant.

The Opposition believes that the Planning Act controls more than just changes in land use. The Planning and Development Act, which was repealed in 1982, certainly controlled changes in land usage, but the Planning Act, 1982, controls 'development', which it defines quite clearly. Indeed, in his second reading speech on 11 November 1981, when the new planning legislation was introduced, the then Minister said that the Bill aimed (amongst other things) to 'provide more flexible methods of regulating development in both urban and rural areas'. So, the issue of development was made very clear, and it encompasses much more than change in land use. Development is defined in the principal Act as meaning:

> *(a)* The erection, construction, conversion, alteration of or addition to a building on the land;
> *(b)* A change in the use of the land;
> *(c)* The construction (otherwise than by the Crown, a council or other public authority) of a road, street, or thoroughfare on the land (including any excavation or other preliminary or associated works);
> *(d)* Prescribed mining operations on the land;
> *(e)* Where the land is an allotment—the division of the allotment;
> *(f)* Where the land is an item of State heritage—the demolition, conversion, alteration of or addition to the item; or
> *(g)* An act or activity in relation to land declared by regulation to constitute development,
>
> but does not include an act or activity in relation to land that is excluded by regulation from the ambit of this definition.

This definition of 'development', contained within the Act itself, shows that it is considered to involve more than just a change in use of land. The Government's very action, in using regulations to prescribe that the clearance of native vegetation constitutes development, irrespective of whether or not there is a change in land use, makes it clear that the Government privately believes that the Planning Act is concerned with land use itself and not simply changes in land use. The Government is quite deceitful to be suggesting otherwise.

When the new Planning Act was introduced by the former Minister, the explanation of section 56 (1) *(a)* indicated that its aim was to protect existing uses and to enable them to continue, even though the development plan for an area might suggest that they should be discontinued. An example of such a situation would be a small shop located in what has been subsequently zoned residential 1 and which has changed ownership and the new owner seeks to upgrade it. Section 56 (1) *(a)* would allow the shop to continue, subject to the other normal requirements (for example, concerning trading hours, health controls, etc.). Removal of section 56 (1) *(a)* will mean that any person making use of land will need consent of the local planning authority to undertake any development regarding that property, even if the development only involves the erection, construction, conversion, alteration of or addition to the building on the land and no change of use of the land.

So, repeal of these protection provisions gives the local planning authority, subject to the development plan, power to control, limit, and even prevent what would in other circumstances be reasonable upgrading of premises for the continuation of existing usage. Although land clearance concerns may have been the stimuli for these changes, their effect will be felt much more widely.

I mentioned earlier that the Government wishes to increase penalties for non-compliance with certain sections of this Act. The Opposition believes that penalties are already substantial. Base penalties are $10 000 plus additional penalties of $1 000. The Government has failed adequately to justify the proposed increases. The present Act provides sufficient deterrents against people committing an offence. It provides a penalty for committing an offence: it also provides an additional penalty which can be imposed by the court—a sum not exceeding the cost of the development which has been undertaken in contravention of the Act; and, it also provides a default penalty should a person continue committing the offence after conviction. Why is there a need for more? In his second reading contribution, the Attorney refers to section 37 of the repealed Planning and Development Act. In fact he said:

> Section 37 of the repealed Act was the subject of judicial review on a number of occasions. A series of successive judgments held that section 37 entitled a user of land to some further expansion of an existing use without planning approval. In some cases it was held that significant extension could occur without approval, even when the existing use was under no legal use whatever.

The Attorney went on to say that, since the repeal of the old Act and the commencement of the Planning Act, the courts have interpreted section 56 (1) *(a)* of the Planning Act in the same manner as they have section 37 of the old Act. This inference is misleading.

What the Attorney does not say is that the only cases in which a court allowed an expansion of an existing use were those where the provisions of regulation 33 (under the old Planning and Development Act) applied. That regulation enabled the use of land (in some instances) to expand the floor area of any building on the land by an amount up to but not exceeding 50 per cent of the floor area of the building on the site when the regulations took effect.

That entitlement, under the regulations, was in addition to the rights conferred by section 37 of the Act, and so it is not therefore true to say that section 37 of the repealed Act entitled a user of land to expansion and significant extension. I believe that, without the provisions of regulation 33, section 37 on its own would not have entitled a user of land to expand or significantly extend his activities. The protection given to section 37 was for existing usage to be continued. It cannot be asserted without qualification that an expansion or a significant extention of an existing use was protected by section 37.

The Minister of Health then talked about a number of occasions where section 56 of the Planning Act had been used to allow the erection of new structures without planning approval because no change in land use was involved. One must consider that, in all of the cases determined by the Planning Appeal Tribunal under that section, there has not been an expansion in or a significant extension of existing activities. Of the cases so far determined, and particularly those to which the Attorney (on behalf of the Minister of Health) referred, the land user as we understand it, proposed erecting a building or buildings to accommodate a use that already existed on the land without there being an attempt by that user to expand or significantly extend the activities.

There is no guarantee (and, indeed, it is our view) that section 56 (1) *(a)* would not give protection to a land user who wished to erect new buildings on land which would enable him or her to expand or significantly extend his or her activities. Such significant expansion or extension would require the consent of the relevant planning authority, notwithstanding the provisions of section 56 (1) *(a)*.

The Government has attempted to underplay the impact of its proposed amendments. At the core of its proposals is the Government's desire to once again impose greater control over the South Australian community. Unable to control as strongly as it would like the clearance of native vegetation, the Government proposes to extend planning controls over all South Australians, not just those involved in land clearance, without any provisions for compensation for people's loss of their property rights.

I have been contacted, as I know at least one or two members have been, by a constituent concerned at the impact that the repeal of section 56 will have on a caravan park he is developing. I am sure his case is not an isolated one and, unless we reject the Government's amendments as they presently stand, the net which the Government has cast to capture those involved in what it sees as unacceptable land clearance, will entangle many other South Australian entrepreneurs.

Coupled with the Government's industrial environmental legislation and other Bills yet to be seen, these amendments yet again will seriously undermine the potential for economic recovery in our State and sell South Australian jobs and investments interstate. It is not acceptable for this sort of provision to come in without proper consultation in the community. Regarding vegetation clearance controls, it is also important that, before any further steps are taken, the Government consults with people concerned with those regulations, and also ensures that the proper compensation and consultations take place.

It is unfortunate that so much of the area of this State has been put under threat of clearance through the actions of this Government—and not only here, because this action has had wide ramifications in other States. It is most unfortunate that the Government stepped in without thinking through this whole process and without realising that what it was doing would have an effect in such a wide area of the State. It is unfortunate, too, that the farming community now regards the Department of Environment and Planning with less acceptance than it did before; that is the unfortunate end result of what has occurred. The Liberal Party indicated that it would support legislation containing proper consultation and compensation provisions, but this Bill indeed is a wide step to take in order to solve a problem that the Government has caused for itself without consultation with anybody else.

The Hon. K.T. GRIFFIN: This Bill is a pernicious assault on the rights of property owners, both small and large, and an assault on rights that have been established and ought not to be affected, prejudiced and removed as this Bill seeks to do. At least one instance has come to my knowledge in the past few days where this Bill is being used as the basis for whittling down the rights of a person whose property on Kangaroo Island is subject to compulsory acquisition proceedings. The notice to compulsorily acquire has been issued and the question of compensation for that acquisition is affected directly by the operation of this Bill. If this Bill passes, the citizen, whose property is presently valued at a reasonably high sum, will see that value substantially reduced as a result of the abolition of the existing use provisions that presently attach to his property. If the Bill does not pass, his compensation will not be prejudiced.

It seems to me to be quite extraordinary that this Bill can be used to affect the value of land that is presently the subject of a compulsory acquisition notice. The Law Society of South Australia and the South Australian Environmental Law Association made a general submission to the Government in respect of its review of the planning legislation. They did not make that submission public or lobby extensively, believing that it was proper to make that submission to the Government in respect of a comprehensive review of the Planning Act. Having done that, they suddenly find a Bill being introduced into the Parliament to make a radical change to the Planning Act in a way that has not been previously notified publicly.

Those two societies find that, although they have followed the proper channels, their submissions have, in fact, been overcome by the introduction of this Bill. They have now made a submission to the Government that has been made available on a public basis. I desire to have a substantial part of that submission read into the *Hansard* record for the purpose of putting on record the views of those two associations in respect of a very significant amendment to the planning law. They do, to a large extent, reflect my views and the views of the Opposition on this Bill. The two societies made their first comment in respect of clause 3 of the Bill, which seeks to enact a new section 4a. They state:

> This section appears to provide that the commencement of a particular use of land is to be regarded as a change in the use of land if that commencement follows upon a period of non-use. Subparagraph *(b)* refers to the revival of the use after a period of discontinuance. The concept of discontinuance of a use is not the same as a period of non-use. There seems no reason in principle why the commencement of a use after a period of non-use of the land for the same purpose should be regarded as a change in the use of the land where there is, in fact, no change in the use in circumstances where that period of non-use did not amount to a discontinuance of the use. For example, in the case of a seaside

resort kiosk which is only open for six months of the year, the owner will be caught by section 4a (1) *(a)* (ii) if he were to commence the use following on the period of non-use during the winter months.

Paragraph *(b)* of the section will have no application because as has already been pointed out, discontinuance is not the same thing as non-use and there are many cases which have held this to be the case. The societies therefore submit that this section is badly drafted and does not achieve the objectives which might be intended. Furthermore, it is submitted that the section gravely encroaches upon the rights of the users of land who, for one reason or another, cease using their land for a period of six months, thus enabling the planning authority to make a declaration referred to in that section, which speaks only of 'adverse effect upon the proper development of the locality' with no guidelines whatsoever.

All the other provisions in the Act make the provisions of the Development Plan the basis upon which planning decisions are made, yet this section gives the local planning authority a much wider power which has the effect of preventing a use which previously may have been continuing for many many years with little impact on the locality. Whilst there is a right of appeal against the declaration, the appeal section similarly gives no guidelines to the Tribunal upon how such an appeal is to be determined.

That is a very significant indictment of the proposals in that proposed new section. Not only is the assertion made that it is not drafted to achieve the result that it may be presumed the Government wanted to achieve, but also it is grossly unjust in the circumstances to which the Association and the Law Society refer. The submission refers next to clause 4, which seeks to strike out subsection (3) of section 43, which deals with interim development control. Subsection (3) provides that that section shall expire at the expiration of two years from the commencement of the Act. The submission from the Law Society and the Environmental Law Association is as follows:

This section was inserted as a transitional provision in the original Act, and the societies submit that it should either be abolished or the time period in subsection (3) should be extended but that it should not become a permanent feature of the Act. The reason for this is that the section is open to abuse by the administration in using Supplementary Development Plans to block particular forms of development as and when they might occur by bringing the Supplementary Development Plan into force immediately prior to it going through the normal stages associated with an amendment to the Development Plan.

The history of the old Planning and Development Act indicated how interim development control eventually became a permanent feature of the Act once the courts had construed its provisions as enabling the planning authority, on the face of it, to more effectively control development than the more permanent form of planning control through planning regulations.

I share that reservation about making interim development control, as set out in section 43, a permanent feature of the Planning Act because of the way in which it can be open to abuse and manipulation. The submission then refers to section 46 of the principal Act, which deals with penalties, as follows:

The societies are most strongly opposed to this amendment, which is no less than creating a retrospective penalty notwithstanding that the user of the land has not been convicted of an offence. It is a fundamental principle of our system that a person is not guilty of an offence until he has been convicted. To enable the court to impose a penalty in relation to activities prior to the date of conviction is, in our submission, contrary to the basic principle of our judicial system.

It opens up the possibility, for example, of the following situation to occur. A persom may be using his land for a period of three or four months without knowing or believing that he was contravening the Act. Someone could complain to the planning authority or the planning authority may investigate the circumstances and determine that he should be prosecuted. The prosecution can be commenced by way of a complaint many months after the date of the alleged commission or commencement of the commission of the offence. In other words, the complaint might be laid in December alleging that the offence was committed or commenced to be committed in March of that year and continued thereafter. Notwithstanding that the offender may have ceased using his land immediately the prosecution was laid, upon conviction, under this section, he can be fined for every day of the eights months prior to the complaint being made right up to the date of conviction. That is just grossly unfair and contrary to most other forms of legislation. Furthermore, there is no justification for including such a Draconian provision in the legislation where the planning authority already has the benefit of section 36 of the Act to enable the authority to take steps immediately to require a contravention of the Act to cease by way of an injunction. Section 36 is a provision of this Act which is peculiar to the Act and is not to be found in any other piece of legislation and strengthens the planning authority's rights to require unlawful development to cease. The societies are totally opposed to this provision.

We must look very carefully at any piece of legislation that has the effect of providing for retrospective penalties. I have spoken at length about this only in the past week or so in relation to another Bill. It is quite wrong in terms of justice and basic rights for persons to be allowed to do certain things now in accordance with the law and subsequently find by a Statute passed after the event that that Statute makes the legal and lawful behaviour now unlawful; that is a gross breach of all the basic human rights. So, we must be very cautious about retrospective legislation. Perhaps the Government has not really addressed its mind to the actual impact of this clause in terms of its restrospective imposition of penalties.

Those two societies make the same comments in relation to clause 6 of the Bill, which relates to section 51, a section that also deals with the question of penalties. The same principle applies there as applies to the present section 46 and the proposed amendments in clause 4.

The next provision with which the submission deals is clause 7, which deals with section 56. Section 56, the marginal note of which is 'Saving provisions', provides in subsection (1):

> Notwithstanding any other provision of this Act, no provision of the Development Plan shall—
>
> *(a)* prevent the continued use, subject to and in accordance with the conditions (if any) attached to that use of land for the purposes for which that land was lawfully being used at the time the provision took effect;
>
> or
>
> *(b)* prevent the carrying out or completion of a development, subject to and in accordance with the conditions (if any) affecting the development, for which every consent, approval or authorisation required under any Act authorising or permitting the development had been obtained and was current when the provision took effect.

We are worried not about paragraph *(b)* but about paragraph *(a)*, which is to be repealed by clause 7 of the Bill; subsequently, subsections (3) to (7), which relate to rights of existing use, are also to be repealed. The submission by the Law Society and the Environmental Law Association in respect of this clause is as follows:

The societies are totally opposed to the deletion of section 56 (1) *(a)* of the Act. The justification for deletion of this section as outlined in the Minister's second reading speech in explanation of this Bill is not founded. As pointed out, it is a provision which has been incorporated in successive Planning Acts to ensure that existing lawful activities cannot be stopped by planning laws and that planning controls are and always have been aimed at ensuring that new development is well planned. It is essential that recognition be given to existing lawful developments and that the proper meaning be ascribed to the word 'existing'. The deletion of this section does, in the societies' view, curtail the continuation of existing lawful developments by requiring any alteration to those developments to go through a planning process which involves getting consent.

For example, a factory owner in a residential zone is entitled to continue using his own land as a factory and, if that factory needs to be altered, enlarged or extended for the purposes of a factory, that is his existing use right which will be taken away by the deletion of this subsection. If the subsection is deleted in his case, he will simply not be able to continue using his factory as a factory because any alteration, extension, etc., will be prohibited and there is no right of appeal in those circumstances. That factory, therefore, could not be said to have had its existing use preserved by the planning legislation, which the second reading speech seems to acknowledge should be the case. The planning laws should affect new development only and the example quoted

above indicates that the deletion of this section goes much further than ensuring orderly and proper planning for new development.

Furthermore, this amendment does not seem to take into account, or have any regard for, the type of circumstances where an existing use may require to have alterations made to it by way of either extensions or expansions by virtue of other legislation, for example, the fire safety regulations and the like. By deleting this subsection where there is an existing non-conforming use, the planning authority will be obliged to refuse its approval to any such alteration if, on the face of it, the use, as such, is contrary to the provisions of the Development Plan. In those circumstances, the non-conforming user who was obliged to make alterations by virtue of other legislation simply cannot comply.

It is to be noted that under the old Planning and Development Act and regulations clear parameters were set out in the regulations defining the extent to which alterations and additions could be made. There were also specific exemptions in relation to alterations, extensions, etc., which required to be made by other legislation. This proposal does not address itself to any of these other problems which will occur if this subsection is deleted. The societies reiterate that, if there is a concern about the expansion of existing non-conforming uses, that concern can be addressed by clearly stating the parameters within which such expansion might take place by confirming within those parameters a right upon the owner of the land to expand in accordance with those parameters. However, the deletion of the subsection affects not only expansion but also alterations to existing premises, because those alterations fall within the definition of development and will have to go through the planning application and consent procedure and, in fact, may be totally prohibited by the Development Plan for which there will then be no subsequent right of appeal to the applicant.

It seems quite contrary to planning and legal principle to create a situation where, for example, a person living in a dwelling house cannot add a carport or garage to that dwelling house without going through the detailed planning process which is the same in relation to a multi-storey building with the corresponding expenses associated with it.

In conclusion the societies wish to draw attention to their original submissions to the Planning Act Review Committee in relation to the matters contained in this submission which have, in fact, been reiterated in this submission.

Those two societies quite strongly hold the view that this piece of legislation is wrong in principle, and I share that view because it seeks to achieve objectives which deprive individuals of existing rights. No public information about this has been promulgated. There has been no consultation with the public or with anyone who might have a direct or indirect interest in the Bill.

This Bill is quite a Draconian piece of legislation, and I would be surprised if the Government really appreciated the extent to which it prejudices ordinary citizens—both the person who is in occupation or who owns a small piece of property and the large property owner and developer. It addresses all of them equally, and significantly prejudices rights which in many instances have been long established. For these reasons, I certainly cannot support the Bill, not even to the second reading stage. When the matter is voted on, I will certainly do my utmost to see that it is defeated.

The Hon. J.R. CORNWALL (Minister of Health): I thank honourable members for their contributions, although I am unable to congratulate them on the clarity of the matters raised. The Hon. Mr Griffin in particular described this Bill as a pernicious attack on property rights.

The Hon. K.T. Griffin: It is.

The Hon. J.R. CORNWALL: It is not, of course. I will try to put the whole matter in simple terms and in a perspective that ordinary people can understand. I will not resort to the strange obfuscation which the lawyer's lawyer resorted to in his contribution. The very simple fact is that under the old Act, that is, the pre-Wotton Act, the Act that had been in existence for quite a long time, the zoning regulations prevented certain uses in particular areas, although there were existing use provisions under which existing long-term use was protected.

Under the new Act, which was introduced, as I recall, in a spirit of concordiality and with a degree of bipartisanship, the existing use rights were supposed to be protected under section 56 (1) *(a)*; that is, the now infamous section 56 (1) *(a)*. The major thrust of this Bill is to propose the repeal of that section, and there is a very good reason for that. Again, it can be simply put. The fact is that, despite what was intended, Parliament got it wrong. There is no doubt that the South Australian Parliament got it wrong when it passed that section. It was intended that existing use should be able to continue in the same way as it had been interpreted and was able to continue under the original provisions of the old Act.

Of course, it has been interpreted in practice as allowing extensions to occur to existing developments. This matter was first brought to the attention of the authorities of 1 September 1983 when, in a judgment *Gein v. The City of Woodville,* the Planning Appeal Tribunal held that the erection of a carport on a street alignment did not require planning approval under section 56 (1) *(a)*. The second notable case occurred within less than a fortnight, on 14 September 1983, in the case *Gama v. East Torrens* and the Planning Appeal Tribunal held—by this time things were getting serious—that major extensions and upgrading of an existing slaughterhouse at Summertown did not require planning approval. In the third case of *Pyrgiotis v. The City of Woodville* on 25 October—again these three had all occurred in a relatively short period—the Planning Appeal Tribunal held that the erection of a garage on the side boundary of an existing house did not require planning approval.

There was then the better known case of *Dorrestijn v. The South Australian Planning Commission.* As I am sure honourable members know, that determination was made in the District Court on 13 January 1984. The proposal was for vegetation clearance on farming property, and it was held by the District Court, as I understand it, to be an extension of existing use and, therefore, did not require planning approval. So, section 56 (1) *(a)* has clearly proved to be not only totally inadequate but also quite different from what was originally intended by members of the South Australian Parliament.

The question of problems with section 56 (1) *(a)* is not new. The Planning Act Review Committee, which was appointed late in 1982, recommended repeal of this provision a long time ago. It pointed out that the new Act controlled changes in use only, and not extensions of existing use. It is relevant only when someone wants to do something new. So, section 56 (1) *(a)* in practice has proved to be both irrelevant, unnecessary and useless in achieving what was intended within the spirit and intent of the legislation. As I said, the courts are interpreting the section to mean that the authorities can allow extensions, provided that they are within existing use, without planning approval. Of course, that is unacceptable to the Government and should be unacceptable to any responsible member of this Parliament.

Principally, this Act does two other things. First, section 43 (3) is repealed, which means that the provision relating to interim development control coming into immediate effect will not expire on 4 November 1984, as originally planned. Section 43 (3) is proposed to be repealed, so, the immediate effect/interim development control would become a permanent feature of the Act.

Secondly, the other important feature is that the penalties clauses are amended and substantially upgraded by the provision of a penalty of $1 000 a day for a continuing breach of the Act. That hardly needs explanation and should commend itself to any reasonable person who is in any way remotely conversant with planning legislation. I therefore appeal to honourable members to support this legislation. Although I understand that some amendments may be drafted, I am not able to say just yet (not having seen them) whether they will or will not be acceptable to the Govern-

ment. However, it is important that we should at least get the Bill into Committee so that we can start examining those clauses and the proposed amendments.

The Council divided on the second reading:

Ayes (11)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall (teller), C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner, and Barbara Wiese.

Noes (10)—The Hons J.C. Burdett, M.B. Cameron (teller), L.H. Davis, R.C. DeGaris, Peter Dunn, K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Majority of 1 for the Ayes.

Second reading thus carried.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. J.R. CORNWALL: At this moment there is feverish activity going on in the corridors of Parliament House. It is anticipated that at least one amendment will be placed on file for consideration by the Committee.

Progress reported; Committee to sit again.

REGIONAL CULTURAL CENTRES ACT AMENDMENT BILL

In Committee.

(Continued from 5 April. Page 3296.)

