## LEGISLATIVE COUNCIL

Wednesday 20 March 1985

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

## QUESTIONS

### LABOR PARTY INVESTMENTS

**The Hon. M.B. CAMERON:** I seek leave to make an explanation before asking the Attorney-General a question about investing in South Australia.

Leave granted.

**The Hon. M.B. CAMERON:** Honourable members, I am sure, would have been as staggered as I was to learn via today's media reports of the intention of the South Australian branch of the Australian Labor Party to invest $1 million raised from the sale of a South Australian asset (5KA) in part of a Canberra Hotel. In fact, I think it is thinking of buying the second floor of the Canberra Rex.

**The Hon. J.C. Burdett:** Out of South Australia?

**The Hon. M.B CAMERON:** Yes, out of South Australia. It is an extraordinary act given the great play which has been made by the Labor Party about the need to invest in South Australia. In its election document 'South Australia's Economic Future—Stage I', the Government consistently advocated the need for South Australians to invest more in South Australian enterprises. A quote such as this was typical:

> Labor will . . . marshall capital resources to facilitate the development of industry within South Australia and in particular to assist the growth of those industries which will strengthen and provide balance for the State's economic base.

Other quotes include:

> South Australia can grow if more funds are available for investment in our export base industries . . . A major obstacle to the expansion of South Australian businesses is access to adequate capital.

These are all quotes attributable to the ALP before the last election. The $1 million available to the ALP would surely be better employed for our State.

Indeed, at the present time, we are witnessing the very expensive advertising programme of the South Australian Government Financing Authority which features the Premier advocating, with a magpie sitting on his shoulder, investment in SAFA bonds. The advertising, which has cost literally tens of thousands of dollars, or, if I ever receive a response to my question, we may find that it is hundreds of thousands of dollars, states:

> The proceeds of this SAFA bond issue will assist in financing public works in South Australia. Areas which will benefit from SAFA's operations include housing, transport, education, health, primary production, fire protection, arts and recreation. Your investment will be helping to build a better South Australia . . .

South Australians judge people by their deeds not words, and the ALP's actions suggest a lack of confidence in South Australia to invest, when in fact they take their funds and head off to a hotel in Canberra for investment.

*The Hon. B.A. Chatterton interjecting:*

**The Hon. M.B. CAMERON:** I knew honourable members opposite were embarrassed. I will now get around to asking my question, because I can feel the embarrassment emanating from members opposite. Will the Attorney-General as Leader of the Government and the Labor Party in this place use his position to encourage the ALP to reverse its decision, which suggests a lack of confidence in South Australia?

**The Hon. C.J. SUMNER:** It seems as though the honourable member once again has done his best to make the best out of nothing. The investment—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. C.J. SUMNER:** Any decision as to investments is for the trustees of the company responsible for investing ALP funds. As I understand it, there is no intention to invest in the manner that the honourable member has outlined.

### MINISTERIAL STATEMENTS

**The Hon. J.C. BURDETT:** I seek leave to make a brief explanation before asking the Minister of Health a question about responsibility for Ministerial statements.

Leave granted.

**The Hon. J.C. BURDETT:** Yesterday in the Council I asked a question of the Minister of Health about a medical case raised by the Minister in a Ministerial statement on 27 February. The Minister made his statement of his own initiative. It was he who decided to make it, yet he has attempted to back away from responsibility for it. The Minister raised the situation of an 18 year old pregnant woman who was transferred from Port Augusta to Adelaide, and the Minister alleged that it was as a result of industrial action by doctors. In a press statement relating to this matter, the Minister sought credit for acting on this issue. His action was reported in the *Advertiser* in the following terms:

> Dr Cornwall said the South Australian dispute was brought to a head yesterday morning when he learnt that 16 patients had been transferred to Adelaide in situations which variously posed a threat to their well-being and, in a few cases, their lives.