Clause 7—'Repeal of ss. 4, 5, 6 and 7 and substitution of new sections.'

The Hon. C.M. HILL: I move:

Page 2—
Line 19—Leave out 'proclamation' and insert 'regulation'.
Line 20—Leave out 'proclamation' and insert 'regulation'.
Line 22—Leave out 'proclamation' and insert 'regulation'.
Lines 23 and 24—Leave out all words in these lines.

During the second reading debate I explained that the State was geographically divided into regional cultural areas. Perhaps that is a rather broad claim as the Far North is not really involved in such a plan. The South-East, the Riverland, the general area of what we call the North (with its centre at Port Pirie) and Eyre Peninsula are established as cultural trust regions. Each area has its Trust as a Board, and each has a new venue or a venue under construction. The metropolitan area and the margin of rural land around Adelaide is served by the Adelaide Festival Centre.

During the second reading debate I stressed that the establishment of these Trusts and venues was expensive. I do not begrudge the rural areas any of the money that has been spent to date on these centres. I cannot foresee a Government venturing further and establishing a new Trust but, if any Government did make such a decision, I think that the expenditure of capital works money on the venue and the expense of administering such a new Trust (not only the administrative costs but also the cost of servicing the loans to provide such buildings) would be a very important item in the State's Budget.

With so many demands on public funds, I think that such a decision is so important that it should be made by Parliament itself and not by the Government of the day. My amendment will mean that, if a Government wished to establish a new trust, it would have to introduce the measure by regulation and Parliament would have the opportunity to investigate the project while the regulation lay on the table of both Houses of Parliament, and it would be within the power of Parliament, if it thought fit, to disallow the regulation by action of either one of the two Houses. It may well be that Parliament could support the proposal. Nevertheless, Parliament would seek an explanation at that time from the Government of the day in relation to the need for such a proposal, and the matter of the costs could also be investigated by Parliament. I think the amendment will improve the legislation. I think it is more prudent that this slight checking mechanism is placed in the legislation.

The Hon. C.J. SUMNER: The Government opposes the amendment. The question of appropriations for any future regional cultural trust would come before Parliament. If the Government decided to establish another trust by proclamation, as provided in the Bill before the Committee, it would have to provide money at some time, presumably, to enable the trust to operate. If it was a direct appropriation, it would come through Parliament by way of the Appropriation Bill. If it was to come from Loan moneys, a record of that would also come before Parliament during the Budget debate. It seems to me that there is no harm in the Government's being able to establish another trust, giving it greater flexibility within the terms of the legislation.

Although there may be financial implications in relation to the establishment of another trust, they will have to be dealt with by Parliament in another way. I cannot accept the validity of the honourable member's argument, which seems to be based purely on finance. The question of priorities within Government activity is generally something for the Government, and Parliament has some right to oversee that situation by way of Budget debate.

The Hon. C.M. HILL: I am disappointed in the Government's response. Has the Government in mind any proposal to establish another trust at this stage?

The Hon. C.J. SUMNER: I cannot answer that specifically. I do not believe that there is any immediate intention to establish another trust. That is a matter on which the Premier, as Minister for the Arts, would be able to provide further information. Certainly, I have no knowledge of any immediate plans to establish further trusts.

The Committee divided on the amendments:

Ayes (10)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, R.C. DeGaris, Peter Dunn, K.T. Griffin, C.M. Hill (teller), Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (11)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner (teller), and Barbara Wiese.

Majority of 1 for the Noes.

Amendments thus negatived; clause passed.

Remaining clauses (8 to 10) and title passed.

Bill read a third time and passed.

SMALL BUSINESS CORPORATION OF SOUTH AUSTRALIA BILL

In Committee.

(Continued from 5 April. Page 3290.)

Clause 6—'Terms and conditions of office.'

The Hon. L.H. DAVIS: I move:

Page 2—lines 41 and 42 and page 3, lines 1 to 3—leave out subclause (1) and insert subclauses as follows:

(1) Subject to subsection (1a), an appointed member shall be appointed for a term of office of three years and upon such conditions as may be determined by the Governor upon the recommendation of the Minister.

(1a) Three of the members first appointed upon the commencement of this Act shall be appointed for a term of office of eighteen months.

(1b) An appointed member shall, upon the expiration of his term of office, be eligible for re-appointment.

The Opposition seeks to amend clause 6, which provides for terms and conditions of office for the seven Board

members of the Corporation. Clause 6 (1) provides that an appointed member of the Corporation shall be appointed for a term of office, not exceeding three years. My amendment proposes that appointed members shall still be appointed for a term of office of three years but that the first three appointments shall be for a term of office of 18 months. The amendment is designed to ensure continuity of Board representation so that every 18 months three members of the Board will retire and be eligible for reappointment. It seeks to overcome a tendency which has become noticeable in recent months where the Government has moved *en bloc* to remove appointments to boards and committees.

The Hon. C.J. Sumner: Like when?

The Hon. L.H. DAVIS: One can look at recent examples such as Roseworthy College. The amendment before the Council is designed to provide for certainty of term and also a more regular arrangement.

The other matter I would address in the amendment is new subclause (5), which provides that any person who is appointed as a member following a vacancy will serve only the unexpired portion of the term of his predecessor. That regularises the situation in a better fashion than we now have in existing clause 6.

The Hon. C.J. SUMNER: The Government opposes the amendment, which is a change from the normal provisions incorporated in Acts establishing statutory authorities. If the amendment is agreed to, flexibility with respect to appointment of members will be significantly reduced. I point out that a clause similar to this was passed by the Council in the Ethnic Affairs Commission Act Amendment Bill, which was considered by the Parliament in December last year. In that Bill the Government introduced a provision not for fixed terms but for maximum terms. So, the major argument in favour of this is greater flexibility. It is often useful and in the public interest for appointments to be made for shorter periods of time than three years.

The Hon. Mr Davis's amendment would insist that appointments were made for three years. For instance, we could get a situation where a person is 68 years of age. Under the policy generally adopted by this Government and, indeed, as was adopted by the previous Government, people should not be appointed to statutory boards beyond the age of 70. There may be good reasons for continuing with a person on a particular board at the age of 68 years. The flexibility given to appointing people for a maximum of three years would enable that person to be appointed for a one-year or two-year period. It may be that that person, up to the age of 68 years, had been Chairman of an authority, and it might be useful if the Chairman continued on the Board for 12 months after a new Chairman was appointed.

All sorts of situations can arise where flexibility is important. It leads to better government and better administration of statutory authorities if that flexibility can be built in. It often means that we can get to serve on statutory authorities people who might not otherwise be prepared to do so. So, the question of staggering can be considered. Indeed, the Government would wish to stagger appointments. However, that is not precluded by this Bill. It is quite possible for, and indeed it is the intention of, the Government, to stagger appointments. The Bill, as opposed to the amendment, enables greater flexibility in the way in which appointments are made. It is not obligatory under the Government's Bill for the appointment to be made for three years, whereas in the honourable member's amendment it is. It is opposed by the Government, as it introduces to the appointment of statutory authorities a rigidity which is not justified.

The Hon. L.H. DAVIS: It is not my intention to press this issue, but I fail to see why a Board such as this—which is the management of a corporation that purports to be professional in its operation—cannot adopt what is common business practice. If one looks at board appointments to public companies, one sees that they are invariably for fixed terms.

There is no staggering, as the Attorney-General has suggested is desirable under clause 6. He pulls out two or three fairly tired examples to justify the existence of clause 6—for example, the person turning 70 years of age. In the past people over 70 years of age have, on many occasions, performed important tasks for Governments.

The Hon. R.C. DeGaris: Like Winston Churchill.

The Hon. L.H. DAVIS: Yes. I see no reason why age should be a bar. That is a very weak example that the Attorney-General provided.

The Hon. C.J. Sumner: It was your Government's policy.

The Hon. L.H. DAVIS: We are in Opposition now, and have a new look. We are providing for what is commonly provided for in the commercial world.

The Hon. C.J. Sumner: One does not have to make minimum term appointments in the commercial world.

The Hon. L.H. DAVIS: Under the terms of clause 6 (1), a member shall be appointed for a term of office not exceeding three years. Therefore, one appointment could be for six months, another for 12 months, another for 18 months and yet another for three years. The point I am making is that it is not common commercial practice, nor is it particularly prudent, to have a Board comprising members who may be rolled over every six or 12 months.

The Hon. C.J. Sumner: A company can do that if it wishes to.

The Hon. L.H. DAVIS: A company can do that, which is exactly the point I am making. Every 18 months three Board members will come up for review, so there will then exist a situation similar to that which presently exists in the commercial sector. The point I am making is that, if the Small Business Corporation of South Australia is trying to stimulate small business and bring a professional approach to the situation, I should have thought it would adopt what is common commercial practice.

The Hon. C.J. SUMNER: On the honourable member's own admission, it is not true that companies cannot appoint people to boards for varying periods.

The Hon. L.H. Davis: Can you give me an example of one that does?

The Hon. C.J. SUMNER: I am not in the position of arguing what the practice is—I am in the position of arguing what the law is. What we are establishing here is the law. If the honourable member is so enthusiastic about the law relating to appointment to company boards, he should know that an appointment can be made for a period that is less than a fixed period. That is all that is being suggested in this Bill. The Government may decide to appoint someone for three years, and I think that in the majority of cases it will do so. It will probably stagger those appointments, but there is obviously no great merit in appointing people for short terms on a one-off basis. One does not get the necessary expertise and experience built up within a statutory authority if that happens. On the other hand, the clause in the Bill before us does provide the flexibility which I believe is needed and which the honourable member, on his own admission, says exists in the commercial sector.

The Hon. I. GILFILLAN: I have a couple of questions to ask the Minister in relation to the Government's intentions regarding the people who may be appointed to the corporation. First, is there any plan for consultation with various small business associations such as the Australian Small Business Association or the South Australian Employers Federation prior to an appointment being made? Secondly, will the Government ensure that the majority of appointed

corporation members are experienced at first hand with small business?

The Hon. C.J. SUMNER: Clearly, it would be the Government's intention to consult about appointments and, in particular, to consult with organisations representing small business. To establish an organisation such as this without going through that consultative process about appointments would seem to me not to be satisfactory: the Government does intend to consult. I understand that some consultations have already occurred, so the answer to the first question is, 'Yes'. I cannot answer in absolute terms the second question about whether it is intended that a majority of the Board will be people who are small business men or who have some expertise in the area.

The Hon. I. Gilfillan: Having either been involved with or closely involved in small business.

The Hon. C.J. SUMNER: I think that the majority of them would fall into that category. Whether or not they were actually small business men or had been small business men in the past, whether they had been operating in some form of advisory capacity to small business men, or whether they were representatives of small business organisations in some form, I cannot specify precisely, because the Bill leaves appointments up to the Government.

The Hon. I. Gilfillan: Do you intend to appoint Public Service representatives other than the Chairman to the Corporation?

The Hon. C.J. SUMNER: I am not in a position to respond precisely to that question. It may be that there will be others, but clearly it is not to be a body that is weighted heavily towards public servants. That, to my way of thinking, would defeat the objectives of the legislation. On the other hand, it is clear that the public interest must be represented and that public moneys made available to the new corporation will have to be looked at. So, clearly, there is some need for input from Government, but it is those factors that will need to be balanced.

The Committee divided on the amendment:

Ayes (11)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis (teller), R.C. DeGaris, Peter Dunn, I. Gilfillan, K.T. Griffin, C.M. Hill, R.I. Lucas, K.L. Milne, and R.J. Ritson.

Noes (8)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, Anne Levy, C.J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. Diana Laidlaw. No—The Hon. Frank Blevins.

Majority of 3 for the Ayes.

Amendment thus carried.

The Hon. L.H. DAVIS: I move:

Page 3, lines 24 to 26—Leave out subclause (5) and insert subclause as follows:

(5) Upon the office of an appointed member becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of a member becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

I have already canvassed the argument for the amendments and I do not intend to speak further on it.

The Hon. C.J. SUMNER: This amendment does not seem to be consequential on the previous amendment, so that, if the honourable member did address his remarks to it, he was being irrelevant. Perhaps the honourable member might care to clarify it. He addressed his remarks to the first amendment, not to lines 24 to 26.

The Hon. L.H. DAVIS: For the benefit of the Attorney, I will repeat what I have already said, namely, that proposed clause 6 (5) as amended gives more flexibility to the arrangement. We have simply proposed in this amendment that, where someone retires or where the office of a member of the Corporation becomes vacant before the expiration of the time for which he or she was appointed, the person appointed instead shall be appointed only for the balance of the term of the predecessor. This will enable the Government to review the situation at the expiration of that term. As it now stands, existing subclause (5) provides that the member be appointed as a member of the Corporation for a period which may be indefinite but which should be no more than three years. The amendment brings some order to the Board appointments and is preferable to the arrangement which is proposed by the Government.

The Hon. C.J. SUMNER: The honourable member has not convinced me by his explanation. Perhaps he could explain how it produces greater order in the appointment of Corporation members.

The Hon. L.H. DAVIS: Where people are appointed to vacancies it is generally done for the duration of the unexpired period. This is what we have suggested in subclause (5). It is a normal procedure, not uncommon in commercial circles and, I would have thought, not uncommon in Government legislation.

The Hon. C.J. SUMNER: The Government cannot accept that. Rather than increasing the flexibility of Government, it restricts the flexibility of Government in making appointments. The present subclause (5) says that on a position becoming vacant the Government may appoint a person to the vacant office, not just to fulfil the unexpired term but to continue with a full term in that appointee's own right. That seems to be desirable. We have a situation as a result of the previous vote where one standard has been adopted in this legislation and another proposition adopted in relation to, for instance, the South Australian Ethnic Affairs Commission Act and many other Acts of Parliament.

I am not certain why some honourable members in relation to the previous matter decided to change what is the normal situation. In the Ethnic Affairs Commission Act, which was passed by Parliament in December, there was the flexibility for Governments to appoint people to the Commission for up to three years. Now, for some inexplicable reason, that policy has become unacceptable and the Government has had imposed on it the need to appoint people for a three-year fixed term. As I said previously, that introduces a completely unacceptable inflexibility into Government appointments in this area. I want to make that absolutely clear. Further, the proposition advanced now by the honourable member would introduce even further inflexibility into the appointment method and is opposed by the Government.

The Committee divided on the amendment:

Ayes (11)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis (teller), R.C. DeGaris, Peter Dunn, I. Gilfillan, K.T. Griffin, C.M. Hill, R.I. Lucas, K.L. Milne, and R.J. Ritson.

Noes (8)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, Anne Levy, C.J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. Diana Laidlaw. No—The Hon. Frank Blevins.

Majority of 3 for the Ayes.

Amendment thus carried.

The Hon. R.I. LUCAS: In his earlier response the Attorney referred to what he saw as the lack of consistency between the approach to this Bill and similar provisions in Ethnic Affairs Commission legislation. Can the Attorney say why this Bill does not include, as a matter of Government policy, one of the traditional Government clauses included in Ethnic Affairs Commission legislation that at least one person shall be a man and one person shall be a woman?

The Hon. C.J. SUMNER: That is a good question. I can only suggest that it was an oversight. Should the honourable

member wish to move an amendment to that effect, it would be acceptable to the Government.

Clause as amended passed.

Clauses 7 to 9 passed.

Clause 10—'Functions and powers of the Corporation.'

The Hon. L.H. DAVIS: The functions of the Corporation are set out in the report of the working party into small business, which was tabled in August 1983. However, one of the points that the working party made was that, if the Corporation was to be effective and the change from the Small Business Advisory Bureau to a statutory corporation was to be justified, it was essential that sufficient resources should be made available to put into effect the initiatives recommened by the working party.

It is disappointing that in the second reading explanation the Government did not indicate exactly what additional resources were being put into the proposed Corporation that would justify the establishment of a statutory authority. I thought the second reading speech was remarkably thin in detail on such important matters. Is the Attorney in a position to give some public information to establish what amount of money will be spent in enabling the Corporation to exercise properly the functions and powers as set down in this clause?

The Hon. C.J. SUMNER: The honourable member should know better than to ask a question of that nature. He knows that the South Australian Government's Budget is generally introduced in Parliament at the end of August or thereabouts and is then debated in Parliament over the following four to six weeks. Obviously, I am not in a position to pre-empt Budget decisions. At present, each department is preparing its propositions and proposals for consideration by the Treasurer for incorporation in the 1984-85 Budget. The State Development Department is doing that and no doubt will include what it considers to be a satisfactory request for funds to ensure the proper operation of the small business authority. If that authority does not get sufficient funds, I suppose that is a matter that honourable members can take up when the Budget is presented. Obviously, it is not something that I can respond to at this stage.

The Hon. L.H. DAVIS: Presumably, when the Government decided to introduce the Small Business Corporation of South Australia Bill into Parliament there was some intention of taking notice of the working party's recommendations of last August. I would have thought that at least there would have been some public commitment by the Government to implement the financial recommendations of that working party. As an example I refer to page 59 of that report, as follows:

> Unless the Government is able to make resources available to enable the Corporation to implement the programmes and carry out the functions recommended by the working party, the Government is likely to attract criticism that the Corporation is nothing but a sham.

We on this side have already given a commitment that we are supporting this legislation, albeit with some reservations. However, it is incumbent upon the Government to give at least some public commitment, even if it is in broad rather than specific detail, as to exactly how much is to be spent if this Parliament is to properly consider the Bill. I would be appalled if the existing resources of the Small Business Advisory Bureau were transferred holus-bolus to the statutory authority without any additional funds being injected. The working party recommends that there should be an additional $100 000 in a once-only amount to help establish the Corporation, and thereafter an amount of between $325 000 and $385 000 in additional resources to cover additional counsellors, cash grants for relief management and for the Small Business Pathfinder Service.

The Government has made no specific reference to any of these important recommendations and I would have thought the Attorney at least would have given some broad indication about the Government's intentions, even if he does not come up with specific financial amounts. After all, the Government is loud in its proclamations on the importance of small business. I hope that the Government will match that rhetoric with specific detail as to what is the intention once the Corporation has been established.

The Hon. C.J. SUMNER: That detail will be available to the honourable member at the proper time—the proper time being during consideration of the Budget. I do not know that I can take the matter any further, and I do not know that anyone else can take the matter any further. Governments generally do not make hard and fast commitments prior to Budget consideration. That process is going on at the moment. The honourable member knows that as well as I do. I am surprised to hear him get up and say that he wants to know now how much money the Government is going to commit to the authority. That is an unreasonable request and the honourable member will not get a response, because there is no response at this stage—it is as simple as that.

The Government is well aware of the working party's recommendations and, if no additional funds are made available and it is just the Small Business Advisory Bureau in another guise, the honourable member will no doubt take up the working party's offer and criticise the Government. That is his right. Surely, he should hold his fire for the moment and wait until the amount of money allocated to the authority is known and known in the Budget. One never knows—the honourable member may be pleasantly surprised. I am not in a position, and neither is the Treasurer at this stage, to indicate specifically what funds will be available. The Government endorsed the working party's report in principle. The first part of that endorsement is the enactment of this legislation.

The Government receives working party reports regularly: at almost every Cabinet meeting there is a working party report of some kind or another. The Government often adopts the approach of approving a report in principle and releasing it for public comment. That has happened on a large number of occasions. Approval in principle does not mean that immediately all the recommendations of a working party are automatically implemented. That does not happen. Often they are implemented over a period of time. Clearly, what happens in this case will largely depend on the authority itself in relation to its composition and what it sees as its tasks and priorities. The Government will obviously take into account the views of the authority regarding what policies will be adopted and what funds will be necessary to ensure the effective functioning of the authority.

The Hon. R.I. LUCAS: Clause 10 (1) *(a)* provides:

> To provide advice to persons engaged in, or proposing to establish, small businesses;

The Attorney would be aware that there are many small businesses that are, in effect, management consultancies, that is, private enterprise people who form themselves into a small business to provide advice to other small businesses on the whole range of management decisions that small businesses engage in. How does the Government see the role of individual counsellors (the number of which is likely to be increased, according to the second reading explanation) within the Small Business Corporation of South Australia? In general, are they more likely to be a first port of call acting as a sort of filtering mechanism so that, if there are major problems in a small business in relation to accounting systems, computing systems, cash flows, marketing and production techniques that need to be looked at quite intensively, the small business person with a problem is referred to a

particular management consultancy? Or are they more likely to attempt to provide the complete management consultancy advice themselves? Of course, the cost of a management consultant's services is relevant. There are provisions under other parts of the legislation which provide, for example, that part of the cost of a consultancy may be defrayed by a grant from the Corporation. I would have thought that that would have been the proper way for the Corporation to act.

Certainly, there are some concerns amongst those involved in management consultancies that the Small Business Corporation of South Australia, with the increase in staff, may well see itself extending its powers and functions into these areas and in effect being in competition with the detailed advice that management consultancies, for a price, provide to small businesses. How is the Corporation going to tackle this general question of the rights of those small businesses who are currently operating as management consultancies?

The Hon. C.J. SUMNER: I think that the honourable member puts it in two ways. It is not possible to draw a hard and fast line between the two approaches described by the honourable member, that is, counsellors heavily involving themselves in the day-to-day functioning and advice giving to small businesses as opposed to facilitating a small business to obtain correct advice. The proposal is that the counselling be more akin to the second sort of counselling than the first. That does not mean that it is possible to draw a hard and fast line between the two propositions. Obviously, there is a grey area between what a counsellor does in terms of the extent of the authority's involvement in any particular small business. The emphasis, I believe, would be more on trying to facilitate the small business to obtain professional advice about a particular topic.

Obviously, something counsellors would be involved in is giving advice concerning the establishment of a small business, which is similar to what is currently being done by the Small Business Advisory Bureau. It is not anticipated that there would be a massive extension, in the sense that counsellors would be engaged on a detailed day-to-day basis in advising small business. The emphasis would be more on the latter part of the honourable member's concept about how the advice system would work. It is not possible to give an absolute assurance that that is all that the counsellors will do. Obviously, we are on a continuum from complete active involvement and advice in small business at one end, which will not be encouraged, through to simply advising small businesses to seek professional help at the other end. Various activities will be carried out within that range, but more emphasis will be placed on the last part of the proposition put by the honourable member.