Clearly, the Minister wishes to create the impression that he was the white knight of good health fighting for the sick and ill. The article goes on and, to quote the Minister directly:

> It was a situation which I couldn't tolerate as Minister of Health. . . .

The Minister yesterday sought to change his position. Although the Ministerial statement was freely made by him, and distributed by his soon to depart Press Secretary, the Minister chose on six occasions yesterday to attempt to sheet home to others the blame for inaccuracies in his statement.

Any member, on the spur of the moment when having to rely on memory, can make a mistake when answering a question. Such an occurrence is understandable and one for which an apology would often be acceptable. But the Minister of Health made a calculated and deliberate statement. It was initiated by him and responsibility for its content is his and his alone. He refuses to acknowledge that the statement was misleading and refuses to apologise. He chooses instead to blame his subordinates. My questions are:

1. Does the Minister acknowledge that he and he alone must accept responsibility for Ministerial statements?

2. Does he stand by his Ministerial statement of 27 February and, in particular, the accuracy of his reference to the case of an 18 year old pregnant woman transferred from Port Augusta to Queen Victoria Hospital?

**The Hon. J.R. CORNWALL:** As I said yesterday, but I will repeat it for the benefit of the Hon. Mr Burdett and the Opposition, the matters which occurred as a result of industrial action at Port Augusta Hospital and which involved 16 patients have been referred to the South Australian Medical Board for investigation. For me to comment specifically at this stage on any further matters would be quite inappropriate. However, there are a number of things that I can tell the honourable member for his edification. First, the suggestion that in my statement I tried to sheet

home inaccuracies to others is clearly absurd. As Minister of Health I certainly do not make clinical decisions.

It would be not only absurd but grossly stupid for me or the Hon. Mr Burdett to make clinical decisions or to express personal views on matters that involve the expertise of a medical practitioner.

**The Hon. J.C. Burdett:** You yourself did: you made the statement.

**The PRESIDENT:** Order!

**The Hon. L.H. Davis:** It is doing what you said you should not do.

**The PRESIDENT:** Order! We started yesterday on a very poor note. I threatened at that time that I would take action against the Hon. Mr Hill for interjections. If necessary, I intend to take action today because it gets to such a stupid stage that questions cannot be asked or answered. I appeal to members not to get themselves into that childish situation of being stood in the corner.

**The Hon. J.R. CORNWALL:** A series of matters were drawn to my attention by senior, competent specialist physicians within the Health Commission. I said that yesterday and I repeat it today. In a written response, dated 15 February 1985, the Medical Superintendent of the Port Augusta Hospital enclosed for the information of the Director of Treatment Programmes, Western Sector, a summary of patient transfers to Adelaide from the onset of the industrial dispute up to 15 February. There were in that time 31 patient transfers, and it was the opinion of the Medical Superintendent of the Port Augusta Hospital—a person on the spot, a specialist medical practitioner—that 16 of them had been for industrial reasons and not for valid clinical reasons. The remaining 15 patients were transferred, in the opinion of the Medical Superintendent, for reasons that were valid clinically. It is not unusual for patient transfers to occur from country hospitals, whether they be in our provincial cities or in our small country towns, to teaching hospitals in Adelaide for specialist treatment. Of those 15, there was nothing exceptional: there was no suggestion that there were industrial reasons for the transfers. However, it was the opinion of the Medical Superintendent at the Port Augusta Hospital that the remaining 16 were for industrial reasons.

A number of cases, which were quite serious and which would have involved patient distress—in some cases, extreme patient distress—were transferred. I do not want to go into the details of all 16 cases. All of these 16 matters, as I said, involving six medical practitioners, have been referred to the Medical Board of South Australia. That is the appropriate place for them to be. I do not believe that there ought to be trial by Parliament. Specifically—

**The Hon. J.C. Burdett:** You did that.

**The Hon. L.H. Davis:** From the hanging Minister himself.

**The PRESIDENT:** Order!

**The Hon. J.R. CORNWALL:** —and deliberately, I have refrained from naming any one of those medical practitioners in this place, and it is certainly not my intention to do so. If any of those people feel so strongly about these matters that they wish to identify themselves, that is a matter for their discretion, but that was the information that was given to me. I will give one or two further examples, however, which will enable members of this Parliament and of the South Australian public, perhaps, to form their own opinions in some of these matters.

One must remember that these are notes provided by the Medical Superintendent of the Port Augusta Hospital. On 7 February 1985 a male patient who was a hospital service patient (in other words, a public patient), unemployed (therefore, of course, eligible to be a cardholder, one would have thought), race Caucasian, aged 24 years, was transferred to Adelaide with a diagnosis of anterior myocardial infarction. The patient was transferred by air three days after admission and stabilisation. The reason given for transfer was further treatment and investigation. 'However (and these are the words of the Medical Superintendent), normal practice is to continue treatment of the infarct in Port Augusta and to arrange for investigation at a later date. I believe that this transfer was for industrial reasons.'

On 7 February 1985 a two-year-old female child (a hospital service patient (again, a public patient), race Caucasian, was transferred to the Adelaide Children's Hospital with a diagnosis of mouth ulcers. The child was transferred by air and the transfer was clearly the result of industrial action. Mouth ulcers! In total there were 16 patients out of 31 who the Medical Superintendent, a specialist (a person with postgraduate training and qualifications), believed had been transferred—the expression was, 'I believe was transferred as a result of industrial action', or 'clearly as a result of industrial action'. That was quite obviously an untenable situation.

The President of the South Australian Branch of the AMA agreed with me, when he came to my office on invitation, that that was an untenable situation. It certainly brought matters in Port Augusta and the Mid North to a head. As a result of that, and as a result of discussions with the President, it was agreed that there ought to be a moratorium until the end of April. We are probably better placed in South Australia to resolve the so-called country doctors dispute than anywhere else in the country. There will be informal meetings ongoing between representatives of the country practitioners and the Health Commission in the near future.

Following those meetings it is my intention to meet with the country practitioners. It is also a fact that on Thursday evening last and Friday in Brisbane, and again on Sunday, I held informal discussions with my friend and colleague the Federal Minister of Health. There is quite a clear picture emerging and there will be a series of formal offers put to the country practitioners as a basis for settlement of the dispute. They will be generous offers. They will certainly not meet the ambit claim lodged by the country doctors almost 12 months ago, but they will be quite generous offers, easily the most generous in the country. I firmly hope that they will be the basis for settlement. Certainly, on my part, I have continually bent over backwards to try to negotiate a settlement, because nothing is achieved by confrontation.

*Members interjecting:*

**The Hon. J.R. CORNWALL:** If Opposition members decry my being angry and deeply—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. J.R. CORNWALL:** —concerned when I heard that six frail aged patients had been transferred from Riverton and put at risk, gravely disturbed and inconvenienced, I point out that I had a public duty to speak out, and I am not about to apologise for that.

When I am informed by senior officers in the Commission on the advice of the Medical Superintendent, a specialist medical practitioner, at the Port Augusta Hospital that 16 patients have been transferred in what in his opinion was for other than medical reasons, when one looks at the report of the Medical Superintendent of the Port Augusta Hospital and sees that in his opinion, in the opinion of a medical specialist, that in a number of cases they were clearly—

*The Hon. J.C. Burdett interjecting:*

**The Hon. J.R. CORNWALL:** He is a specialist anaesthetist, actually—a Fellow of the Royal Australian College of Surgeons in that discipline. When one sees that in his opinion, regarding those 31 cases reviewed, 16 were transferred for what he thought were industrial reasons (and he gives his opinion) ranging from clearly industrial action to a belief that it was probably industrial action, they are matters that

are appropriately referred to an independent body of those doctors' peers, that is, the South Australian Medical Board. It seems to me that in all those circumstances I had a duty to act, and I did so. I also had a duty to try to resolve the long running country doctors dispute, and I have done so. As I said, I am optimistic—