The Hon. K.L. MILNE: I refer to clause 10 (1) *(b)*. Is it the intention of the Government that the Corporation be expected to co-ordinate training and to co-operate with small business associations and existing training institutions in relation to training and educational programmes? I have seen a new course started with great enthusiasm where, in fact, all the training is already available if properly used and co-ordinated. Is it the intention that training programmes be entered into with training institutions created by the Corporation, or will existing facilities be used?

The Hon. C.J. SUMNER: Again, the emphasis would be on the use of existing facilities. It is not possible, again, to give an absolute indication that that is all that would happen. Certainly, Government policy would be to use those structures and mechanisms that are in place to provide training at the correct level through what is now available.

[Sitting suspended from 6.8 to 7.45 p.m.]

The Hon. R.I. LUCAS: Before the break I was partially heartened to hear the response from the Minister with respect to clause 10 (1) *(a)*, *vis-a-vis* the possibility for the Corporation to find itself in competition with small business people who are management consultants. I was also interested to hear the very good question from the Hon. Mr Milne on clause 10 (1) *(b)* in relation to training and educational programmes. It was a matter upon which I touched in my second reading contribution. It is an extraordinarily important area. There are quite a number of training and business educational programmes being conducted by different industry groups and trade associations. The Minister and his advisers will be very well aware of a good and successful programme being undertaken by the Master Builders Association.

The point on which I seek the Minister's response is in respect of the possibility of the Corporation's engaging itself in competition with these industry groups and employer associations. Subclause (1) *(b)* provides:

> ... and, if necessary, conduct training and educational programmes relating to the management of small businesses.

Once again, in my second reading contribution I raised the importance of industry specific training and educational programmes rather than an attempt at the broad brush approach. Certainly, there are general sorts of problems applicable to a whole range of people looking to start out in small business, irrespective of the industry. Once we get beyond the first stage, where good counselling will weed out probably 50 per cent of these people, many of the training and educational programmes ought to be industry specific.

To that end I am wondering whether it is within the Corporation's powers and responsibilities to subsidise (rather than to conduct them industry specific programmes itself) the employment of training and educational officers with specific trade and industry associations, perhaps on a declining subsidy basis. A similar scheme is conducted by the Commonwealth, although it relates more to manpower development. I am not sure exactly of the title of the officer, but it may be 'Manpower Development Officer—Training Programme'. Is the Government considering assisting training in industry associations and employee associations by the provision of assistance on a declining subsidy basis?

The Hon. C.J. SUMNER: I am not in a position to indicate specifically what the Small Business Corporation might decide in that area. It is absurb for honourable members opposite to expect specific answers to these questions. That also applies to questions I have already answered where I have given certain indications as to what the Government sees as being the likely policy of the Small Business Corporation. Many of these areas will have to be taken up and considered once the Corporation is established and people have been appointed to it. It is a Corporation under the general control and direction of the Minister. However, in the nature of such Corporations, Commissions or statutory authorities, there is clearly, as far as the Government is concerned, a desire to get input from the industry or the people affected by what the statutory corporation does.

Obviously, the policies that emerge from the Corporation will depend on its deliberations once it is established. Certain propositions were put to me before the dinner adjournment and I gave my general view of what the Government might do. The honourable member has now raised another matter and it is worthy of consideration. I expect that the Corporation, once established, will take into account, consider and give serious thought to any propositions that honourable members make that will enable the Corporation to function more effectively. The matter that the honourable member mentioned ought to be referred to the Corporation for it to consider whether it should become part of the policy of the Corporation.

The Hon. K.L. MILNE: I refer to the functions and powers of the Corporation. It has been said in debate that the Corporation is really nothing new and probably not a

great help because it was not doing what small business needed most. I was inclined to think that myself. Clause 10 (1) *(d)* provides:

> to monitor the effect upon small business of—
> (i) the policies and practices of the Governments of the State and Commonwealth and of local government;
> and
> (ii) Commonwealth and State law (including local government by-laws),
> and to make appropriate representations in the interests of small business;

That is very important. Is the Government contemplating under this clause, which might need expansion, that the Corporation may well suggest or initiate changes to laws or the special application of certain laws relating to awards and conditions of employment? I think that most members would be aware that circumstances can arise in small business which do not follow the normal rules and patterns of big business.

I believe that the Government's interpretation of 10 (1) *(d)*, and possibly *(e)*, will make the difference between the Corporation's being very useful and its being just a repeat of what we have had before. Can the Attorney say how important the Government considers this monitoring of legislation for small business to be and how much the Corporation will be expected to protect small business with its special problems?

The Hon. C.J. SUMNER: All I can say is that it is one of the functions that I expect the Small Business Corporation to carry out. The honourable member has placed considerable importance on the functions mentioned in clause 10 (1) *(d)* and *(e)*. I believe that the Government wishes to do the same. There are other functions listed there, but all functions have to be considered by the Board of the new Corporation when it is established. If the honourable member has any specific suggestions about what he thinks the Corporation should do in exercising its functions under clause 10 (1) *(d)* or *(e)*, then I am sure that the Government, and the Board of the Corporation, will be pleased to hear them.

The Hon. R.I. LUCAS: If the Small Business Corporation is to be a successful advocate for small business (as the working party recommends—and function *(d)* refers to making appropriate representations in the interests of small business)—then quite clearly a range of State Government decisions with respect to taxes and charges, and even Industrial Conciliation and Arbitration Act Amendment Bills, may be deemed by the Small Business Corporation to be not in the best interests of the small business community of South Australia. I take it that the functions specifically provided for in the Government's Bill mean that the Government will not discourage the Small Business Corporation from criticising the State Government of the day for particular policies such as tax increases or legislation changes which it might introduce and which the Corporation might see as not being to the advantage of the small business community?

The Hon. C.J. SUMNER: I cannot respond to that question. The fact is that the Corporation, under clause 11, is subject to the general control and direction of the Minister. Therefore, I suppose the same situation will apply as that which applies in the ethnic affairs area and about which there is a common misconception in the community that somehow or other the Ethnic Affairs Commission is independent of Government. The fact is that that is not so—it is an arm of Government. However, it has a different method of achieving Government policy than that that exists in a Government department.

The Hon. R.I. Lucas: Do you think that this is the same thing?

The Hon. C.J. SUMNER: I do, because clause 11 clearly provides that the Corporation is under the general control and direction of the Minister. It is an arm of Government: it is not a Corporation that is independent of Government and it is not an independent lobby group in that sense. It will have a different method of implementing Government policy from that of a normal Government department—different in the sense that it will have direct input at the decision and policy making level into the organ of Government, as it were, from the people very directly affected by the policies that might be implemented. In the ultimate analysis, it is a Government authority under the control and direction of the Minister.

I do not know what view the Government or the Minister might take in relation to the Corporation making statements about tax increases, or whatever. Certainly, I expect that the Corporation will be consulted about measures that may have an impact on small business, whether they be taxation or other measures. The establishment of the Corporation will not mean that everything small business or the Corporation asks for will be automatically granted by the Government. Clearly, in the whole area of the economy there are conflicting interests between larger corporations, small business, consumers, workers in industry, and Government policy. It is a matter of receiving advice from all the groups involved, but, ultimately, the responsibility for making the final decision rests with Government.

The Hon. R.I. LUCAS: I think it is important that those who believe that the statutory Small Business Corporation will be an independent and fearless advocate for small business (as inferred by the working party report and those who support the concept *vis-a-vis* the concept of a unit or section in a Government department, such as the Small Business Advisory Bureau) should note very carefully the words of the Attorney-General in this Chamber on this matter. I am sure that the Attorney is quite correct. There is no doubt in my mind that, should the Small Business Corporation transgress too often by criticising State Government policy with respect to taxes and charges or industrial legislation (which the Corporation might see as being disadvantageous to the small business community), the Government retains a strong hand under clause 11.

The Government also retains the very powerful control inherent in the appointment of board members. Therefore, with two strings to its bow, the Government and the Minister of the day retain a powerful control over the Small Business Corporation. I am not arguing against that, because I believe that statutory bodies ought to be answerable to Government. However, I believe that those who argued that we needed a statutory corporation as opposed to a unit or section in a Government department (because it would be independent and could be a fearless advocate of the needs of small business in the community) were incorrect.

The Hon. C.J. Sumner: It is more independent because it is removed.

The Hon. R.I. LUCAS: It is much of a muchness, as the Minister well knows. He has stated the situation quite accurately, and I am not criticising his statement at all.

The Hon. C.J. Sumner: It is not the same as a Government department.

The Hon. R.I. LUCAS: As the Minister said, it will not be independent, it will be answerable to the Government and to the Minister of the day. The Minister is also quite correct, that is exactly the situation that the Small Business Corporation will be in—there is no criticism there at all.

The Hon. C.J. Sumner: It is not the same as being a Government department, either.

The Hon. R.I. LUCAS: The Minister seeks to retrieve lost ground. Of course, it is not the same as a Government department. In relation to its independence from Government, the Minister acknowledged that it is not independent and should not be independent, of Government. It is under

the very powerful control of clause 11, which makes it subject to the general control and direction of the Minister. However, the Attorney-General did not mention the very powerful control of the Government and the Minister of the day to appoint board members. In particular, if board members were to transgress too often, I am quite sure that the Government of the day would find good cause to ensure that those persons were not reappointed. In view of the fact that the Small Business Corporation will not be independent and will therefore have no advantage over a section or unit in a Government department, will the Minister indicate which of the functions outlined under clause 10 could not be performed by an expanded Small Business Advisory Bureau as it exists at the moment?

The Hon. C.J. SUMNER: I suppose some functions could have been performed by such a bureau, but if one has a corporation that has a certain executive role—admittedly a role that is ultimately subject to the Minister's control and direction—there is the capacity for greater independence and for such a corporation to act with a greater degree of authority in whatever it is doing. There are different ways in which policies can be carried out; that is clear. There is direct Government Public Service—

The Hon. R.I. Lucas: There is no distinct advantage in this, is there? It is a policy direction.

The Hon. C.J. SUMNER: I do not agree with that. There is an advantage.

The Hon. R.I. Lucas: For whom?

The Hon. C.J. SUMNER: There is clearly a difference in having a corporation with executive authority, albeit subject to the control and direction of the Minister but with direct input into that corporation and into its decision making by people who are concerned in the area and who may be affected by the decisions that are taken by that corporation, and having a Government bureaucrat directly responsible to the Minister, with some kind of advisory mechanism to give input. This mechanism is used as a half-way house between complete independence and direct Government authority. It was used by the Liberal Government from 1979 to 1982 in relation to ethnic affairs, for instance. There is a host of instances; the Health Commission is another one where there is a—

The Hon. K.T. Griffin: That is a bit different. It is almost identical with the Public Service.

The Hon. C.J. SUMNER: It was not meant to be.

The Hon. K.T. Griffin: No, but it is.

The Hon. C.J. SUMNER: It was not meant to be under the terms of the Bright Committee recommendations, but the section in the Health Commission Act, for instance, is that that Commission is subject to the Minister's general control and direction. The same section appears in the South Australian Ethnic Affairs Commission Act. I am merely saying that it is a mechanism that is used. It is not the same as the direct Minister to public servant relationship; it is not the same as a body that is established independent of Government. Very few statutory authorities are in that category; the only one that I can recall is the Legal Services Commission, which has a provision written in that it is independent of Government.

Normally, statutory authorities have some responsibility to Government, just as this one does. The advantage that it has over the direct Minister to Public Service relationship is that it has at the executive or board level appointed to it people who are interested, involved and have knowledge and expertise in the area. So, it is not true to say that we have the same situation with the passage of this Bill, establishing a corporation, as we would have with a Minister and an advisory unit that is under direct Public Service control.

Clause passed.

Clause 11—'Corporation subject to control and direction of Minister.'

The Hon. R.I. LUCAS: Clause 11 raises a very important principle. We have already touched on one part of this question—I will not repeat the ground—that is, that quite clearly this Corporation is not independent but is under the general control and direction of the Minister. However, recent reports by the Senate Government Financial Operations Committee (previously known as the Rae Committee; I think that it was its fifth report) looked at the general question of direction by Ministers of statutory authorities and corporations. It explored the vexed question of direct and indirect controls over statutory bodies. Quite clearly, under clause 11 there is a direct control. The Rae Committee looked at the general question whereby Ministers can, by the dropping of an appropriate phrase in the ear of the Chairman or by a quick telephone call but without making it a definite instruction, indicate the way in which the Minister is thinking the statutory authority ought to be heading.

The Hon. B.A. Chatterton: Like the ADC.

The Hon. R.I. LUCAS: The Hon. Mr Chatterton has obviously read the same report: the ADC. I hope that the Hon. Mr Chatterton would agree that that is not the sort of thing that we as a Parliament ought to encourage or even accept; we ought not to urge our members of the executive to encourage or accept it. The recommendation of the Rae Committee was that whenever this power existed—it was actually looking at legislative change—if an instruction was to be given it ought to be explicit and in writing and then tabled in the Parliament. Whilst we cannot explore all those options here at the moment—I certainly have some sympathy for the general thought—I wonder whether the Attorney-General on behalf of the Government might give us a general idea (I appreciate that he cannot give us a definitive one) as to whether he believes that if the Minister of the day is to give the Small Business Corporation any sort of instruction it ought to be explicit, in writing, made public and, in effect, eventually be tabled in the Parliament; I cannot explore the tabling in the Parliament at this stage.

When one looks at the powers of this statutory corporation with respect to the giving of moneys to companies and the provision of loans and financial guarantees, one sees that the possibility for a Minister or a Government to lean on a board exists; I am not saying that it will happen. In this very vexed area where taxpayers' money will be spent, I wonder whether the Minister would support the general principle and might in due course explore the possibility of ensuring some public accountability of any Ministerial instruction given to the statutory corporation.

The Hon. C.J. SUMNER: No, I would not believe that it is consistent with the nature of the operation of this Corporation or other statutory authorities that have a section similar to this. The ultimate responsibility in this area, as it is in the area of the Health Commission, the Ethnic Affairs Commission and other bodies that have a similar section, rests with the Government.

The Hon. R.I. Lucas: That is answerable to Parliament.

The Hon. C.J. SUMNER: Exactly. It is answerable to the Government, which is answerable to Parliament, which in turn is answerable to the electorate. That is clear, and is fundamental to the system under which we operate; I make no bones about that. However, I do not believe that, in a situation where there is this power which ensures that ultimate responsibility rests in the Minister, all the directions that are issued, all the conversations that are had or all the suggestions that are made to the Corporation should be automatically tabled in Parliament or made public.

I think that would not add to the efficient functioning of the organisation. The control is there, the responsibility is

there, as far as the Government is concerned, and I think that, if all the directions given by the Minister to the Corporation were to be made public, it would inhibit the proper functioning of government. Indeed, if all the directions given by a Minister to his permanent head were made public, it would inhibit the proper functioning of government.

I want to emphasise that that does not mean that the board and the corporation in its day-to-day operations will not have a degree of independence. Clearly, it will have a discretion to exercise, but in the ultimate analysis the responsibility of this operation is with the Government.

The Hon. R.I. LUCAS: That is an extraordinarily disappointing response, and I hope that, with the passage of this Bill and in due course, the Minister might reflect on that position in respect of future measures and reconsider his views.

Clause passed.

Clause 12 passed.

Clause 13—'Power of Corporation to give guarantees in respect of small businesses.'

The Hon. L.H. DAVIS: I move the following suggested amendment:

> Page 6, after line 8—Insert paragraph as follows:
> (*ab*) where the total amount of the person's liabilities under the loan exceeds fifty thousand dollars, the liabilities shall not be guaranteed by the Corporation unless it has referred the matter to the Industries Development Committee and that Committee has approved the giving of the guarantee.

This clause provides that the Corporation shall have power to give guarantees in respect of small business. Some reservations were expressed from this side of the Chamber during the second reading of the Bill about providing such a power. The working party was quite adamant that if the Corporation was to have credibility it should be seen to have the power to give guarantees. However, it subsequently admitted in its report of last August that, if the power of giving guarantees was to be given, it might lead to false hopes or unreal expectations on the part of small businesses which could expect to have Government support by way of Government guarantee or a grant, which is of course the subject of a later clause.

Nevertheless, it is a provision which the Opposition has indicated it will support. I would like to ask the Attorney some questions in respect of the proposal as it now is. My first question relates to the role of the Enterprise Fund. We have been given in this clause an open-ended power for the Corporation to guarantee small business loans. The Enterprise Fund, which hopefully is coming nearer to its debut (which was first announced as part of an election package and an urgent economic measure and which formed part of a rather wonderful quinella in conjunction with the Ramsay Trust)—

The Hon. K.T. Griffin: It's still warm.

The Hon. L.H. DAVIS: Yes. It is suggested that the Enterprise Fund would also have a role in assisting small business. The recommendation to the Government suggests that the Fund will be able to provide small business with access to finance, either by way of individual equity or loan and presumably overlap some of the functions which are suggested in clauses 13 and 14. It was nevertheless suggested in the Enterprise Fund that a minimum figure would be $75 000. The Opposition has sought to put a cap on the maximum amount of the guarantee that can be provided by the Government in its suggested amendment to this clause, but I would be interested to hear the Government's view on the role of the Enterprise Fund, given that it has been suggested to the Government by the working party that that fund would also have a role in assisting small business. Will there be an overlap or a duplication and confusion of functions?

The Hon. C.J. SUMNER: No, that is not correct. This is not a debate about the Enterprise Fund, and it would be quite improper for me (indeed, I am sure that you would remonstrate with me, Mr Chairman, if I did so) to go into a debate about the Enterprise Fund, because I hope that that fund will be able to assist business—

The Hon. L.H. Davis: Specifically small business?

The Hon. C.J. SUMNER: Including small business. The Enterprise Fund is not designed to prop up ailing industries which may subsequently mean that the Enterprise Fund makes a loss. Certainly, that is not the intention. The Enterprise Fund is more concerned with direct investment by way of equity capital in enterprises that it thinks are worthy of support in South Australia. There may be some assistance from the Enterprise Fund to small business, but it may not be the same kind of support as would be available from the Small Business Corporation. I do not believe that there is any overlap. In fact, I should have thought that the honourable member would be pleased to know that not just one but two potential means of supporting small business are available.

The Hon. L.H. DAVIS: The Industries Development Committee is constituted under an Act of Parliament and already has the power to provide Government guarantees. The working party represents the role of that Committee quite fairly in its report. On page 41 it indicated that the number of guarantees provided in the fiscal year 1982-83 was only 10. Of those, only four guarantees were under $100 000, and the total Government guarantees approved amounted to about $20 million, although one must deduct $10 million which was guaranteed for the Ramsay Trust and which was left in the blocks. Therefore, it is clearly not a lay down misere when it comes to getting Government guarantees. The Industries Development Committee and the Small Business Corporation have similar requirements, and in this clause specific reference is made to the criteria under which a guarantee would be provided. Clause 13 (2) *(c)* provides:

> *(c)* the Corporation must be satisfied—
> (i) that the person is not able to obtain the loan upon reasonable terms and conditions without the guarantee of the Corporation;

It can be reasonably construed from that (and the IDC would construe it in this way) that small business could not easily obtain financial assistance through traditional commercial channels, whether we are talking about banks, finance companies or private sources. However, this finance will be forthcoming if a Government guarantee is provided. Subclause (2) *(c)* (ii) provides:

> that it is in the public interest for the Corporation to give the guarantee.

The public interest is a very broad concept, but it has been interpreted at least by the IDC to take into account the wellbeing of the public, the fact that the business will make a contribution to the South Australian economy, that it will not unduly compete with businesses of a similar nature and that hopefully it may create job opportunities either immediately or down the line.

That provision is acceptable to me. The provision regarding reasonable prospects of the business or proposed business being financially viable is again acceptable to me. It underlines the point, as with Industries Development Committee submissions, that there must be a track record which can be examined, some reasonable expectation that the business will be viable and that the Government guarantee will be properly secured by the assets of the business. Concerning the criteria set out in clause 13 (2) *(c)*, is the Government going to accept the recommendation of the working party and use the State Development officers to scrutinise the guarantee applications? I believe that the working party

made a valid point when it said that this would avoid duplication at least initially (and when I say 'initially' I mean 'for some years'). Members would agree that dollars in the Small Business Corporation will be better spent on counsellors, training, education programmes and the like. I would hope that the State Development officers, who are very skilled in examining applications for Government guarantees, will be given the opportunity to scrutinise these applications.

The Hon. C.J. SUMNER: It is quite likely that in the short term State Development officers will be used, but that matter will be resolved once the Corporation is established and once the Government has received the ideas of members of the Corporation.

The Hon. L.H. DAVIS: The working party observed that Government guarantee applications to the Industries Development Committee tended to take longer than they should. There was an inference of unnecessary delay—perhaps a bit too much red tape. As a member of the Industries Development Committee, as I indicated during the second reading stage, I strenuously resist that suggestion. Indeed, the observation can properly be made that some of the smaller applications require just as much scrutiny as larger applications. I hope that, in publicising the existence of a Government guarantee programme, hopes are not unduly raised so that small businesses believe that a Government guarantee can be provided in a short period. Is the Attorney-General in a position to advise the Council as to whether or not attention has been given to this matter? What is the expectation of the time taken to process a Government guarantee application pursuant to clause 13?

The Hon. C.J. SUMNER: That is an unreasonable request at this stage. Obviously, no-one would know the answer to it.

The Hon. R.I. LUCAS: Concerning clause 13 in its relationship to clause 11 (the general control and direction clause), can the Attorney confirm that it would be possible under the all-embracing power of clause 11 that the Minister of the day could direct the Corporation to give a guarantee to a particular small business irrespective of the criteria established under clause 13 (2) *(c)*?

The Hon. C.J. SUMNER: I believe that any direction which the Minister gave under clause 11 would also be subject to the criteria of clause 13.

The Hon. R.I. LUCAS: The Minister is indicating that the power under clause 11, which is all-embracing and not subject to anything, is restricted by the criteria under clause 13 (2) *(c)*, that is, the Minister of the day needing to have the Corporation be satisfied. It does not say anything about the Minister being satisfied. I would have thought that the power under clause 11 was all-embracing and that the Minister could direct that the Corporation give a guarantee. Is the Attorney suggesting that the particular Minister would have to satisfy himself that the criteria under clause 13 (2) *(c)* were satisfied or is he saying that the Minister will have to ascertain the Corporation was satisfied? If that is the case, then it would appear that the provision is useless.