**The Hon. J.C. Burdett:** You have resolved it?

**The Hon. J.R. CORNWALL:** I am sure that the Hon. Mr Burdett would be terribly disappointed if it was resolved. He does not mind playing with patients' well-being or patients being used as pawns in this matter. The Hon. Mr Burdett has not always behaved in an honourable way more particularly in relation to using patients as pawns. I am not about to apologise for being angry and upset when I as Minister of Health see patients used as pawns in a medico-political dispute. I am trying to settle this matter amicably, because Medicare in South Australia, I am happy to say, is operating better than in any other State in the country.

In the meantime, I would like to put on record yet again (as I have done on so many occasions in the past, but unfortunately it was rarely, if ever, published) that I believe that the level of clinical services delivered overall in the country areas of South Australia is outstanding by any standards. I take this opportunity to pay tribute to the level of clinical skills of South Australian country doctors: I also take this opportunity to pay tribute to the many ethical country doctors in South Australia who have continued to make the welfare, well-being and comfort of their patients their first consideration over the past 12 months. I do not believe that any good purpose is gained by the Hon. Mr Burdett or any other members opposite trying to use the present dispute for political purposes, and may I conclude by saying—

**The Hon. J.C. Burdett:** You are the one doing that.

**The Hon. J.R. CORNWALL:** That is quite untrue. There is no virtue or value in this. If the Hon. Mr Burdett had any political nous at all (and it is quite obvious to anyone who has observed his two years and five months as shadow Minister of Health that he has none) he would know that there is certainly no virtue, value or kudos for me in being involved in disputes with medical practitioners.

The simple fact of life—and I must say this for the edification of the Hon. Mr Burdett—is that it is not possible to run hospital services without doctors. It is very much in my interests, and it is very much in the interests of both the State and the Federal Governments, to settle this dispute as soon as possible. It is my intention that that will be done. Nothing can be gained by trying to prolong the dispute—quite to the contrary. On the other hand, I conclude as I began by saying that I will never tolerate actions by any person in the health professions which place the well-being or even the life of patients in jeopardy. For that I will never apologise.

**The Hon. J.C. BURDETT:** I desire to ask a supplementary question. Will the Minister answer the question that I asked him initially? In case he has forgotten it, I will repeat it: does the Minister acknowledge that he, and he alone, must accept responsibility for Ministerial statements, and does he stand by his Ministerial statement of 27 February and, in particular, the accuracy of his reference to the case of an 18-year-old pregnant woman who was transferred from Port Augusta to the Queen Victoria Hospital?

**The Hon. J.R. CORNWALL:** Yes, and yes.

## COMMONWEALTH INSURANCE CONTRACTS ACT

**The Hon. K.T. GRIFFIN:** I seek leave to make a brief explanation before asking the Attorney-General a question about the Commonwealth Insurance Contracts Act, 1984.

Leave granted.

**The Hon. K.T. GRIFFIN:** The Commonwealth has enacted the Commonwealth Insurance Contracts Act, 1984, which came into effect, as I understand it, on 1 January 1985. It requires those agents, brokers, and insurance companies writing insurance contracts to conform to certain minimum standards. It also regulates agents and brokers. The Commonwealth legislation does not bind the States, particularly the State Government Insurance Commission, and concern has been expressed to me that this puts SGIC in a potentially preferred position, *vis-a-vis* the private insurance sector.

If there is preference to SGIC, the Liberal Party does not support it. My questions to the Attorney-General are as follows:

1. Does the Government propose to introduce legislation to bind SGIC to the Commonwealth Act and, if so, when will that legislation be introduced?

2. If legislation is not proposed, how can SGIC be bound by the Commonwealth legislation equally with its private sector competitors so that it does not receive an unfair advantage?