The Hon. C.J. SUMNER: Clause 13 lays down the criteria applicable to the giving of a guarantee. The Minister may be able to give a direction in relation to a particular guarantee.

The Hon. R.I. Lucas: Irrespective of the criteria?

The Hon. C.J. SUMNER: No; the honourable member does not listen. I said before that it is the Corporation which gives a guarantee, not the Minister.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: The Minister cannot give a guarantee himself.

The Hon. R.I. Lucas: He can direct the Corporation.

The Hon. C.J. SUMNER: The Corporation is under the general control and direction of the Minister. There may be an argument as to whether or not that general control and direction flows down to specific individual decisions. I believe that in the ultimate analysis it probably means that the Minister can give directions to the Corporation—

The Hon. R.I. Lucas: Irrespective of the criteria?

The Hon. C.J. SUMNER: No, the Minister cannot give directions to the Corporation or instruct the Corporation to give a guarantee outside the guidelines established in clause 13. The Corporation gives the guarantee. Clause 13 establishes the criteria under which a guarantee is to be given. The Corporation is subject to the general control and direction of the Minister. It seems to me that the Minister cannot instruct the Corporation to give a guarantee outside the criteria laid down in clause 13. That would be contrary to the legislation.

The Hon. R.I. LUCAS: The Attorney-General is a good lawyer and I am not a lawyer: it is one legal opinion to him and none to me. Certainly, as a layman, I am quite surprised at his construction of powers conferred under clause 11 with respect to the power conferred under clause 13 (2) *(c)*. I will seek advice from Parliamentary Counsel while the Hon. Mr Davis raises other matters concerning clause 13.

The Hon. L.H. DAVIS: Addressing the amendment before the Committee, the working party report recommended that the Small Business Corporation be given the power to administer a guarantee scheme.

However, on page 46 of its report the working party made quite clear that it believed that this guarantee should have a maximum limit. It has suggested in the report that the maximum limit be $75 000. The amendment before the Committee varies that suggestion of the working party and provides that the maximum guarantee which can be granted to any one small business should be $50 000. As clause 13 now stands, it provides for no definite limit. There is provision for the limit to be fixed by the Treasurer from time to time. I take strong exception to that provision as it now stands: it is open-ended and provides for the real possibility of conflict. The Industries Development Committee, as it now operates, is well established, well known and well run. It has criteria not dissimilar to those contained in clause 13.

I put it strongly to the Committee that, if the Treasurer in his wisdom fixes on a sum well in excess of $75 000—such as $250 000 (and this Committee has not been provided with any information on what that limit may be)—many small businesses could say that they are not going through the Industries Development Committee, that they have read the working party's report on small business which stated that the Industries Development Committee is cumbersome and that it is perhaps difficult to get a Government guarantee and so therefore they will try the Small Business Corporation. It will be an unfortunate state of affairs if that situation was allowed to develop, where two separate bodies with similar criteria, with a scheme which is perhaps, on the admission of the Attorney-General, to be administered by the same people—

The Hon. C.J. Sumner: I didn't say that.

The Hon. L.H. DAVIS: It may well be administered by the same people—officers of the Department of State Development.

The Hon. C.J. Sumner interjecting:

The Hon. L.H. DAVIS: That was the recommendation of the working party and a fair bit of notice has been taken of it in the drafting of this legislation. We may well have the same criteria, the same officers examining applications for and administering Government guarantees, yet the standards used by those two separate groups—the Industries Development Committee and the Small Business Corporation—may be perceived to be different. That would be dangerous in that it would create unreal expectations. As the Attorney-General is well aware, clauses 1 to 5 were

inadvertently skipped through the Committee, unknown to members of the Opposition who were interested in debating those clauses.

The Hon. C.J. Sumner: You should have taken more notice of the proceedings of the Council.

The Hon. L.H. DAVIS: The Attorney had given an undertaking that we would not proceed in the Committee stage. The Attorney's 2-i-c, 3-i-c and 4-i-c were not in the Chamber and the Government found itself with five clauses of the Bill being debated which no-one realised were coming on. However, that is a trivial point, but the point I am making is an important one. I believe very strongly that there should be a ceiling on the guarantee provided. The Attorney will be aware of the large number of small businesses in South Australia. It is important that that limit be set in the Act and that amounts over the recommended figure of $50 000 will become subject to the scrutiny of an independent and bipartisan committee, namely, the Industries Development Committee. Therefore, I ask the Attorney-General to respond to that proposition. Will the Attorney-General advise why the Government has sought to overlook the recommendations of the working party which set a maximum limit for a Government guarantee, albeit that it was $75 000?

The Hon. C.J. SUMNER: The answer simply is 'flexibility'. We have inflation. The Government endorses the working party's report. The limit, I understand, will be set by the Treasurer at $75 000.

The Hon. L.H. Davis: You are publicly saying that it will be $75 000?

The Hon. C.J. SUMNER: That is my understanding, but not having it in the Act means that it can be adjusted from time to time, depending on inflation or any other factors which might cause it to be altered. My understanding is that the Government intends to set it at $75 000. The Government endorses the proposition of the working party but believes that the means of achieving it is by the Treasurer setting the figure from time to time.

The CHAIRMAN: As it is a money clause, I direct that it will be a suggestion to the House of Assembly to amend clause 13 by inserting a new paragraph *(ab)*.

The Committee divided on the suggested amendment:

Ayes (9)—The Hons M.B. Cameron, L.H. Davis (teller), R.C. DeGaris, Peter Dunn, K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (10)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. J.C. Burdett. No—The Hon. Frank Blevins.

Majority of 1 for the Noes.

Suggested amendment thus negatived.

The Hon. R.I. LUCAS: I have consulted with Parliamentary Counsel and am pleased to inform the Attorney that legal opinion is in his favour and not in mine. Therefore, on this occasion, I accept the legal expertise of the Attorney-General. I turn now to the provisions under clause 13 (2) *(d)*, *(e)* and *(g)*. Clause 13 (2) *(d)* provides:

> the person must agree to pay to the Corporation as consideration for the guarantee such commission on the amount of the loan as is fixed by the Corporation.

Does that mean that the Corporation could set a commission that the Minister could override under the powers of clause 11?

Clause 13 (2) *(e)* provides:

> the person must give such security (if any) as the Corporation requires for repayment of any amount which the Corporation becomes liable to pay by virtue of the guarantee.

Does the Attorney believe that the Ministerial power under clause 11 allows a Minister to override decisions made by the Corporation? Clause 13 (2) *(g)* provides:

> the person must comply with, or agree to comply with, any other conditions imposed by the Corporation as to giving the lender security for the loan or as to any other matter.

Once again, if the Corporation set down certain conditions, does the Attorney-General believe that the Minister, under clause 11, could override the Corporation with respect to those conditions?

The Hon. C.J. SUMNER: This is a somewhat vexed question. I do not think that it is possible to give a clear-cut answer without knowing the facts of a particular situation. I believe that the Minister has ultimate control and it is probable that, if he was determined, he could devise means whereby he could instruct the Corporation in relation to the sorts of conditions set out under 13 *(d)*, *(e)*, and *(g)*. I cannot give a clear-cut answer in relation to the precise meaning of the term 'general control and direction'. It is my view that that clause does provide the Minister with substantial authority and responsibility in this area. I think that the Minister could probably, without being completely firm about it, find a way (if he were determined) to instruct the Corporation in relation to these matters.

The Hon. R.I. LUCAS: The Attorney-General is in good company, as the initial view of Parliamentary Counsel was that the Minister will have that power with respect to paragraphs *(d)*, *(e)* and *(g)*. However, Parliamentary Counsel agrees that the Minister will not have that power in respect of paragraphs *(c)* and *(f)*.

The Hon. C.J. SUMNER: I am not sure about that, either. The Minister may well have that power in relation to paragraphs *(c)* and *(f)*, as well. That is really a technical matter. If the honourable member wants the matter pursued, I suppose that we can pursue it, but I have indicated as far as I can that I believe the Minister does have substantial authority in this area.

The Hon. K.T. GRIFFIN: It seems to me that, in relation to subclause (4), there is a somewhat curious provision to the extent that it appears that this relates to the only warrant necessary for funds to be appropriated in consequence of the Treasurer having to satisfy a guarantee and that it is not necessary for any amounts to be required to be referred to in the annual supplementary Appropriation Bill. Subclause (4) also allows for payment without further legislation being required. Will the Attorney confirm that that is the case?

The Hon. C.J. SUMNER: Yes, I believe that it is. This is a standard provision contained in the Technology Park Adelaide Act, 1982 (in section 17 (3)), which was passed when the Hon. Mr Griffin was Attorney-General. It is also contained in the State Bank of South Australia Act, 1983 (section 21 (2)), and the Local Government Finance Authority Act, 1983 (section 24 (4)).

Clause passed.

Clause 14—'Power of Corporation to make certain grants to assist small businesses.'

The Hon. L.H. DAVIS: The Opposition has an amendment on file in relation to this clause which gives the Corporation the power to make certain grants to assist small businesses. The Small Business Advisory Bureau already has power to provide consultancy grants. I understand that that provision has existed since 1977. The working party referred to that and made the point that there was a maximum limit of $3 000 per consultancy. The provision during the first two years of the scheme was that a 100 per cent subsidy was provided to businesses seeking assistance. In later times that subsidy was cut to 50 per cent.

The purpose of a consultancy grant is to enable a small business to obtain advice from consultants in a variety of areas such as solving problems, improving efficiency of a business, quality of management, and so on. It is a commendable scheme that one would assume has worked moderately well. However, it is interesting to note that the sum

involved is quite small. In fact, in the past fiscal year 1982-83, the sum involved was only $54 000, which would allow, say, 100 small businesses $500 or $600 each. The Opposition freely concedes that there is an existing arrangement and that there is a good reason for having a provision for grants.

There may be some people who perhaps are not quite as enthusiastic about this idea as I am, but I accept that clause 14 limits the grant as follows:

> . . . to assist a person conducting or engaged in a small business—
> *(a)* to obtain advice with respect to the management of the business;
> *(b)* to undertake training or educational programmes relating to the management of small business;

There can be no quibble with those two provisions. Clause 14 (1) *(c)* provides:

> to improve by any other means the efficiency of the business.

I assume that that is a typical dragnet clause, but I wonder whether the Attorney has anything specific in mind. However, in regard to the amendment, the Opposition will maintain the approach that was adopted in regard to clause 13, namely, that there should be accountability in this area. Clause 14 (2) provides that the limit for any grant should be fixed by the Minister from time to time, but we would prefer to see that matter brought back to Parliament. My amendment provides that the maximum amount that can be provided by way of grant under clause 14 will be fixed by regulation, which at least gives Parliament the opportunity to scrutinise the matter. Accordingly, I move:

Page 6, line 37—Leave out 'subsection (2)' and insert 'this section'.

Page 7, lines 2 and 3—Leave out 'from time to time fixed by the Minister' and insert 'fixed by regulation'.

After line 11—Insert subclause as follows:

> (3) A grant shall not be made under this section unless a limit is fixed by regulation for the purposes of subsection (2) *(a)*.

The Hon. R.I. LUCAS: I support the amendments. Clause 14 (1) *(c)* provides one of the criterion for the Corporation being able to make a grant to assist a person conducting or engaged in a small business, as follows:

> to improve by any other means the efficiency of the business.

That is an extraordinarily wide provision and, as has been mentioned, is a catch-all provision. Unless one were to employ McKinsey and Company for management consultancy advice, money spent in regard to matters referred to in paragraphs *(a)* and *(b)* are not likely to be significant. However, paragraph *(c)* is an extraordinarily wide provision and could be used by the Corporation or a Minister of the day to make a grant to a small business for a range of purposes.

An interpretation of 'the efficiency of the business' could include anything from production efficiency, marketing efficiency, or indeed wholesale re-organisation. Any sort of major change could come within the ambit of that criterion. Whilst I support the concept of making small payments to small businesses, particularly in relation to the purposes referred to in paragraphs *(a)* and *(b)*, I share the concern that has been expressed that paragraph *(c)* could be misused or abused by a Minister or the Corporation to give large scale amounts of money to a small business. I certainly support the amendments moved by the Hon. Mr Davis.

The Hon. C.J. SUMNER: The Government opposes the amendments. We need flexibility in this area. It is not intended that the Corporation will make large grants for this purpose. There are all sorts of circumstances where grants could be made. To impose an upper limit by way of regulation would unduly restrict the Corporation in carrying out its functions.

The Hon. L.H. Davis: Why?

The Hon. C.J. SUMNER: Because in some circumstances the Corporation may wish to make a larger grant than that fixed by regulation. It is that simple. Under clause 14 money will be made available by way of grant, but it is certainly not the intention that massive grants will be made. I oppose the amendments.

The Hon. R.C. DeGARIS: I support the Hon. Mr Davis's amendments, but I intend to oppose the clause. I agree with comments made by the Hon. Mr Lucas in regard to this clause. I point out that I generally oppose the concept of the Bill, as I believe that there are existing organisations that the Government could use for this purpose without setting up another statutory body. It would be a lot cheaper for taxpayers to do it that way than to set up another statutory corporation. However, I admit that there is a case to be made for giving assistance to small business in this State, particularly those that require financial assistance by way of guarantees or loans in certain circumstances. However, I believe that the State Bank could well cover that position, and a lot more cheaply than the operation of the proposed Corporation.

In relation to grants to small business organisations, I do not believe that a statutory corporation should have the power to make grants without a very severe limit on the amount of money that can be granted. However, even with that provision, I oppose the concept of a corporation being able to make cash grants to small business organisations. Clause 14 (1) provides:

> Subject to subsection (2), the Corporation may make a grant to assist a person conducting or engaged in a small business . . .

It should be remembered that such a grant can be made only to a person who is engaged in small business. It cannot be a grant to someone who is, say, a part-time inventor, as was indicated earlier in the debate. However, one can get a grant 'to obtain advice with respect to the management of the business; to undertake training or educational programmes relating to the management of small businesses; or to improve by any other means the efficiency of the business'. As the Hon. Mr Lucas pointed out, that is a very wide statement.

Clause 14 (2) *(b)* provides:

> the Corporation must be satisfied—
> (i) that it is in the public interest to make the grant;
> (ii) that there are reasonable prospects of significantly improving the efficiency of the business and of the business being financially viable;

Clause 14 (2) *(c)* provides:

> the person receiving the grant must comply or agree to comply with, such conditions as may be imposed by the Corporation . . .

I believe it is strange that taxpayers' funds, which we in this Parliament are responsible for, will be allowed to be dispensed by a statutory corporation to anyone who may apply for funds. The Corporation will spend a lot of time with applications under this clause which will have to be dealt with and which will be very costly to the taxpayer. I support the amendments, but I will oppose the clause whether or not it is amended.

The Hon. L.H. DAVIS: The comments made by the Hon. Mr DeGaris are extremely valid, especially in relation to the administrative burden that will result from the granting of such broad powers to the Corporation. Will the Attorney advise the Committee whether the Government has determined a maximum amount for a grant provided under clause 14 (2) *(a)*? The Attorney was kind enough to advise the Committee that under clause 13 the maximum amount for a guarantee will be $75 000. Is the Attorney in a position to advise the Committee whether any upper limit will be fixed by the Government with respect to grants under clause 14?

The Hon. C.J. SUMNER: No, I cannot give any indication of that. This function is already carried out by the Small Business Advisory Unit to the tune of $70 000, with a maximum of $3 000 for any one grant. The functions cur-

rently envisaged by clause 14 are already carried out by the Small Business Advisory Unit. Any expansion, by either an increase in individual amounts or an increase in the overall amount, is a matter that will have to be considered by the Government in a budgetary context. I cannot see why members opposite are getting agitated about clause 14, because it merely codifies in legislation what is already being done administratively by the Small Business Advisory Unit.

The Hon. L.H. DAVIS: I referred when dealing with clause 13 to the proposed South Australian Enterprise Fund and to the way in which it was intended that would assist small business. In the Labor Party's election policy in relation to small business, which was promulgated in October 1982, reference was made to the fact that SGIC funds would be made available to small businesses in the form of loans and venture capital. I raise this matter here rather than in the third reading debate, but I am concerned that the Government, having said that the Small Business Corporation of South Australia will become a one stop shop for small business, is contradicting that in the sense that it already has flagged that the South Australian Enterprise Fund and maybe SGIC as well will also provide loans, grants and venture capital to small businesses. So, instead of having a one stop shop, one may have a three pop shop for small businesses. That alarms me; it would confuse rather than clarify the situation. Is the Attorney-General in a position to advise whether the Government has yet got its act together in relation to its original proposal of having a Small Business Corporation as the one stop shop for small businesses with respect to finance and advice generally?

The Hon. C.J. SUMNER: The honourable member seems to be in a state of some confusion.

The Hon. L.H. Davis: It is easy to understand.

The Hon. C.J. SUMNER: It is not, really. Is the honourable member suggesting that the Small Business Corporation should be involved in equity capital funding or involvement in small business? I assume that he is not. That is not the intention of the Small Business Corporation, but it may be that the Enterprise Fund will wish to get involved in equity investment with a small business.

The Hon. L.H. Davis: What about the SGIC?

The Hon. C.J. SUMNER: As I understand it, the commitment there was to investigate means whereby the SGIC could provide greater assistance to small business; that will be further examined. I understand that it was examined in the context of the Enterprise Fund and that it was decided that, rather than have the SGIC as, in effect, the Enterprise Fund, the Enterprise Fund should be established by a publicly listed company, but it will be involved more with the equity side of things.

The Small Business Corporation will be involved in the sorts of functions that are set out here: guarantees, advice, grants under the conditions of clause 14, advice for the management of a business or to undertake training, and other things. So, distinct functions are envisaged by the Enterprise Fund, which are different from those envisaged by the Small Business Corporation.

The Committee divided on the amendments:

Ayes (9)—The Hons M.B. Cameron, L.H. Davis (teller), R.C. DeGaris, Peter Dunn, K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (10)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon. M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner, (teller), and Barbara Wiese.

Pair—Aye—The Hon. J.C. Burdett. No—The Hon. Frank Blevins.

Majority of 1 for the Noes.

Amendments thus negatived.

The Hon. L.H. DAVIS: My next amendment is consequential. Having tested the feeling of the Committee, I do not wish to proceed with it.

Clause passed.

Clause 15—'Borrowing and investment.'

The Hon. C.J. SUMNER: The Hon. Mr Griffin queried whether it was envisaged that the Corporation would exercise its borrowing powers under clause 15 (1) (lines 12 to 14). It was also suggested that clause 15 (3) (page 7, lines 17 to 19), which relates to the liability of the Treasurer being satisfied out of the Consolidated Account, was a curious clause. It was not envisaged that the Corporation would exercise its borrowing powers in the foreseeable future. The provision that any liability of the Treasurer is satisfied from Consolidated Account is a standard provision.

The Hon. R.I. LUCAS: I seek confirmation that this statutory corporation will come within the ambit of the South Australian Financing Authority.

The Hon. C.J. SUMNER: I understand that that would be so.

Clause passed.

Clause 16—'Delegation by Corporation.'

The Hon. R.I. LUCAS: With the Minister's approval, the Corporation can delegate any of its powers and/or functions and delegation can be made to a member of the Corporation or an officer or an employee engaged in the administration of the Act. Subclause 2 *(b)* makes that delegation subject to such conditions as the Corporation thinks fit. This is a very wide power. I suppose that it is a traditional one, but it relates to 'any power and function'. Clause 10 provides a whole range of powers and functions of the Corporation, and clause 13 deals with the power of the Corporation to give guarantees. Clause 14 deals with the power of the Corporation to make certain grants.

I seek a response from the Attorney because, under this clause, there is not a restriction as to which powers an officer or employee could administer on behalf of the Corporation. The Corporation could delegate its power to a counsellor of the Corporation, for example, to give guarantees and to make grants. Am I in error in my logic, or does the Attorney agree that that construction is correct?

The Hon. C.J. SUMNER: I believe that the Corporation could delegate its powers as indicated through clause 16 including those mentioned by the honourable member.

The Hon. R.I. LUCAS: If that is the case, I express concern about this provision. The Attorney is agreeing that the Corporation can delegate and give the power to one of its 12 officers. There will be a Chief Executive Officer, someone of the authority of Peter Elder, but there is no distinction in this clause. What is being said is that any officer or employee engaged in the administration of this Act could be involved. So, if the Government has 10 individual counsellors, all counselling small businesses, as the Attorney is telling us now, each of those counsellors can be delegated all the powers and functions of the Corporation, in particular, with respect to the power to give guarantees and make certain grants.

In the debate on clause 14, the Hon. Mr Davis by way of amendment sought to put a cap on top of a grant that could be given. That amendment was unsuccessful, so the limit that the Minister of the day may fix as the sum that can be given by an individual counsellor to a particular small business is open ended. I cannot see why the Attorney and the Government require this power in the Act, or does the Attorney believe, with respect to the power to give guarantees and make grants, that the power ought to be somewhat restricted?

The Hon. C.J. SUMNER: Such a clause appears in section 19 of the Government Finance Authority Act. The safeguard is that the delegation must be subject to the Minister's

approval. So, the Minister has ultimate responsibility for what happens under the delegation. That is there. The honourable member has correctly interpreted the provision and the authorities that can be given. The delegation must be given by the Corporation. There is the safeguard of the approval of the Minister. I do not imagine that a blanket delegation will be made to some minor official who is an employee of the Corporation. That would not be envisaged in respect of flexibility and administration of the Act, although certain delegations are necessary.

The Hon. R.I. LUCAS: In response to my earlier question in respect of the powers that the Minister has under section 11 and the power of the Corporation to give guarantees under section 13 (2) *(c)*, the Minister's reply, backed-up by Parliamentary Counsel, was the interpretation that he could not direct the Corporation to give a guarantee unless the Corporation was satisfied that the criteria under section 13 (2) *(c)* were satisfied.

Under clause 16, and with respect to clause 13, does the individual employee have greater power than the Minister? Is it possible for that employee under this clause to give a guarantee to a small business without having to satisfy the criteria under clause 13 (2) *(c)*, because under this clause the Corporation may 'with the approval of the Minister delegate any of its powers or functions'. That is 'any', which means all and, if one choses to do so, the Corporation could delegate all its powers to that employee.

Such an employee with delegated power could make decisions as to who gets particular guarantees or a particular grant from the Government. Is there any responsibility for the Corporation to be satisifed of the criteria under clause 13 (2) *(c)*? If the Attorney answers, 'yes', I ask why the Corporation is delegating the power to the individual employee? I would have thought that the reason for this delegation related to administrative efficiency and the like; that is, one does not want to bring together the Corporation to make all these sorts of decisions when they could be handled efficiently by an individual officer.

If the Attorney says that the criteria must be satisfied, that could happen only if the individual employee went back to the Corporation and said, 'Are the criteria satisfied?'. The Attorney shakes his head; I ask him to respond.

The Hon. C.J. SUMNER: The honourable member is confused. He is an economist and a statistician but he is certainly not a lawyer. I suggest that the honourable member confine his remarks and learned contributions in the future to the field in which he claims some expertise and about which he claims that I have none. The fact is that I do have some expertise in the area in which the honourable member claims to have most of his, whereas he has absolutely none in the area in which I claim to have to my primary expertise.

Members interjecting:

The Hon. C.J. SUMNER: I have learnt my economics from the school of hard knocks here in Parliament. I have read quite extensively on the subject. I understand the difference between Professor Friedman's propositions and those of Professor Galbraith and, indeed, I have some smattering of acquaintance with, I suppose, the founder of nomic political economics, Mr Marx.

So, I have not been entirely divorced from some economic learning. I do not confess to having as much as the honourable member, but I am happy to assert that I have more expertise in his chosen field than the honourable member has in mine. A delegation given by the Corporation to an individual officer cannot be a delegation which goes beyond the powers of the Corporation laid down in the Act. So, a delegation is just that: it is not an extension of powers or an abrogation of responsibility. Delegation occurs when the Corporation says to an individual officer that that officer may authorise a guarantee. Then, that individual officer would still be constrained by the criteria in section 13 as to whether or not he could authorise that guarantee.

I do not imagine that that is what is envisaged by the general delegation power. I would expect that the Corporation would consider the guarantees itself, but it is a catch-all delegation which I imagine would be used in minor areas so that an employee had authority to carry out an investigation which might otherwise have to be done by the Corporation as a whole. So, it is a broad clause. I concede that. It cannot provide for an employee to do something which goes beyond the charter of the legislation. Essentially it is there for administrative flexibility and convenience.

The Hon. R.I. LUCAS: I thank the Attorney for a lesson on the history of economic thought. I wonder whether he will add to my legal training by clarifying what he has said, that having delegated the power the employee would, before giving the guarantee of up to $75 000, determine that the small business is not able to obtain the loan on reasonable terms and conditions without the Corporation's guarantee, that it is in the public interest, and that there are reasonable prospects of the business or proposed business being financially viable. So, the particular employee would solely decide whether or not these three criteria were established and then, having done that, give the guarantee to the amount of the maximum of $75 000.

The Hon. C.J. SUMNER: If the delegation was given to the employee to do that, that could be done. I do not imagine that that is the intention of the clause or the sort of delegation envisaged. I expect that those decisions will be made by the Board of the Corporation. The situation that the honourable member outlined is theoretically the situation if such a delegation were given. A delegation can be removed at any time by the Corporation, which can assume its powers and cancel any delegation whenever it so desires.

Clause passed.

Clause 17—'Expenditure of Corporation to be in accordance with approved budget.'

The Hon. C.J. SUMNER: During the second reading debate the Hon. Mr Griffin questioned lines 38 to 40 in the Bill and said that it was a curious provision to have in legislation and was uncommon in legislation in recent years. The honourable member seemed to be enthusiastic about the word 'curious' in his second reading contribution. The provision is a standard provision. For instance, section 17 of the Technology Park Adelaide Act and section 16 (4) of the South Australian Jubilee 150 Board Act were passed when the honourable member was Attorney-General.

The Hon. K.T. Griffin: It was introduced before the election but passed after it.

The Hon. C.J. SUMNER: It was introduced by the honourable member as a member of the Government that lost office in 1982. Section 18 (3) of the South Australian Timber Corporation Act and section 19 (4) of the North Haven Trust Act were passed by this Government. So, it is two all.

The Hon. K.T. GRIFFIN: It is a question of how many instances make it standard. Certainly, I acknowledge that it appears in those other Acts, if the Attorney says so. He has had research staff available to research this for him. I am concerned that there may be a trend within Governments of both persuasions to seek to enact provisions which would take away some of the general scrutiny of Parliament in terms of the Budget, Estimates Committees, and so on. This should be given some attention. The provision seems to take away some of the normal Parliamentary scrutiny at Budget time, and I think that all these bodies should be subject to some scrutiny. Going back to the Health Commission, which the Attorney referred to on an earlier clause, its budget is subject to Parliamentary scrutiny during the

Estimates Committees, even though it is a statutory corporation and has only one line in the Health Minister's appropriation at budget time. I flag that I think there should be some opportunity for scrutiny of the budget approved by the Minister and Treasurer for this Corporation, as is the case with other corporations to which the Minister referred in his reply.

The Hon. C.J. SUMNER: There may be a misapprehension and undue fear concerning the effect of this clause. Appropriation is still necessary for the Corporation. Clause 17 refers to no moneys being expended by the Corporation except in accordance with a budget approved by the Minister and Treasurer. In the normal course of events the Corporation's budget will be included in the normal budgetary processes and there will be an appropriation for it.

Clause passed.

Clause 18—'Fees in respect of guarantees of the Treasurer.'

The Hon. C.J. SUMNER: The Hon. Mr Griffin asked three questions, the first being whether guarantees were to be given at commercial rates. The answer is that it is proposed that guarantees will be given at commercial rates. Secondly, the honourable member asked whether there was any proposal to recover the amount of any liability incurred by the Treasurer in the event of a guarantee being called up. The answer is that the extent to which the Government will attempt to recover the amount of any liability in the event that a guarantee was being called up would need to be considered on a case-by-case basis and would obviously depend on the circumstances. The third question asked by the honourable member concerned an assurance that the Corporation would take adequate securities. The answer is that the Government will insist that the Corporation take adequate securities.

Clause passed.

Clause 19 passed.

Clause 20—'Annual report.'

The Hon. L.H. DAVIS: I commend the Government for inserting in clause 20 the requirement that the Corporation shall deliver a report on its operations for the preceding 12 months before 30 September each year. This is becoming a standard clause as far as statutory authorities are concerned. As the Attorney well knows, it is a subject about which I have been concerned for some time, namely, that statutory authorities have been slow to report. I commend the Government for bringing the reporting requirements for statutory authorities in line with what one would normally expect in the private sector. It is also reasonable to assume that the specific details relating to guarantees, grants and general activities of the Corporation will be covered in some detail in the annual report.

Clause passed.

Clause 21 passed.

Clause 22—'Information furnished by applicants to be kept confidential.'

The Hon. K.T. GRIFFIN: I do not have an amendment on file, although maybe I should have. The penalty for breach of confidentiality is only $1 000. I can envisage that the commercial value of information which the Corporation may have in respect of any small business may be very much in excess of $1 000 and it may be quite worthwhile to disclose information to some other competitor or person who might make some use of information disclosed to the Corporation. I hasten to add that I am not making any allegations or suggestions that any member or prospective member known to us would be in any way inclined to do that, but that I am looking ahead to the time when this Bill may become an Act and stay in existence for some time. An amount of $1 000 will quickly lose its deterrent value. It will be quite worthwhile disclosing confidential information for the substantial reward that that may bring if the maximum penalty is $1 000 and there is no deterrent either in respect of the monetary amount or the period of imprisonment. Will the Attorney-General give some consideration to a much higher penalty, perhaps around $10 000, which will be a more appropriate deterrent than the meagre $1 000?

The Hon. C.J. SUMNER: I am not prepared to give such consideration as I believe it is an excellent amendment and has been carefully thought out. The perpetrator of the amendment should be given complete credit. It would be a damn cheek for this Government or this Council to interefere with such an excellent proposition introduced as it was in the House of Assembly by John Olsen.

Clause passed.

Remaining clauses (23 and 24) and title passed.

Clause 3—'Interpretation'—reconsidered.

The Hon. L.H. DAVIS: The Hon. Mr Griffin, in his second reading contribution, alluded to the difficulty of the definition of 'small business'. I accept that is a difficulty that will always be with us. It is normally said that a small business in the manufacturing area is one that employs fewer than 100 persons whilst in the retail, wholesale and service industries a small business is one that employs fewer than 20 people, with a limited number of persons responsible for making major decisions. That last point is specifically referred to in clause 3 (1) (a) (ii). The concentration of small business in the hands of groups with only a few employees is highlighted by the fact that, in the manufacturing sector in South Australia, nearly two-thirds of manufacturing establishments as at 30 June 1982 employed fewer than 20 people. Similarly, in retailing, something like 90 per cent of retailers of the 8 500 retail establishments as at 30 June 1980 had fewer than 10 employees.

Would the Attorney advise what difficulty the Small Business Corporation would perceive in being able to physically service that large number of small businesses, given that it will have greater exposure and more resources? There is a concentration in the smaller end of the number of employees in manufacturing/retailing and in the primary sector, which would also have many businesses that would qualify as small businesses. Similarly, I ask the Attorney-General whether there is any specific cut-off point where the Small Business Advisory Bureau in its experience has deemed a business not to be a small business? What criteria are used? Once they are no longer a small business, what assistance does the Government provide for them?

The Hon. C.J. SUMNER: It is a somewhat difficult area but the Hon. Mr Griffin raised some questions in relation to it which I will attempt to answer. There is no absolute cut-off point for what is a small business. A small business must satisfy the criteria set down in the definition, which does limit it to some extent. As to the proposition or question of what the Small Business Corporation envisages in having a higher profile, the Small Business Corporation has not yet met.

I can only repeat what I said to the honourable member earlier: the commitment made by way of Government expenditure to the Small Business Corporation will have to be determined in the Budget context and will obviously have to take into account any increase in activity generated by the Small Business Corporation having a higher profile than the Small Business Advisory Unit. There is no cut-off point as such. The Small Business Corporation will obviously be involved with a large number of small businesses. The resources to service those businesses will have to be considered in the Budget context.

Finally, the Hon. Mr Griffin sought a clearer definition of the meaning of 'small business' particularly in relation to clause (3) (1) *(a)*, which relates to a small business not forming part of a larger business, and clause 3 (1) *(b)*, which enables the Minister to declare any business a small business

for the purposes of the legislation. The definition of 'small business' provided in the Bill is similar to that adopted in comparable interstate legislation, for instance, in Queensland, Victoria and Western Australia. The definition is based on the Victorian model, which is generally regarded as the most successful small business agency in Australia.To answer the honourable member's question specifically, clause 3 (1) *(a)* (iii) is included to ensure that a subsidiary of a larger busines which has the capacity to draw on the resources of the parent company is excluded from the definition. Clause 3 (1) *(b)* is a safety net to ensure that any business that justifiably warrants advice or assistance but does not fall within the narrow definition of small business can be assisted in special circumstances—for instance, sheltered workshops. This provision was inserted on the basis of discussions with the Small Business Advisory Bureau and is a provision incorporated in interstate legislation.

The Hon. L.H. DAVIS: I take it that the definition of 'small business' will include the farming sector and the rural community?

The Hon. C.J. SUMNER: Yes. That is possible within the terms of the definition. Much of the advice available from the Government in this area is already provided through the Department of Agriculture.

Clause passed.

Bill read a third time and passed.

LOCAL GOVERNMENT ACT AMENDMENT BILL (1984)

Adjourned debate in Committee (resumed on motion).

(Continued from page 3368.)

Clause 2 passed.

Clause 3—'Insertion of new ss. 157a to 157f.'

The Hon. C.M. Hill: I move:

Page 1, after line 27—Insert subclause as follows:

'(1a) The Minister shall not approve a scheme or an amendment to a scheme under subsection (1) if the level of benefits provided for under the scheme, or the scheme as so amended, would or might be less favourable in any respect to an officer or employee of a council than the level of superannuation or related benefits provided for under a scheme of the council as approved and in force under this Act immediately before the commencement of the Local Government Act Amendment Act, 1984.'

I mentioned during the second reading debate that fears have been expressed by members of existing superannuation schemes in certain councils and that the future might well be precarious for them because Parliament has not seen (nor will it see) the proposed universal superannuation scheme. This Bill is simply enabling legislation whereby the superannuation scheme can be introduced in a few weeks for Parliament to peruse. Also, there is naturally some uncertainty in the minds of people in existing schemes as to what changes the new Board will introduce in future years when amending schemes are introduced. The new Board will become the trustee for the new scheme, whereas people who presently enjoy the benefits of existing schemes have different trustees depending on which council scheme they are in.

It seems, therefore, that there is a need for protection for such individuals so that they do not suffer and are not placed at a disadvantage in future if changes are made to the universal scheme or if that scheme, when it becomes known to Parliament, provides for benefits less than they expect to enjoy under their existing schemes. My amendment is a check against that possibility.

The Hon. J.R. CORNWALL: The Government opposes the amendment. This Bill was introduced at the unanimous request of all people involved in local government following a conference involving unions, the Local Government Department and the Local Government Association. It is enabling legislation and, as such, it is not a significant Government initiative and not something undertaken to fulfil an election commitment or promise. It is done specifically acting in good will as a result of a scheme that was developed by a consortium of private insurers at the request and behest of all of the people involved in the local government area.

The proposed amendment seeks to provide what by any standards is an unreasonable guarantee to protect members of existing schemes who will or may wish to transfer to the new scheme. I understand that the scheme document, when it is available, will contain various very good protections for those members who may be affected—and I understand that they are from one major council—but there can be no absolute guarantees. There must be an ultimate power to vary any superannuation scheme if the costs become unacceptable. That is agreed and is the way in which both private and State superannuation schemes operate. With one notable exception, as I said, of one large council, all existing council schemes in South Australia and, indeed, all private sector schemes contain a safety valve along these lines. To now remove that safety valve, which would be the effect of the Hon. Mr Hill's proposed amendment, would be financially irresponsible.

Even worse, for the Parliament to tell councils to remove the safety valve would be totally objectionable. I understand that the amendment arose because one council (that is, the city of Adelaide) does not have such a safety valve in its scheme. The members of that scheme are understandably jealous of their position and understandably do not want to lose it. On the other hand, the scheme document as it will eventually be presented will contain provisions to ensure that members of individual superannuation schemes with all other councils around the State will be admitted to the scheme on conditions which are no worse than those of the schemes to which they currently belong. In many cases they will be better, but there will be adequate provision to ensure that the members of any superannuation scheme, with the exception of this extraordinary scheme in the Adelaide City Council, will be admitted to this scheme at no disadvantage as compared with their current schemes and, indeed, as I said, in many cases at considerable advantage.

The reality of the situation is recognised and, very importantly, under the new scheme members will not be forced to join. In other words, if one particularly advantageous scheme continues, I understand that members of that scheme can stay with it. Therefore, they will not lose anything in the way of benefits, at least as long as they stay with the Adelaide City Council. Their rights are protected, as are the rights of everybody else who is anxious for the new scheme. The overwhelming majority of them have asked for the new superannuation scheme. So, in summary, there is no need for the amendment, and the Government opposes it.

Amendment negatived.

Title passed.

Bill read a third time and passed.

ADELAIDE RAILWAY STATION DEVELOPMENT BILL

Adjourned debate on second reading.

(Continued from 5 April. Page 3280.)

The Hon. K.T. GRIFFIN: The Opposition is prepared to support this Bill. In indicating support for this Bill in this Council (as it has done in the House of Assembly) the Opposition will draw attention to the deficiencies in the

way in which the Premier and the Government have handled the matter, in the financial aspects of the project and in the documentation. Notwithstanding the impatience of the Premier and some members of the media, the Oppositon's close consideration of the Bill, the Principles for Agreement and the Government's involvement will not in any way prejudice the project. The Opposition is anxious to have on the record as much information as possible against which the performance of the Government can be measured in respect of this project and to ensure that as much information as possible about the public's liability sees the light of day.

Let me put on record from the beginning the Opposition's commendation of Mr Pak-Poy and his organisation for putting together a consortium that may see a major redevelopment with significant benefits for Adelaide and the citizens of South Australia. So, no questioning by us reflects any criticism upon Mr Pak-Poy, who has expended a great amount of time, energy and money on this project. However, the Premier's and the Government's handling of this matter demonstrates a lack of professional and commercial competence and leaves a lot to be desired. I will direct my comments initially to the principles for agreement, which were extensively dealt with in the second reading debate.

At the end of September the Premier rushed off to Tokyo carrying in his briefcase a vague document entitled "Principles of Agreement". He had to have something which he could wave around to gain some headlines. He signed the principles for agreement in Tokyo on 1 October 1983, but, notwithstanding requests by the Opposition over a period, the publication of that document was refused, allegedly on the basis that the document was commercially sensitive. Its publication, except for clause 2 *(f)*, was suppressed by the Casino Supervisory Authority, although it became available to all parties who were appearing before the Authority, including its competitors. A perusal of the principles for agreement, when taken in conjunction with the Premier's Ministerial statement on 27 October 1983, did not show any commercially sensitive information within the principles of agreement. What the agreement does show is that it is vague and legally unenforceable, and is a mere skeleton, even with some bones missing.

The principles of agreement refer to a separate agreement between Kumagai and the Superannuation Fund Investment Trust, a copy of which was submitted to the Premier prior to the execution of the principles for agreement. However, I understand that that was not produced to the Casino Supervisory Authority, but it may have some relevenace to the structure of the relationship between the participating bodies.

In the House of Assembly the Premier declined to produce that separate agreement because he said that it contained commercially confidential information. The principles for agreement set out some details of the proposed development and the equity and loan participation, although the terms and conditions of such loan and equity participation are not detailed in the principles for agreement. The principles for agreement provide that the Superannuation Fund Investment Trust and Kumagai Gumi Company Limited as joint venturers are to be the developers of the site through a property trust. The site is broadly defined but excludes the Adelaide Railway Station building. Clause 2 *(m)* provides:

> the body shall have the first right to lease at a fair rent to be agreed any part of the main railway station building which is not required by the State Transport Authority for its normal operations, office and administration purposes, by South Australia or for any governmental or Parliamentary use. The form and conditions of any such lease shall be mutually agreed between the parties.

By clause 2 *(f)*, the South Australian Government gives a warranty to the Superannuation Fund Investment Trust of a minimum return from the international hotel of 8½ per cent per year of the capitalised cost of construction adjusted annually for CPI increases over a period of five years, or 10 years and that is not certain from the date of opening the hotel, with the actual period to be agreed. However, the proviso to that warranty is that:

> No such warranty by South Australia shall be given if a casino is established by or for the body at any place in the site.

There then follows an acknowledgement that the premises in respect of which a casino licence may be granted is subject to an inquiry under the Casino Act. The curious aspect of this is that the Authority has determined that the site for the casino will be the Adelaide railway station building, which is not within the site but would appear to be part of the building referred to in clause 2 *(m)*, to which I have already referred. Presumably, therefore, the Government's warranty to the Superannuation Fund Investment Trust in respect of the return from the international hotel continues notwithstanding that the casino is to be located in an area adjoining the site.

In the House of Assembly the Premier said that he now had a letter from the parties which confirmed their understanding that the warranty would not apply in view of the casino being in the Adelaide railway station building and that that was always regarded as part of the site by the parties. The Premier gave some dubious explanation that the railway station building was excluded from the definition of the 'the site', because he wanted to ensure that the decision in respect of the casino was to be taken without regard to the development. But the principles for agreement do not sustain that dubious explanation.

While the principles of agreement have some specifics, there are a considerable number of matters which are unresolved and which are still subject to further negotiation and agreement between the various parties. Let me give some examples:

1. In clause 1 *(a)*, the form of the property trust (comprising South Australian Superannuation Fund Investment Trust and Kumagai Gumi Company Limited) is to be 'to the satisfaction and approval' of the Government of South Australia.

2. In clause 1 *(b)*, the investment by Kumagai in the property trust and its loan to the property trust are to be 'on the terms agreed between the joint venturers'.

3. In clause 1 *(c)*, the South Australian Superannuation Fund Investment Trust likewise invests $15 million and lends $43.5 million to the property trust 'on terms agreed between the joint venturers'.

4. In clause 1 *(d)*, the property trust, which is not even a party to the principles for agreement, is to 'enter into such agreements with South Australia (that is, the Government) or such other persons as shall be considered necessary or appropriate for the development to proceed'.

5. Under clause 1 *(e)* and *(f)*, the plans and documentation are to be submitted to the Government of South Australia for approval 'as soon as possible' but not by any fixed date.

6. In clause 1 *(i)*, the property trust is to take out 'such insurances as shall be mutually agreed'.

7. Under clause 2 *(b)*, a lease is to be granted by the Government of South Australia to the property trust over the site. While the term and the rental is fixed, the form of the lease or leases is as follows:

> (including any provisions in respect of the breaches of the leases by the body) shall be as agreed between South Australia and the body and shall contain a right for the body to sublease.

A whole range of matters may or may not be covered in the head-leases.

8. Clause 2 *(c)*, which relates to the South Australian Government's sub-lease from the property trust of the convention centre and the car park, provides that the terms of the sublease and, more importantly, 'the dispositon of the

property at the expiration of the term of the subleases' are to be mutually agreed.

9. In clause 2 *(d)*, any sublease by the Government of South Australia from the property trust of the office space is to be in a form and on the terms which shall 'be mutually agreed'.

10. In clause 2 *(m)*, any lease of the main railway station building not required by the State Transport Authority for its normal operations is to be in a form and on conditions as shall be 'mutually agreed between the parties' and at a 'fair rent to be agreed'.

11. In clause 2 *(o)*, there is a very wide provision that the Premier 'shall enter into such agreements with Kumagai or its nominee, SASFIT or the body (that is, the property trust) and shall use his best endeavours to do or cause to be done all such acts, deeds and things that shall be considered necessary for the development to proceed'. This is a particularly wide, but indefinite, obligation.

12. Then, clause 5 says:

'the parties agree that all matters to be agreed under these principles shall be agreed in those agreements referred to in clauses 1 *(d)* and 2 *(o)*'.

This is not at all clear and is gobbledegook. It seems to be an agreement to make an agreement. There is certainly no clarity in that provision.

All these clauses to which I have referred clearly indicate that at 1 October 1983 the state of the actual agreement between the parties was very thin indeed. A great deal more work would have had to be done in developing precise terms and conditions of all the documentation before the matter proceeded. Certainly, it was not a commercial type agreement which any party could enforce—it is, in fact, unenforceable at law. It should be compared with the heads of agreement which the Liberal Government negotiated in respect of the Hilton development in December 1979 through to April 1980. There, the heads of agreement were binding and no party could legally 'back off'.

I wish to make only one other comment about the principles of agreement, and that is that in clause 2 *(e)* the Government of South Australia is to guarantee the obligations of the property trust to pay Kumagai all moneys owing by the Trust to Kumagai as a result of its loan of A$58.5 million. There are no details of the conditions of the guarantee, either the period of the guarantee, the circumstances in which it will be activated, or the costs of the guarantee. These matters are very important; in fact, they are critical. The Premier has given some information in the House of Assembly, but it is quite inadequate. In fact, it is clear that he does not yet know the answers, and that there has not been a substantial measure of agreement on the detail negotiated between the State Government and the participating parties.

It may be that there are now detailed agreements covering all the matters to which I have referred. If there are, I see no reason why they should not be made public. Many, if not all of them, will have to be registered over the land in due course and then become available publicly. The Premier's answers to questions in the House of Assembly did not demonstrate that there are detailed agreements covering all the matters to which I have referred.

All of this clearly indicates that the agreement is not a legally binding contract. It gives a broad indication of the relationships between the parties and the concessions made by the Government, but that is as far as it goes. I presume that in the 6½ months which have passed since the principles for agreement were signed the Government has moved some way towards a legally binding agreement. If it has not done so, then it must be condemned for that, because now is the time to clarify all rights, duties, obligations, concessions, benefits and other matters between all the parties while the project is being negotiated—not when a dispute arises. If a dispute arises at the present time, or even in the foreseeable future, the only benefits will be those flying to the legal profession to have them sort out the mess. I think anyone involved in a commercial venture of the magnitude of the one proposed for the Adelaide Railway Station redevelopment will know that it is criticial that the fine detail of the arrangement be fully negotiated and reduced to writing and that provision be made for arbitration of disputes. That does not appear to have been done by the Government so far in respect of this development.

Only limited information is available about the structure of the bodies which are to hold the development site. The Premier has acknowledged that the lessee from the State Transport Authority will be the ASER Property Trust, which is to be owned by 50 per cent Kumagai Gumi Ltd and 50 per cent by the South Australian Superannuation Fund Investment Trust.

However, what has not been made clear is that the ASER Property Trust is not a legal entity. There will have to be a manager or trustee. Presumably, that will be a company by the name of ASER Nominees Pty Ltd, but that is not clear. Nor are the details of the ASER Property Trust. Presumably, the ASER Property Trust is to be a unit trust where units are issued with 50 per cent of the units to be held by Kumagai Gumi Ltd and 50 per cent by the South Australian Superannuation Fund Investment Trust or company.

Because it is not a charitable trust, there will have to be some point at which the trust terminates. No information has been given as to the event upon which the trust terminates, nor have we been told what happens to the capital which may have accumulated at that point. In addition, what happens at the end of the seven years when Kumagai Gumi Limited, wants to withdraw its loan funds? It has $15 million equity, presumably in units in the Property Trust. Are those units to be sold or otherwise dealt with at that time? If they are to be sold, is the State to obtain a right pursuant to its lease to determine who may take the place of Kumagai Gumi Ltd? Other questons arise concerning the trust. Are there to be guarantees by Kumagai Gumi Ltd and the South Australian Superannuation Fund Investment Trust in respect of loan funds guaranteed by the State? Is there to be any consideration of the terms of the trust by the Government? I would assert that it is a critical ingredient of the transaction that the Government know exactly the compositon of the trust, because it will undoubtedly affect any security and guarantee that may be given.

If the Property Trust is to have the right to sublease a significant part of the site (except, perhaps, the Railway Station building to be used as a casino) is the Government proposing to have any control over the structure of the ASER Investment Trust which, I presume, is then to take the sublease? Again, presumably ASER Investments Pty Ltd, comprising one-third owned by Pak-Poy and Kneebone Pty Ltd and two-thirds by ASER Property Trust, will be constituted along similar lines to the ASER Property Trust, namely, as a unit trust. Whatever form it takes, it will have to have a company or some other person or body as the trustee or manager. It may be that that body will be ASER Investment Pty Ltd, of which Mr P. G. Pak-Poy and Mr I. S. Weiss are the Directors. However, the shareholding is not clear from research at the Corporate Affairs Commission, nor is the structure of that investment trust.

So, in respect of the entities which are to be involved as lessee and perhaps sub-lessee, a great deal of information needs to be available to enable the proper appreciation of the nature of the arrangements which the Government is entering into.

The decision to place a casino in the Adelaide Railway Station building is relevant to the consideration of this Bill and the project to which it relates. Under the Casino Act the legal position is that:

1. A licence to establish and operate a casino is granted to the Lotteries Commission,

2. In respect of premises determined by the Casino Supervisory Authority,

3. On terms and conditions of the licence recommended by the Casino Supervisory Authority, and

4. Operated by a suitable person approved by the Authority, such person establishing and operating a casino on behalf of the Lotteries Commission.

Step 1 has been fixed by the Authority, determining that the premises in respect of which the casino licence should be issued pursuant to the provisions of the Casino Act are the premises at the Railway Station building on North Terrace, Adelaide. In reaching that determinaton, the Authority (on page 81) indicated that it relied on certain assurances, mainly:

by counsel for all the main parties including counsel for the submission in respect of the railway station premises:

- That detailed plans will be submitted for the approval of this Authority before and after submitting such plans for the approval of the Adelaide City Council authorities, and that no alterations will afterwards be made to those plans without the express approval of this Authority.
- That when preparing the final plans, due regard shall be given to the report of the working party on the consolidation of building legislation referred to in the letter dated 22 December 1983, sent to this Authority by the Minister of Local Government; and
- That in the constructon of the casino, due consideration will be given to the submission by Mr Grant Chapman that preference be given to the use of materials made in this State.

In making the determination of the Adelaide Railway Station building as the premises the Authority on (page 82) said that it envisaged:

1. That the gaming area will be defined by this Authority.

2. That the Government will enter into an agreement with the promoters whereby the undertaking and expressions of intention given by them to this Authority in the written and oral submissions, and in evidence, will become, in effect, enforceable conditions that must be honoured by the promoters to ensure the continuance of the lease of the premises.

The Authority, in relation to this, said:

We refer here to a need to protect the interests of the Government and the public against any major default on the part of the promoters, that is, failure to proceed with the total ASER project or to provide all of the other ancillary benefits mentioned in the written and oral submission and in this determination, including the submission that within a period of five years the public will be offered an interest in the venture.

A variety of other assurances were given to the Authority. The queston is: how is the Casino Supervisory Authority being informed of or consulted about these sorts of decisions, or is it being by-passed? Are there conditions to be imposed by the Government on the head-lessee to ensure that in any sublease the Authority's decisions are given effect?

The Authority was concerned to ensure that the Casino Act be reviewed and that major terms and conditions governing the issue of the licence should be included in the Act rather than in the licence. The Authority said in its report:

It is our considered view that most, if not all, of the important matters relating to the licensing and operation of the casino should be included in the Casino Act. The following list includes some of the matters that we have in mind:

- Taxation provisions and licence fees.
- The licensing of casino employees and the major private contractors associated with the operatiion of the casino, and the power to require the fingerprinting of casino employees.
- The procedure if the operator of the casino under the casino licence becomes bankrupt or is guilty of some serious default or misconduct.
- The duration of the licence and procedures for renewal.
- Defining the areas of responsibility in respect of the purchase and care of gaming equipment.
- Power to require full disclosure of names of directors and shareholders of companies involved in the project, including a provision for official approval of such persons and prohibiting changes without official approval.
- The prohibition of employees of the casino operator from gambling in the casino and accepting gifts.

As previously stated, we are firmly of the opinion that matters of such importance should be included in the controlling legislation rather than the licence document. It seems to be agreed by all concerned that the Casino Act is inadequate in many ways and that there is a need to review the legislation (page 88).

Obviously, those seeking the right to operate the casino should know what the taxation provisions and licence fees will be and what other terms and conditions will apply before they seek the right to operate the casino. Without that basic information, no proper commercial decision can be taken about the capacity of any operator to comply. Also, what happens if the operator defaults or loses its licence is relevant to the terms and conditions of any leases and subleases.

The other general recommendations of the Authority raise questions about the principles of agreement and the conflict between those principles and the recommendations of the Authority. For example, recommendation 3 (3) is that 'the casino premises be vested in the Treasurer'. Presumably this is because the Lotteries Commission is under the general control and direction of the Treasurer, and it may mean that the STA should transfer the building to the Treasurer, who would become the owner. Yet, under the principles for agreement that part of the railway station buildings which is not required by the State Transport Authority is to be leased to the ASER Property Trust. That conflict obviously must be resolved, because in evidence the promoters of the development would not give an unequivocal commitment to sublease to another body which may be chosen to operate the casino.

The Premier in the House of Assembly indicated that that recommendation was not to be accepted by the Government and that the promoters of the ASER Property Trust, the head-lessee, had now agreed by an exchange of letters to grant a sub-lease to the operator approved by the Casino Supervisory Authority. In recommendation 3 (6), the Authority is of the view that:

. . . should the ASER Investment Trust be chosen, in due course, as the operator of the casino licence at the Adelaide Railway Station premises, it would be advantageous if arrangements could be made for the Treasurer to lease the land and buildings specified for the casino to the ASER Investment Trust rather than the ASER Property Trust.

As I have already indicated in respect of recommendation 3 (3), there is conflict between this recommendation and the principles for agreement which give the ASER Property Trust the first option to lease but the Premier is not accepting that recommendation.

This difficulty is heightened by the terms and conditions of the licence submitted by counsel for the Superintendent of Licensed Premises on the one hand and counsel for Pak-Poy on the other. The terms and conditions of the Superintendent proposed:

(iv) The Commission shall obtain an exclusive right to possession of the premises in respect of which its casino is to operate in terms and conditions acceptable to the Commission. (Page 83).

The terms and conditions submitted by the Pak-Poy group's counsel omitted this clause. The Premier, in the House of Assembly, said that this did not create a problem and that the Government would not accept the recommendations of the Casino Supervisory Authority because the title to the land was ultimately in the hands of the State Transport Authority. But, that is insufficient because it is most unlikely that the lessee (that is, ASER Property Trust)

will be under an obligation to ensure that the operator of the casino licence complies with the terms and conditions of that licence and, if there is no such obligation, the State Transport Authority has no control—the head lessee holds the lease for 99 years.

If there is no term or condition of the head lease, the ASER Property Trust is to ensure that the operator of the casino licence is to comply with the terms and conditions of that licence. If the operator does not so comply, there is not a breach of the head lease, which may result in the State Transport Authority re-entering and forfeiting the balance of the term of that lease. So, the Premier's assertion that the matter was adequately protected by the property being in the hands of the State Transport Authority is just not correct in law or in fact.

There are a number of unsatisfactory aspects of the principles for agreement in their relationship to the Casino Act and the report of the Casino Supervisory Authority. While one can understand the desire of the Premier to get on with the job, the fact is that there are serious discrepancies and conflicts and huge gaps in the terms and conditions which are to apply. They need to be resolved to ensure that all legal aspects of the development are properly handled and are fair and reasonable and to establish beyond doubt that there is no taint of preference or illegality about any aspect of the development and the accompanying arrangements.

Obviously, there is significant potential conflict if the ASER Investment Trust is not chosen to operate the casino because of the constraints imposed by the principles for agreement and the conflict with the Casino Act. Likewise, there is significant conflict if the ASER Investment Trust is chosen as the operator.

There are a number of other concerns with the Bill specifically. In clause 3, in the definition of 'contracting parties', reference is made to 'ASER Property Trust', without reference to the body itself which will act as trustee for the ASER Property Trust. I have dealt with that aspect at some length. Clause 5 is a significant clause because it provides that the Minister may grant such exemptions from the Building Act as he thinks fit. No limitation is placed on the Minister. It would be advisable to provide that, within a period after granting an exemption from the Building Act, the Minister should inform the Parliament of the exemption that has been granted. Granting exemptions from the Building Act by the stroke of the pen is serious because of the structural and safety requirements of that Act. The Premier has said that the exemption will relate only to timing and not to substance. However, no-one is to know what exemptions are to be granted. For example, will the Minister grant an exemption from the provisions of the Building Act in respect of the requirement to provide a minimum number of rooms accessible to the disabled?

I remember that, in respect of the Hilton International Hotel, there was much debate at the time that the plans for that hotel were considered because initially they had not made specific provisions for the disabled. Subsequently, 19 of their 400 rooms (about 5 per cent) were made specifically accessible for such people. Is this an area of the Building Act in respect of which the Minister will grant exemptions? Will there be other exemptions granted? If the clause relates only to matters of timing, there can be no objection at all when I move an amendment to ensure the reporting to Parliament after decisions to grant exemptions from the Act are made. There is no prejudice to the Government, to the Minister, or to the project by making public disclosure after the event of any exemptions granted by the Minister from the very onerous provisions of the Building Act.

If one is to be true to the concept of freedom of information to the public regarding decision making by the Government, then I am sure that the Attorney-General will leap at the opportunity to reflect that in clause 5 of this Bill during the Committee stages. I stress that there is no prejudice to the project, to the commerical interests of any of the participating parties, or to the Government if there is a reporting requirement included in the Bill after the event. I will be moving an appropriate amendment in relation to this matter at the appropriate time.

Clause 6 raises some interesting questions. Presumably the power to grant an exemption only applies in respect of agreements where the State is one of the parties. Presumably this does not extend to the granting of subleases from ASER Property Trust to the ASER Investment Trust or to any other sub-lessee. There may even be a question whether the State Transport Authority is within the definition of "the State" for the purposes of such exemptions so that if the State Transport Authority were to grant sublease the question would arise whether or not the exemption from duty which may be proposed by that agreement is within the provision of clause 6. The other difficulty is that subclauses (2), (3) and (4) allow variations in the cut-off dates. That is highly undesirable.

The Premier indicated in the other place that this is to accommodate the possible delay in completion of the development. It is my view that if there is a subsequent problem with delay the Bill can always come back to Parliament to amend the exemption dates. My preference is to provide for specific dates by which the exemption is terminated. The Government ought to know by now what exemptions are to be granted. If subsequently there is a problem with delay then a Bill can always come back to Parliament to amend the exemption dates.

Clause 7 confers right of access over specified municipal land immediately adjacent to the development site and exclusive rights of occupation until completion of the proposed development. The definition of municipal land in subclause (2) obviously extends to parklands, so it appears the rights of access over the parklands and rights of occupation over the parklands during the development are in contemplation. Obviously this needs to be clarified, so I hope that the Attorney General has information on that matter during the Committee stage. The reference in subclause (4) to the rights ceasing to operate after the completion of the proposed development are not clear. Parliament ought to know the details of the completion date, which will obviously be in the documentation to be entered into by the State Government with the developers. The inescapable conclusion that comes from all this is that the Premier went off half-cocked and, while the development is desirable and is supported by the Liberal Opposition—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: What I have said is that the development is desirable and is supported by the Liberal Opposition, but that the Premier went off half-cocked and that the Principals of Agreement as signed on 1 October 1983 are not legally binding and are full of loop-holes which do not augur well for the project if not substantially revised and translated into a legally binding and comprehensive agreement covering the detail of all the terms and conditions relating to the development. In addition, the Government has a duty to implement the recommendations of the independent Casino Supervisory Authority to ensure that in all parts of the Railway Station Development and at all levels of the arrangements for the conduct of the casino there is no opportunity for graft, corruption, preference or patronage because of the gross inadequacies of the Casino Act. In that context, we support the Bill.

The Hon. K.L. MILNE: This Bill will facilitate the project and is not introduced to avoid the provisions of the various Acts just for the sake of it. With a project of this size I

believe that this can be justified in certain circumstances. I hope that we are not creating a precedent that will be used in other circumstances. I know only too well how long it takes to get all the necessary approvals for such a project from the various Government authorities such as planning, building, environment, the City Council and so on. The SGIC Building was held up quite unnecessarily for about a year because of arguments in committees of various kinds run by the City Council and others. The cost to the Community of that delay at that time was over $1 million. We do not want that sort of problem with a project of the size of the Adelaide Station evirons redevelopment; otherwise, we will be starting to build it at the end of 1986 instead of completing it then.

One sees that under clause 5 it shall be lawful to develop the development site in accordance with the development plan and the builders will have to abide by the development plan. On the other hand, no consent approval or other authorisation is required under the City of Adelaide Development Control Act, 1976, in respect of the proposed development. To facilitate the proposed development the Minister may grant such exemptions from the Building Act as he sees fit. If we are making these concessions for the best reasons, even at the risk of setting a precedent, I am sure that everybody in this Council thinks that we should have as many safeguards as possible in the circumstances while giving the project 'fast track', as it is called.

Therefore, the Democrats intend to support the Opposition amendment so that the Parliament is told from time to time what exemptions have been granted on this project, when, to whom, and for how much. I think that that is a reasonable suggestion and I do not think that it is likely to delay the project at all. We are allowing the Government to bend its own rules and in so doing are placing enormous responsibility on it and therefore on ourselves, for public safety and accountability regarding cost, aesthetics, convenience to the public, guarantees, forgoing of charges, and so on.

Therefore, I believe that the amendment foreshadowed by the Opposition is a reasonable safeguard due to the Parliament as a courtesy for the privilege accorded to the Government. As I said earlier, we intend to support the amendment which, on balance, I am sure will be of advantage to the State.

The Hon. C.M. HILL: I take up the point of the Government's being above the law in regard to the Building Act. I think that we have reached a pretty poor state in our attitude to the private citizens of South Australia and to private enterprise generally when the Government asks Parliament to approve a scheme such as the one proposed while giving the Minister the right to exempt it from the Building Act.

The Hon. Diana Laidlaw: A bit like exempting Yatala from the Planning Act.

The Hon. C.M. HILL: Yes, the principle is the same. I do not think that that should occur without a voice from within Parliament indicating that it is a practice for which the Government should be condemned. Developers of city properties, commercial enterprises, and so on are held up for months and years by complex regulations and controls, suffering great financial loss as a result. They encounter innumerable regulations which deter some from even proceeding. That is the situation in the market place. When Big Brother wants to get into the act, the Government immediately seeks to pass a law exempting it from all those problems, the intention being that it will go on a fast track system, that it will be above the law, and to hell with the Building Act.

I think that a Government prepared to bring in legislation that seeks that kind of privilege, beyond that of the ordinary citizen, should be condemned. It is a pretty poor state of affairs when a Government seeks to take that opportunity. If the Government wants to do something about it, let it stand side-by-side with private enterprise and cut out all the delay in regulations, controls and complexities of consents from one authority or another. Let the Government get a taste of what it is like to operate in the market place, to suffer losses and encounter large charges that must be passed on to the consumer, with all citizens suffering damage as a result. It is not good enough for the Government to say to hell with all that side of the matter, that it is a matter that private enterprise must contend with.

Private enterprise is the very sector which supplies the wherewithal upon which the Government exists by way of taxation, fees, charges, and so on. The Government takes the fees, charges and taxes from private enterprise and places it under the burden of this kind of control involving delays and regulation and, when involved in a development of the kind proposed, the Government says that it is going to exempt itself from all the problems that exist and go ahead, construct the development and give the Minister the right to exempt the development from the Building Act. In principle that is wrong, and if the Government believes that it can defend that course of action on principle, I want to hear its reasoning.

I am sure that people in South Australia involved in the building industry, those who are involved in the real estate development industry and those who went to the lengths that they did to build the Hilton Hotel, and so on while complying with the Building Act, will want to see what excuse the Government can proffer for its actions. I think their voices will be heard for a long time in regard to this matter. I intend to oppose very strongly any clauses in the Bill which in any way allow the Government to place itself above the law.

The Hon. C.J. SUMNER (Attorney-General): I intended to thank honourable members for their contributions, but in light of the last tirade I feel less enthusiastic about thanking members for their support of the Bill. However, not wishing to be churlish, I will indicate that—

The Hon. C.M. Hill: What is your excuse for it?

The Hon. C.J. SUMNER: The honourable member will hear in due course during the Committee stage. These are the sorts of exemptions that were given to the Hilton Hotel development.

The Hon. K.T. Griffin: There was no exemption from the Building Act.

The Hon. L.H. Davis: You wrap everyone else up in red tape but cut through it for your own purposes.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Members opposite do not seem very enthusiastic about this project. I think the people of South Australia are very quickly coming to the conclusion that, following the filibuster and the attempt to sink the project in another place, members here will continue in that vein. Let that be on their own heads. I do not think the Democrats will be silly enough to go along with the antics of honourable members opposite on this occasion. A number of issues were raised by speakers in the debate. Honourable members have agreed to support the second reading, and I will respond and debate matters raised by honourable members during the Committee stage.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

URBAN LAND TRUST ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 3 April. Page 3101.)

The Hon. R.I. LUCAS: This Bill gives power to the Urban Land Trust to participate as a joint venturer in schemes with private developers for urban development. It extends beyond the current land banking role of the Urban Land Trust into a whole new area.

The current role of the Urban Land Trust is the result of action by the Tonkin Liberal Government, which restructured the Land Commission and removed the right of the newly formed Urban Land Trust to develop land in its own right. The Urban Land Trust as a land bank sells broadacre land parcels to private developers, who in turn may then subdivide the land for housing and other purposes. That is the current practice.

Section 14 (2) *(c)* of the Urban Land Trust Act 1981 sets out the powers and functions of the Urban Land Trust, as follows:

> divide land for the purpose of making land available in parcels—
> (i) that are suitable for further division and development for residential, commercial or industrial purposes or for further development for commercial or industrial purposes;
> or
> (ii) that are required for or in connection with the provisions of public or community services, facilities or amenities,
> and carry out any works necessary for that purpose;

Therefore, whilst the current operations of the Urban Land Trust have been primarily a land banking role, there are two alternative ways of interpreting the current power and function under section 14 (2) *(c)* of the parent Act. The majority interpretation is that it prohibits the Urban Land Trust from doing other than what it currently does; that is, to act as an urban land bank. However, a minority interpretation of the power of section 14 (2) *(c)* of the Act would argue that, as it currently exists, the Urban Land Trust can develop beyond its current land banking role. An officer of the Urban Land Trust to whom I spoke indicated that the Trust was well aware of the two differing interpretations of the current Act. However, the Trust has accepted the majority interpretation and, as a result, the Urban Land Trust is not currently involved in any development activity beyond the land banking role.

My general philosophical position towards the operations of the Urban Land Trust is formed as a result of the events of Government involvement with the Land Commission through the 1970s. Simply, the activities of the Land Commission in South Australia during that decade were disastrous. To reinforce that statement, I refer to a report prepared by a well respected economist at the Adelaide University, Mr Brian Bentick, who was involved in an analysis of the effectiveness of the South Australian Land Commission. The report states:

> The main defect of the political process is that public enterprise finds it difficult to respond to consumer demand which has many dimensions, while public enterprise can easily determine and supply the demand for kilowatts of electricity, gallons of water and gross number of allotments. It finds it hard to supply allotments and houses of different types. The existence of the South Australian Land Commission and the policies it has exercised have perpetuated a situation which runs contrary to the original recommendations of the Speechley Report and which has discouraged the employment of valuable private sector resources.

That is a most important phrase: 'which has discouraged the employment of valuable private sector resources'.

> Experience has indicated the view of the working party that the private sector cannot survive competition with the Land Commission. The experience in the past six years has demonstrated that the choice is between either a Land Commission monopoly with all the inherent inefficiencies, of which there is now ample evidence, or the private sector developer, subject only to the laws of supply and demand. Land prices will continue to be stable if the planning and subdivision processes are streamlined so as not to impede the creation of allotments in response to the communities' needs.

That summarises the activities of the Land Commission very well.

The Hon. J.R. Cornwall: It is also palpably wrong in some ways. Land prices are not stable at the moment.

The Hon. R.I. LUCAS: The Minister of Health interjects and says that they are not stable at the moment. One of the reasons for that relates to Government decisions with respect to the rezoning of an adequate supply of building blocks. The Minister in another place—and I am sure this Minister—would have access to submissions that have been made by the Urban Development Institute of Australia under the signature of Bob McDonald, President of the South Australian Division. I will not bore the Minister with the detail, but suffice it to say that that gentleman would clearly give the lie to the Minster's interjections in this debate.

The Hon. J.R. Cornwall: You are not seriously suggesting that land prices are stable at the moment?

The Hon. R.I. LUCAS: I just answered that, if the Minister had listened. I know that the Minister is a little tired at this stage of the evening but, if he had listened, he would have heard that I responded to him by saying, 'No, I am not disputing that.' The Minister, unlike me, has not been a participant in the housing and land market in recent times. I am well aware of land and housing price movements. I pointed out to the Minister, backed up by information from Bob McDonald, President of the Urban Development Institute of Australia, why we have that current problem.

Clearly, the private sector is best equipped to handle the stable supply of building blocks for the building market in metropolitan Adelaide. I personally believe that the Urban Land Trust ought to be restricted to its present land banking role. Nevertheless, the Liberal Party has previously and publicly given a commitment to joint development of the Golden Grove project between the Urban Land Trust and private developers. The argument—and I will not repeat it now—has been that the Golden Grove project was a special case. Because of that previous and public commitment, the Liberal Party will adhere to that commitment and will endeavour to treat, in its consideration of this Bill, the Golden Grove project as a special one-off project.

However, this Bill goes much further than enabling the Urban Land Trust to jointly develop the Golden Grove project. The Bill seeks an all embracing power for the Urban Land Trust to jointly develop with respect to all or any future developments in South Australia. I quote from the letter to which I referred earlier from Mr Bob McDonald, President of the Urban Development Institute of Australia (South Australian Division), to the Minister for Environment and Planning, Don Hopgood, dated 28 February 1984. Mr McDonald concludes as follows:

> However, we feel that this recent proposal—

that is, this proposal—

> to increase the activity of the Urban Land Trust will in fact be counter-productive as it may slow down the momentum that the private sector has achieved over the last 12 months. We therefore recommend your proposal to amend the South Australian Urban Land Trust Act be limited to allow joint venturing in the Golden Grove project only and that, as far as its other holdings are concerned, the Trust remain in the role of a land bank.

Clearly, the possibility will remain if this Bill is passed that a major development of the Morphett Vale East area could perhaps be another joint development between the Urban Land Trust and private developers. This could well be the case when there are a number of private developers or a consortium of private developers who would be more than willing and more than well equipped to handle the devel-

opment of that area or other areas that may be chosen for development.

With respect to the Bill that we are asked to debate this evening, I draw the attention of honourable members to the very wide provisions of the operative clause, which is as follows:

The Trust may, with the approval of the Minister, engage in a project for the division, development and disposal of land for residential, commercial, industrial or community purposes (including division and development beyond the stages contemplated by subsection (2) pursuant to an arrangement with some other person or persons . . .

No restriction is placed within the Bill as to 'other person or persons', and there is no doubt that this provision will mean that the Urban Land Trust could joint develop with the Housing Trust. The Government may well decide, say, to take the Morphett Vale East area and have the Urban Land Trust together with the Housing Trust as joint developers for that project (I am not suggesting that that will be the case—it is only an illustration).

Clearly, the powers covered by this short Bill are wide and, in my view, cause some concern. Let me summarise the Liberal Party's attitude to this Bill by saying that in our view the power for the Urban Land Trust envisaged by this Bill is too wide. It is not required, especially when we have at present any number of private developers or a consortium of private developers to undertake the necessary development work in metropolitan Adelaide. Therefore, the Liberal Party will support the second reading with a view to moving an amendment to restrict the extension of the Trust's powers solely to the Golden Grove project.

The Hon. K.L. MILNE: This Bill seeks to extend the activities of the Urban Land Trust from merely buying, holding and selling broad acres of land to joint venturing with other persons, companies, councils, church bodies, or whoever. This move can be taken both ways: as a very good thing for the real estate industry or as a threat to the industry. Some fear that, as the Bill is drafted, the arrangements between the Trust and another party might be very one-sided and that, in fact, this Bill represents a trick. I do not believe that that is so, and the likelihood of the Trust's making a very one-sided agreement is almost nil because, obviously, private sector developers would not take part in such an arrangement. The Council should consider carefully what the main clause (2a) says. It provides:

The Trust may, with the approval of the Min, engage in a project for the division, development and disposal of land for residential, commercial, industrial or community purposes—

note; 'community purposes'—

(including division and development beyond the stages contemplated by subsection (2) pursuant to an arrangement with some other person or persons—

the definition of 'persons' is very wide in the Acts Interpretation Act—

under which the parties combine to provide the land, finance and other resources necessary to undertake and complete the project.

The Acts Interpretation Act, 1915-1975, provides that a 'person or party' includes 'a body corporate'. So, what that clause is really talking about is joint venturing with the private sector, councils, or the like a joint venture with someone other than the Trust. A joint venture is a special kind of arrangement: it is a flexible concept, not a rigid formula like a formal agreement or partnership.

The Bill provides that the parties must combine to provide the land, finance and other resources. I believe that it would hardly be a combination as intended in the Bill if one side provided, say, $1 000 while the Land Commission provided the land and everything else. Nevertheless, I believe that more safeguards should be written into the Bill, and I have reason to believe, and I certainly hope, that the Government will consider them.

The real estate profession and the Institute of Urban Development are nervous because they are distrustful of the calamity involved in the Land Commission. That was a most unfortunate disaster, and I doubt that anyone, including the Government, wants it that to be repeated. Certainly, the Government is not trying to get to that stage in this Bill, as I understand it. If at any stage there was an extension to go back to the old Land Commission days, there would be much more opposition to it. The real estate profession has not spoken to me exerting any great pressure or influence but, I think, it merely wants a safeguard that it will be included in joint ventures and that the Government will, in fact, do what it says it wants to do; namely, work with them in the mixed economy sense.

If that is so, this is a sensible Bill which I propose to support. Nevertheless, I foreshadow two amendments. The first is to the effect that the Minister shall not grant his approval under new subsection (2a) of section 14 of the principal Act in respect of a project unless he is satisfied that the arrangement provides a substantial participation in the project by a person other than the Trust. I think that that is the secret: that a just and fair agreement, which uses the knowledge and skills of the other, is entered into between the Trust and the private, local government, church or community sectors. That is what a joint venture is all about: to be successful, both sides must use the skills of the other. My second amendment—

The PRESIDENT: The honourable member should leave the explanation of his amendments until the Committee stage.

The Hon. K.L. MILNE: I know that there is a feeling in the real estate profession that this Bill should relate to the Tea Tree Gully and Golden Grove development only. While that may be so, I feel that we can, with certain safeguards that I shall discuss during the Committee stage, extend this Bill to other projects which may arise and which may be welcomed by the profession, as the Golden Grove project is welcomed, but with the safeguard of keeping Parliament informed.

While sharing, to some extent, the fears of the Real Estate Institute, and certainly understanding its reasons for being fearful, I think that the way in which the Government has approached this matter, with discussions and being prepared to listen to another point of view, has made the Bill worth supporting. I propose suggesting to the Government some safeguards during the Committee stage. I support the second reading.

The Hon. J.R. CORNWALL (Minister of Health): I put on record that this is a Government of reform with reassurance. The Bill is another step in that direction. The Government supports a mixed economy and does not believe that, by its very nature, public enterprises should be forced to operate at a loss—any more than it believes that private enterprise has the unfettered right to make unreasonable profits. For that reason, one of the best ways in which the Government can express its sensible policies is through joint ventures, such as those proposed in this legislation.

The Hon. Mr Milne has on file an amendment which, on the face of it, is reasonable. The Government intends to support it when it comes to the Committee stage. The Hon. Mr Lucas, on the other hand, has on file an amendment which goes to the heart of the Bill and circumscribes it so badly that it is not possible, even in the spirit of consensus with which we try to approach most of these matters, to accept it at all. I make clear that in Committee the Government will reject that amendment. I do not want to canvass all the old arguments of the 1970s concerning the

South Australian Land Commission in its glorious heady days and the reasons why it ran into some difficulties and foundered. I am not sure that I would concede it failed.

The Hon. C.M. Hill: It foundered because socialist Governments just can't manage that kind of operation.

The Hon. J.R. CORNWALL: The honourable member speaks from his place with what he believes is the conservative wisdom of many long and weary years.

The Hon. C.M. Hill: It is not conservative wisdom and they are not weary years. I get weary when I hear the rubbish that you are talking.

The Hon. J.R. CORNWALL: It is very conservative wisdom and they have been pretty weary years. The honourable member made a big quid in the early days of private enterprise and then got on to the benches of the Legislative Council. The honourable member should declare his interests before he starts involving himself directly in a debate like this. I repeat, for the honourable member's benefit, that public enterprises do not have to fail and that there are many examples of very successful public enterprises. I come back to the point that I believe this sets the framework for—

Members interjecting:

The Hon. J.R. CORNWALL: Let me tell members, as they want me to digress and are encouraging me, about one little miracle that has been performed in the health area. The Central Linen Service has been turned around quite miraculously in something less than 12 months. I will have more to say on that at the appropriate time. The Central Linen Service, which the previous Government allowed to founder to the point of bankruptcy, will be one of the spectacular successes in the public enterprise area of this Government. There are others. Members may sit on the back benches and parrot about the State Clothing Corporation and what they would do. Would they close it down and make depressed Whyalla even more depressed? There are some prospects for the State Clothing Corporation, in conjunction with the Central Linen Service, to become a net exporter across borders. So, members opposite should be very careful before getting into that negative carping criticism which is the reason why they have spent a hell of a lot of time in Opposition in this State for the past 20 years.

I digressed unnecessarily. The Government supports a mixed economy. It intends to support through legislation like this joint ventures and participation in what, it is confident, will be a successful enterprises. I ask those more progressive elements in the Council to support the Bill. As I said, I believe on this occasion that the Democrats are showing a spirit of common sense for which they are not always noteworthy.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Powers and functions of the Trust.'

The Hon. R.I. LUCAS: Can the Minister advise the position of the Urban Land Trust when involved in joint development arrangements with a private developer in relation to the South Australian Government Financing Authority? The South Australian Government Financing Authority has wide powers over a range of statutory authorities and bodies corporate (the Urban Land Trust being a body corporate). Clearly, the South Australian Government Financing Authority will cover the Urban Land Trust when it sat on its lonesome. However, I am not clear about what happens when the Trust enters into a joint development arrangement with a private developer. Obviously, that joint development arrangement would cover a whole range of things. I guess that when one talks about the South Australian Government Financing Authority one is concerned mostly about the financing of a project.

The Hon. J.R. CORNWALL: As I understand it, the South Australian Government Financing Authority is, as it were, the parent, as the honourable member pointed out. The Urban Lands Trust would be entering into a partnership agreement, but it would maintain its separate entity. It is not a merger as such and therefore its relationship with the Government Financing Authority, as I understand it, would not be altered in any significant way.

The Hon. R.I. LUCAS: I do not want to unnecessarily prolong this matter, but that does not really answer the question. It is not really a parent authority. It is an umbrella authority of the Government which has the power to direct that bodies corporate like the Urban Land Trust have to deposit moneys with the Government Financing Authority or that they must borrow at certain rates of interest. Clearly, the Urban Land Trust, if proclaimed, would be covered by the South Australian Government Financing Authority. When it goes into joint development arrangements with private developers (and I am talking about financing arrangement), if the South Australian Government Financing Authority still operated with respect to the operations of the Urban Land Trust, possibly the joint developers may well be directed to borrow funds for financing the development project from the South Australian Government Financing Authority. That may or may not be a good thing for the development project.

For example, the private development side of the joint development team may well have ready access to funds, whether it be in Australia or overseas, at perhaps a more competitive interest rate than the South Australian Government Financing Authority can provide the same funds. If that was the case, there may well be problems for the joint developers. So, the question is a genuine one and I am not seeking to delay the Committee. If the Minister cannot answer satisfactorily at this stage, perhaps he might like to consider reporting progress. The debate tomorrow will not be prolonged. Both the Hon. Mr Milne and I have covered the substance of our amendments. There may be two divisions and I cannot see any delay. I would like to know, on behalf of the Liberal Party, what possible restrictions could be placed on the joint developers by the possible operation of the Government Financing Authority.

The Hon. J.R. CORNWALL: The Urban Land Trust will not be borrowing. Its equity participation in these joint ventures will rely on its ability to come in with its land holdings. It will not be a net borrower; it will be contributing substantial assets in the form of the land which it holds.

The Hon. R.I. LUCAS: None of us have any indications as to what the terms of the joint development proposal or agreement might be. Could it be possible that the joint developers may well together undertake some borrowing programme to finance the infrastructure and development proposals for a particular area? I agree that the Urban Land Trust is taking with it into partnership its land.

Under the joint development agreement, the joint developers may well be seeking to borrow moneys for their development proposals. I am not suggesting that the Urban Land Trust will be doing that, I am talking about the joint developers under the joint development agreement. My question to the Minister remains: will the South Australian Government Financing Authority affect this proposal?

The Hon. J.R. CORNWALL: The Hon. Mr Lucas seems to want legislation by exhaustion. He asks what I think are not particularly intelligent questions, the answers to which would be self-evident to most people. However, I will sit here for as long as he wants.

The Hon. M.B. Cameron: So you ought to; you're a legislator.

The CHAIRMAN: Order!

The Hon. J.R. CORNWALL: The simple answer to the question, as the Hon. Mr Lucas should know, and the Hon. Mr Hill should surely know (even though these are not the halcyon days of the 1950s when the drover's dog could make a million in real estate) because he has had long experience in real estate—

The Hon. C.M. Hill: What were you doing in Mount Gambier at that time?

The Hon. J.R. CORNWALL: I will swap the honourable member my assets for his any time he likes, and I will throw in a few bob, too. Members opposite should realise that there will be a contract between the joint venturers. The Urban Land Trust, for its part, will put its equity in by way of its land holdings. If the joint venturer, the private developer, needs to borrow money, that will be a matter for the joint venturer, the private partner. It will most certainly not have any direct relationship with the South Australian Government Financing Authority. The contract will be ratified by the Minister concerned, as is spelt out in the legislation. It is as simple as that—there are no traps for young players and no hidden socialist plots (I am sure that if there were the Hon. Mr Hill would be the first to find them). It is a very straightforward and perfectly normal business arrangement that is entered into on many occasions by joint venturers in the private sector. It is a straight business partnership.

The Hon. R.I. LUCAS: I do not want to provoke the Minister unduly, because he is clearly nearing one of his more objectional moods. This is a genuine question pursued quite genuinely by me representing the Liberal Party. If the Minister will not respond in a satisfactory way during this debate, will he undertake to pass on my question to the Minister for Environment and Planning and the Treasurer, or Treasury officers, and provide me in due course with some back-up information about what he has laid down as being the case with respect to the South Australian Government Financing Authority and the Urban Land Trust when engaged in a joint development proposal as I have indicated this evening.

The Hon. J.R. CORNWALL: I have answered the question satisfactorily and at length, and I have nothing further to add.

The Hon. R.I. LUCAS: The Minister is not descending; he is already in one of his most objectionable moods. He gets a nasty pout and refuses—

The Hon. J.R. Cornwall: Are you going to let this go on, Mr Chairman?

The CHAIRMAN: Order! I ask the Hon. Mr Lucas to return to the matter before the Committee. He has an amendment to this clause, if he wishes to move it, and should be addressing himself to that amendment or to the Bill.

The Hon. R.I. LUCAS: Thank you very much, Mr President, for pulling me back to the clause. I am very disappointed with the Minister's response to a quite genuine question. The Minister is refusing to pursue an answer to a genuine inquiry with respect to this provision. The Minister is not the repository for all wisdom with respect to the Urban Land Trust. Although he has charge of this Bill in this Chamber, he is not the Minister for Environment and Planning and cannot be expected to know everything about that portfolio—no-one is suggesting that he should.

This is a genuine inquiry as to whether the Minister is prepared to initiate some inquiries with respect to the Minister and the Treasurer and to provide me with an answer to the question I asked. The Minister is refusing to do that, and is getting up on his high horse and saying that he will not do so. I guess that, if that is going to be his attitude to members in this Chamber, there is little that we can do about it on this occasion, but every dog has its day, and let the Minister beware.

The Hon. J.R. Cornwall: You're some dog.

The Hon. R.I. LUCAS: And you're the dog doctor.

The Hon. J.R. Cornwall: Ho, ho, ho—brilliant repartee!

The Hon. R.I. LUCAS: If the Minister has finished interjecting, I point out that I intend to move the amendment that I have on file without much further explanation. Quite simply, the position of members of / Liberal Party is that we seek to restrict the extension of the power for the Urban Land Trust to the one-off case of the Golden Grove project. My amendment will do just that. Accordingly, I move:

Page 1, line 17—After 'land' insert 'within the development Area (as defined by the Tea Tree Gully (Golden Grove) Development Act, 1978)'.

The Committee divided on the amendment:

Ayes (9)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, R.C. DeGaris, Peter Dunn, C.M. Hill, Diana Laidlaw, R.I. Lucas (teller), and R.J. Ritson.

Noes (10)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall (teller), C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner, and Barbara Wiese.

Pair—Aye—The Hon. K.T. Griffin. No—The Hon. Frank Blevins.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. K.L. MILNE: I move:

Page 1, after line 22—Insert new proposed subsections as follows:

(2b) The Minister shall not grant an approval under subsection (2a) in respect of a project unless he is satisfied that the arrangement provides for substantial participation in the project by a person other than the Trust.

(2c) Subsection (2a) shall not apply except in relation to—

(a) the development area as defined by the Tea Tree Gully (Golden Grove) Development Act, 1978; and

(b) any other land prescribed for the purposes of this section.

I seek the forbearance of the Government to consider these two amendments, which run together.

The Hon. C.M. Hill: Should you seek our forbearance?

The Hon. K.L. MILNE: After the length of time that you took over the previous one I do not give a damn; I normally would. The first amendment simply is to set out in words in the Bill something to indicate to the real estate profession and the urban developers that the arrangement on both sides must involve substantial participation. It has no object other than that.

The first part of proposed subsection (2c) is to say that the Bill will relate particularly to the development area of Tea Tree Gully (Golden Grove) Development Act, 1978. That seems to give general approval, but it is an enormous project and the main developer (Delfin Limited) has undertaken, I understand, to share the real estate—the private enterprise—end of it with other developers, but there is no complaint from anybody to whom I have spoken with the Urban Land Trust in the Tea Trea Gully (Golden Grove) development project. So, this will clear that up and authorise it, but there will be other projects. The officers to whom I have spoken have forecast that there almost certainly will be one other project.

I simply ask for new subsection (2c) *(b)* to be included so that any other projects that are joint ventured by the Urban Land Trust will be brought back to this Parliament as regulations. New subsection (2c) *(b)* refers to 'any other land prescribed for the purposes of this section', and means prescribed by regulation. That means that Parliament will know about it. That is a safeguard that would satisfy me, certainly, at this stage.

The Hon. J.R. CORNWALL: As I said earlier, the Hon. Mr Milne on this occasion very much has logic on his side.

I am pleased to be able to tell him that he also has the numbers. So, we support the amendment with alacrity.

The Hon. R.I. LUCAS: The Liberal Party, too, will support this amendment. Whilst it goes nowhere near what the Liberal Party sought to achieve by way of its previous amendment, it is at least some measure of improvement over the provisions in the Bill that we were meant to debate. For those reasons, the Liberal Party will support it.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

CLEAN AIR BILL

In Committee.

(Continued from 5 April. Page 3174.)

Clause 2 passed.

Clause 3—'Interpretation.'

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

Page 2, line 11—Leave out 'and includes' and insert 'but does not include'.

This amendment relates to my opposition to clause 33, which deals with odours in detail. I am prepared to take a vote on this amendment as a test case. I trust that I may speak generally in relation to odours, as set out in the Bill, including their expansion in clause 33.

When I spoke during the second reading debate I referred to clause 33 and expressed my opposition to it. The Minister interjected and asked what would I put in its place. It is not for me to say what should be put in its place. The provisions of clause 33, as I said during the second reading debate, are quite astonishing. The effect is that, if a complaint is made and an officer, relying solely on his sense of smell—a purely subjective test—finds that the smell is offensive then an offence is committed.

The only defence is that the owner of the premises did not know and could not, by the exercise of reasonable diligence, have known that an offensive odour was escaping. From the point of view of the law and creating offences, we have an extraordinary situation. If a complaint is made and an officer, relying on his sense of smell—notoriously one of the five senses which is subject to hallucination and all sorts of defects—says that the smell is offensive, an offence is committed. It is not for me to set up an alternative; it is for the Government to do that. I do not have the backing or facilities of the Government behind me.

I do not know, but it may be that there are scientific devices or things of that kind which can make an objective test of the offensiveness of smells which escape. But, I would now know about that. I am complaining about the lack of justice, the unfairness and subjectiveness of the test in the Bill. For those reasons, I oppose the odour provisions of the Bill. I will take this amendment as a test case. I do think it is a shame that the Government is not prepared to allow the Bill to be put off to allow all interested parties to make representations. I am particularly concerned that the submission of the Environmental Law Association of South Australia has been put to the Government and has not been considered.

The Government is pressing on with the Bill. I refer to a letter dated 5 April 1984 forwarded to the shadow Minister, the Hon. David Wotton from the Environmental Law Association of South Australia. I do not propose to go into it in detail, but I refer to two brief sections from the letter, as follows:

(1) Our concern is based on the unworkability of the Clean Air Act and the amendments to the Planning Act in their present forms. The concerns of our Association can be categorised . . .

Five main headings are then detailed, but I will not read them because they are not specifically relevant to this amendment. The letter continues:

In summary, the Association is concerned that the Bill for the Clean Air Act and the Bill to amend the Planning Act are basically unworkable, and, accordingly, consideration of the same should be deferred to enable proper consultation to take place.

I am sorry that this has not happened, but because it has not happened and because I am not in a position to say what should be put in the place of the unjust provisions in the Bill in regard to odour, I move my amendment to exclude odour from the provisions of the Bill. As I say, I will take this as a test case in regard to opposition to clause 33.

The Hon. J.R. CORNWALL: The Government opposes this amendment. I will be as brief as possible. First, the Hon. Mr Burdett alleges a lack of consultation. Of course, this Bill has had a gestation period of something in excess of five years. It was in a reasonably advanced stage of drafting in my recollection, when I was Minister for Environment and Planning for 4½ months from 1 May 1979 to that fateful day of 15 September of the same year. The honourable member interjects *sotto voce* and repeats the allegations that he made when he was on his feet moving amendments, namely, that there was no consultation. There has been enormous consultation. Consultation has been going on with all interested parties, including the Local Government Association, for more than six months. Of course, the Bill was introduced into the South Australian Parliament (into the House of Assembly) before we got up for the Christmas recess. It lay on the table for almost four months. To say that there has been inadequate consultation in the circumstances is nonsense, and the Government rejects that.

The other point that is made is that the Hon. Mr Burdett in some way or other appears to crave the assistance of artificial aids. I have to tell him that in this matter of odours there is no substitute for the good old fashioned factory apparatus with which Mother Nature equipped us. She equipped some of us better than she did others, both in respect of our proboscis—

Members interjecting:

The Hon. J.R. CORNWALL: I have not got the best profile in the business, so I will not get into the business of making odious comparisons. However, I am not talking about—

The Hon. M.B. Cameron: What about odorous comparisons?

The Hon. J.R. CORNWALL: Neither. However, I would make the point that, regardless of the size of the proboscis, most of us have a reasonably effective old factory apparatus and sense of smell. I would make the further point that any reading of the Bill and any reading of the debate as it occurred in the other House would make it clear that the inspectors will not ride furiously around the countryside with their windows wound down and their noses poked out the side. The overwhelming majority of investigations will be conducted quite directly as the result of complaints by citizens. Again, it is quite stupid to suggest that one cannot in many circumstances quantify the degree of odours which arise in real life out there in the real world.

The Mount Barker Tannery is just one of many examples. The measuring stick is the nose: the old factory apparatus.If the Hon. Mr Burdett has any difficulty in detecting odours on appropriate days as he drives past Bolivar, for example, I respectfully suggest that he really is in some difficulty and should seek medical examination. It is quite foolish to suggest that one cannot detect offensive odours that are emanating at that level of offensiveness: of course, one can, and we reject this amendment for those reasons.

The Hon. M.B. CAMERON: I wish that the Minister would not use the words 'stupid' and 'foolish' so much, particularly in relation to this Bill, because if anything is stupid and foolish it is the Bill, particularly this section of it. For the Minister to get up and say that all these matters will be detected by the nose is stupid and foolish. It is just not possible to quantify it. I consider that this provision will make the law an absolute ass, because one can imagine the judge being asked to decide whether or not a particular odour is offensive. Some judges who would may wish to disqualify themselves by reason of a lack of sense of smell.

Members interjecting:

The Hon. M.B. CAMERON: In fact, I suppose that a judge has no choice. He has to find the person guilty because, as the honourable member has said, it is the inspector who makes the judgment straight away and—

[*Midnight*]

An honourable member interjecting:

The Hon. M.B. CAMERON: If there is a defence, it then ends up before the judge. For instance, I would be considered to be a prime candidate.

The Hon. R.I. Lucas: An inspectorial candidate.

The Hon. M.B. CAMERON: Yes. One would have to use some sort of judgment; they would probably look at me and say, 'He would be a fine, upstanding specimen with a great catchment area.'

An honourable member interjecting:

The Hon. M.B. CAMERON: Yes. The fact is that half mine does not work. This simply shows that appearances would fool people straight away. We could have a CAE running a course so that we could get qualified inspectors. Graduates would come out with a degree because on a scale from one to 10 they could be an inspector grade five and they could pick the middle level. True, it would be easy to pick obvious examples, and everyone would accept that. There will be areas where, even for me, the odours would be easy to pick but, in the grey area, I do not know how one could develop a system to make a judgment, especially in respect of an authorised officer to be given the power to decide that an odour was excessive by relying solely on his sense of smell. That leaves it wide open as a problem of judgment.

The Hon. K.L. Milne: Wouldn't the inspector have an odourmeter?

The Hon. M.B. CAMERON: The Minister has advised that it is the nose.

The Hon. R.C. DeGaris: It's a smellometer.

The Hon. M.B. CAMERON: Yes, the smellometer. We are making laws which, in my opinion, are stupid and foolish (to use the Minister's own words). I thank the Minister for providing those words, because obviously they have become part of the language of this Chamber now that we have the Minister here. We are putting into law a very difficult area which will make us look very foolish once it starts to get into the judicial system. I can well believe that a judge at some time in the near future will cast aspersions about this Parliament and the sort of laws that it passes. People will think that Parliament and the Judiciary have special powers beyond what we are expected to have, because now, when people reach this height, they will be able to judge various odours. This whole provision ought to be taken out and the Government should have another think about it. This provision will create in future legal problems in which this Parliament should not involve itself.

The Hon. R.I. LUCAS: Under clause 33, the authorised officer, upon complaint, as the Minister explained, must go out and sniff the wind. I refer to clause 33 (2) *(c)* (ii), because the authorised sniffer has to detect that the odour:

> is of a strength that exceeds to a significant extent the level to which the odour is normally emitted . . . from the premises.

The Minister has explained in the first instance that you will not have these sniffers running around unless there is a complaint, so I take it there would be a complaint about an offensive odour and the sniffer would run out and sniff the odour. If the officers are not running around sniffing the wind at all times, how does the authorised sniffer tell that the last sniff after the complaint exceeded to a significant extent the level of the normal odour?

The Hon. J.R. CORNWALL: I am pleased to see that the serious matter under discussion is being treated with the gravity that it deserves by at least most members. I do not really find it half as amusing as members opposite. The simple position is that we have had the clean air regulations in this State for very many years. They were under the Health Act originally and these particular clauses have been inserted in the Bill at the behest and urging of very experienced officers who have administered the clean air regulations for a long time. I do not think it is particularly amusing and I am sure that if the Hon. Mr Cameron or the Hon. Mr Lucas, for example, lived adjacent to the sewage treatment works at Albert Park they would not find it particularly amusing, either. I would think, if they lived adjacent to Bolivar, they would not find it particularly amusing. I come back to exactly where we started: These clauses are in the Bill on the recommendation of very experienced people in the clean air regulations field. I think their combined wisdom would be even greater than the combined wisdom of Mr Lucas, Mr Cameron and Mr Burdett together.

The Hon. PETER DUNN: This part of the Bill relates to the determining of the odour as such. To be serious for a moment, I can fully appreciate that one can determine differences between the odour of one type of wine and that of another type, because they are in a confined space. If we are to determine these odours, it will be very difficult, because we just have an amorphous mass of odour coming off one area. Furthermore, these odours will change very quickly, depending on the atmospheric conditions at the time, whether the air is heavy, whether there is a low in the area, whether there is high humidiy, whether the wind is blowing strongly or otherwise. These are so subjective. How will you tell the judge what the odour was and how that odour smelt?

The Hon. J.R. Cornwall: If you want to make a joke of it.

The Hon. PETER DUNN: I am not making a joke of it.

The Hon. J.R. Cornwall: You are all making a joke of it. You are acting like jackasses.

The CHAIRMAN: I think the Hon. Mr Dunn wants to ask a further question.

The Hon. PETER DUNN: I am not anticipating that they will close down the sewage farms around the place. People have built their homes close to them. I do not anticipate that they are going to complain too strongly about that. I do not think that is the question.

I refer to places that have intensive stockholdings, for example, piggeries and poultry farms. Prevailing winds change and some people will be affected. What does the sniffer say to the judge when he is asked to explain exactly what it smelt like? That smell might be quite acceptable to a large majority of the population. Who will determine that?

The Hon. J.R. CORNWALL: I am delighted to find that all these civil libertarians amongst the conservatives on the other side are suddenly coming awake. If we paint the real scenario and be serious and try not to take this vaudevillian approach to the situation, let us see what will happen in practice.

The inspector will be called because one or more people are finding an odour in a particular area and from a particular source vile, overwhelming, terrible, dreadful—whatever word you want to put on it in that range in the vocabulary. At that point the cause of the odour will be investigated. They will say, 'Look, Peter, old son, this piggery of yours isn't too good. We have had half a dozen complaints. Do you mind if we have a look at how you treat your effluent?' They will no doubt offer advice as to ponding and what sort of reasonable measures can be taken to improve it.

Over a period average reasonable people within the limits of reasonable financial resources will no doubt endeavour to co-operate to assist in making life a little more bearable for those who live adjacent to the area from which the vile odour is emanating. If there is co-operation, then in a very large number of circumstances that odour will be significantly reduced and everybody will be happy. In a small number of cases I would envisage there will not be that sort of co-operation forthcoming.

There could be several reasons for that. One would be that the person involved was just plain unco-operative and pigheaded, and there are one or two of those sorts of people around. On the other hand, it may be that the demands of the inspector or the inspectorate are excessive, beyond the financial resources of the particular person or group of persons to manage, or at a point where there is no cost-effectiveness. In that case, of course, there will be a number of actions that particular person can take, not the least of which ultimately one presumes would be to write to his local member of Parliament or write to the Minister.

So, out there in the sensible world, out there where real people operate (not like the situation here in this antediluvian Chamber of the Upper House), that is how things will operate in practice. In the event that all else fails and we have a totally recalcitrant operator who will not co-operate in any way, then ultimately he may finish up in court. That is the way the legislation will operate.

The Hon. J.C. BURDETT: The Minister said this legislation has been around or in the pipeline for about 4 1/2 years. If that is the case, it has not improved much in that time if it has a provision like this. The Minister says that there has been consultation—there may have been, I do not know. Certainly, the UF and S has only recently come up with its complaints and the Environmental Law Association has only recently made a submission which has not been complied with, responded to or dealt with by the Government in anyway. What sort of consultation is that?

We are dealing generally with the odour provisions of the Bill, and I note that the amendments that the Hon. Mr Gilfillan has on file deal with odours in relation to animal husbandry and other primary industries. These amendments do not only apply to those areas, but may well apply to the metropolitan area as well. The sweetness and light procedure which the Minister just explained may not necessarily follow. Among any inspectorate one will find officious people—people who take matters too far and delight in their powers; all they have to do is say that relying on their sense of smell they have found so and so.

Recently in the press I read an acknowledgement by a transport inspector that they may well be officious—so they may be. That being the case, this legislation should be reasonable. I suggest that this legislation is not reasonable and it is for that reason I ask the Committee to support my amendment.

The Hon. R.I. LUCAS: I return to the question I put to the Minister. If the authorised sniffer finds an odour to be excessive, the odour has to be offensive and a few other things and 'of a strength that exceeds to a significant extent the level at which the odour is normally emitted.' In his reply, the Minister said that when there has been a complaint one has an offensive odour and, therefore, one has the problem and all the procedures in clause 33 are activated. That is not necessarily the case because the mere fact that an odour is offensive does not activate all the other provisions of clause 33. The odour not only has to be offensive but also must be 'of a strength that exceeds to a significant extent the level at which the odour is normally emitted.' Somehow the authorised sniffer not only has to determine that it is, first, offensive, but that it is worse than is normally emitted.

The Hon. R.C. DeGaris: What you are saying is quite right. If the odours are constant, there is no problem. It is only if you make a mistake one day that you will be caught.

The Hon. R.I. LUCAS: The Hon. Mr DeGaris is obviously a little more intelligent than the Minister, because he has grasped the nub of the question very quickly. If one has a constant offensive odour, one is all right. The Minister talks about Bolivar, sewerage treatment farms and assorted other things, but if there is a constant offensive odour the sniffer is out of business. If the sniffer is going to have something to act on, the sniffer has to find, first, that the odour is offensive and, secondly, that it is more offensive than normal.

Obviously, the Minister is trying to wear down the Opposition at 12.20 a.m. by ignoring our questions. He cannot go on refusing to answer genuine questions. How are the authorised sniffers going to determine that an offensive odour is more offensive than the normal odour emanating from the premises?

The Hon. R.C. DeGARIS: I refer to clause 3. Although I did not speak during the second reading debate, having looked at this Bill closely over the past week, I find that the Environmental Law Society's report on this Bill—that it is unworkable—is perfectly true. It is an unworkable Bill—it simply will not work. I suggest that the Government should defer the Bill at this stage so that it can be re-examined and brought back in the next session. It will take a long time to go through the Bill clause by clause, because many questions will be asked of the Government which it will not be able to answer. The question just asked by the Hon. Mr Lucas is perfectly true. In this Bill there is really no continuing use rights in relation to odours, except in clause 33. There appears to be a difference between an odour and other types of air pollution. Given the somewhat doubtful definitions in the Bill, there seems little reason for odours to be dealt with differently from other forms of air pollution.

Clause 3 defines 'air pollution' as follows:

> The emission into the air of any material.

It also contains a definition of 'impurity' which the Hon. Mr Burdett is seeking to amend by striking out the words 'includes an odour'. I support that change. I further point out that really what we are saying is that, whilst there is a definition of 'air pollution' and 'impurity', there is no definition of 'air'.

The Hon. J.C. Burdett: Particularly 'clean air'.

The Hon. R.C. DeGARIS: Yes. We know that there are impurities in the air, but the Bill refers to the ejection of an impurity into an impurity to begin with. How that can be managed in this legislation makes the Bill unworkable.

The Government should defer the legislation, examine it and reintroduce it as a workable piece of legislation. In the meantime, I am prepared to support the Hon. Mr Burdett's amendment as it does assist a little with this unworkable Bill. Even in clause 3, if one examines the definitions, the Bill is unworkable.

The Hon. R.I. LUCAS: Is the Minister going to respond to the question that I put to him?

The Hon. J.R. CORNWALL: I have nothing further to add. We ought to test the feeling of the Committee. This is becoming a tedious and very foolish debate. I do not want to be actively involved in making a spectacle of myself, as are some members opposite.

The Hon. R.I. LUCAS: Genuine questions are being asked and the Minister is, in effect, insulting members on this side, insulting the Committee and the legislative process.

The CHAIRMAN: The Minister has the right to answer questions in whatever manner he wishes.

The Hon. R.I. LUCAS: I realise that the Minister cannot be directed to answer questions put to him. However, if the Minister thinks that he is going to wear out the Opposition and ram through the legislation in the early hours of the morning by his just sitting there, he has another think coming. Genuine questions are being asked. I repeat the question that I asked: how does the authorised sniffer determine that the odour is not only offensive but also that it is more offensive than the normal strength of the odour eminating from the premises? That is at the very nub of this amendment.

The Hon. R.C. DeGaris: It is absolutely unworkable.

The Hon. R.I. LUCAS: The Hon. Mr DeGaris says that the Bill is unworkable, and I agree. The Minister is wanting to test the water and have this clause passed. On behalf of his Government he is going to have to make this legislation operate in some fashion or other. How will authorised sniffers detect that an odour is offensive (and we agree that it is subjective and that there are obvious problems), and decide that it is more offensive than the odour normally emitted—whatever that means?

The Hon. Mr Dunn in his contribution referred to a whole range of factors that will affect the offensiveness of a particular odour eminating from a premise. The Hon. Mr DeGaris, by way of interjection, quite rightly pointed out that a constantly offensive odour is obviously of no concern to the Minister and the Government, and what they are talking about is an offensive odour coming from premises that has somehow increased in strength. Will the Minister respond in some fashion or another about this matter, or we will be here until the early hours of the morning debating this one provision?

The Hon. J.C. BURDETT: The Hon. Mr DeGaris, in speaking to this amendment and to clause 3 in general, correctly drew attention to the fact that, while air pollution is defined as being the emission into the air of any impurity, and impurity is defined (a definition I am seeking to amend), that the basic concepts essential to the Bill are not defined. That was something to which the Environmental Law Association drew attention to in its letter, which stated:

> Our first concern is with what might be called the general approach of the Bills in their attempt to provide standards in an area where the very nature of what amounts to clean air remains undefined.

We do not find a definition of 'air' or of 'clean air'. To be positive, that is basically what this is all about. Is the Minister prepared to report progress, consider the submission from the Environmental Law Association and then bring this matter back after that has been done?

The Hon. J.R. CORNWALL: I will be happy to report progress as soon as the people opposite come to their senses and vote on clause 3.

The Hon. I. GILFILLAN: It may be that the Government is a little ahead of its time with this matter. The *Advertiser* makes a timely contribution to this debate, at page 23; I think that hope is ahead. One paragraph of the report states that work is being done on smell. The article continues:

> Few measurements have ever been done of this, so Dr Laing and his volunteers are gradually building up the data with the olfactometer, using more and more mixtures in different combinations.

So work is being done in this area. The report points out that when the brain cells are deprived of odour stimulation they degenerate. One may well be using these sniffers (or olfactometers) to hunt out beneficial smells, so the whole input of this Bill may be reversed in time. The article also states:

> To date we have only worked with young rats.

So maybe the Government will be looking for some intelligent and well attuned young rats to act as sensors. Those remarks may seem frivolous, but there have been substantial criticisms of the Bill by people much better placed than I to make a knowledgeable judgment. However, I am not persuaded that it is a dangerous piece of legislation. It may not prove to be effective, and may prove to be very difficult to implement, but, with the amendments I intend to move to protect people who I feel could be caught very awkwardly if this provision were extended to the rural sector where animal husbandry practices and wineries could be affected, I think that we should allow the Bill to proceed.

The Hon. R.I. LUCAS: Will the Minister indicate whether or not the Government is proposing to support the amendments to clause 33 being moved by the Hon. Mr Gilfillan?

The Hon. J.R. CORNWALL: I would indicate, as I have done several times, that I am anxious that clause 3 be voted on at the earliest possible moment so that everyone can go home and get five or six hours sleep.

The Hon. R.C. DeGARIS: I was a bit surprised by the comment made by the Hon. Mr Gilfillan. I want to speak on this matter for a moment, because I think it is fairly important. I have no objection at all to legislation dealing with the matter of clean air, air pollution, odours, or anything else. However, I object to a piece of legislation which, in my opinion, is completely unworkable, is badly drafted, and which needs to be withdrawn and deferred so that those people who are directly involved with this sort of legislation can assist the Government in presenting a Bill that is reasonable.

A section of the Law Society has investigated the Bill and has reported to members of Parliament. The Society makes the same claim, namely, that the Bill is unworkable and that it does not fit any of the things we want to do. I ask the Hon. Mr Gilfillan to rethink his position, and not to look at this as opposition to a clean air Bill but as a Parliament; if we are going to pass legislation, let us ensure that it is good and can serve the community, and not derived from a Bill dealing mainly with regulations that we know nothing about: no-one can say what this Bill is about because the whole thing relies on regulations.

The Hon. Diana Laidlaw: And noses.

The Hon. R.C. DeGARIS: Yes. I would like the Hon. Mr Gilfillan to reconsider his position on this Bill. If the honourable member checks with those people directly involved with this type of legislation, he will find out that it is in the interests of the legislative process that the Bill be deferred and redrafted.

The Committee divided on the amendment.

Ayes (8)—The Hons J.C. Burdett (teller), R.C. DeGaris, Peter Dunn, K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (9)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall (teller), C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, and Barbara Wiese.

Pairs—Ayes—The Hons M.B. Cameron and L.H. Davis.

Noes—The Hons Frank Blevins and C.J. Sumner.
Majority of 1 for the Noes.
Amendment thus negatived.
Progress reported; Committee to sit again.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

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

SMALL BUSINESS CORPORATION OF SOUTH AUSTRALIA BILL.

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

ADJOURNMENT

At 12.40 a.m. the Council adjourned until Wednesday 11 April at 2.15 p.m.