**The Hon. C.J. SUMNER:** My recollection is that SGIC will abide by the principles of the Commonwealth Insurance Contracts Act. I do not believe that there is any need for legislation, SGIC being a Government instrumentality. I will obtain further information on the topic for the honourable member and bring down a reply; suffice it to say that my recollection is that SGIC will abide by the provisions of the Act.

## NATURAL GAS

**The Hon. K.L. MILNE:** I seek leave to make a brief statement before asking the Attorney-General, representing the Minister of Mines and Energy, a question about natural gas.

Leave granted.

**The Hon. K.L. MILNE:** South Australia must rely on natural gas from the Cooper Basin as its main energy source, and 80 per cent of the State's electricity is generated from this fuel. The price of gas has increased dramatically in the past few years. From September 1982 to 1 January 1985, for example—a period of little more than two years—the ex-field price of Cooper Basin gas has increased by a factor of more than 2.5, from 61.34 cents a gigajoule to $1.62 a gigajoule. That is a remarkable increase well in excess of the rise in the CPI.

These large increases have contributed to electricity tariffs that have become an enormous burden not only on the community but also on many industries that rely on stability in gas and electricity prices. It has reached very serious proportions and anyone in industry and manufacturing and the Chamber of Commerce and Industry would know that. The current price of gas bears no relation to the cost of producing it, and there is no doubt that the current price of $1.62 a gigajoule is far too high. This is clearly demonstrated by the fact that for the same gas going to Sydney the ex-field price is $1.1 a gigajoule. Therefore, South Australians are paying over 60 per cent more for gas than is paid in Sydney.

**The PRESIDENT:** Order! Is the honourable member explaining the question?

**The Hon. K.L. MILNE:** I am explaining the seriousness of the question, because I am sure that people do not realise that the price of gas from the Cooper Basin is causing enormous difficulty in the industrial sector; it is also causing unemployment, and some industries will not survive. I think you might have the courtesy to listen to what I have to say.

**The PRESIDENT:** Order! It is not a matter of courtesy—

*Members interjecting:*

**The PRESIDENT:** Order! It is very difficult to gauge whether or not it is part of the honourable member's explanation. I have merely asked the honourable member, in quite courteous fashion, whether what he was saying was part of his explanation, and I point out that the honourable member sought leave to explain the question.

**The Hon. K.L. MILNE:** I will ask my question shortly, and I hope that the Government will take it to the Cooper Basin producers because, as honourable members well know, negotiations are proceeding at the moment.

**The PRESIDENT:** I fully agree with what the honourable member is saying, but I wonder whether it is part of the explanation of the question. That is what I am asking.

**The Hon. K.L. MILNE:** When we find that the price is so high in South Australia and that generous arrangements were made—I make this point, because generous arrangements were made by the South Australian Government in 1975 to rescue the Cooper Basin producers, particularly Santos, which was then a South Australian company, from serious financial difficulties. At that time it was considered to be in the interests of the State to give this support. Then ETSA and the South Australian Gas Company and Adelaide Brighton Cement were asked to tear up their contracts with the producers because the terms no longer suited the producers, and they were asked to accept new arrangements much more favourable to the producers.

Since then the producers have set out to exploit these arrangements which, as we have seen, have been a considerable success. It is clear that these special arrangements put in place then are no longer appropriate in the present circumstances and there are now hundreds of millions of dollars being earned by the producers and from prices that were set as a rescue operation. In order not to be discourteous to the Council, my questions are:

1. What action is the Government taking to achieve a substantial reduction in the price that South Australia is paying for Cooper Basin gas?

2. Will the Government review present arrangements for the pricing and supply of natural gas from the Cooper Basin to ensure that they are operating in the best interests of South Australian users?

3. Will the Government demand that Santos and other producers tear up their agreements now that the position has been reversed in the same way that ETSA, South Australian Gas Company and Adelaide Brighton Cement were asked to do in 1975?

4. As Cooper Basin producers have now had 10 years of rescue operation prices and are now showing good and probably excess profits, will the Government ensure that those profits are shared by the people of South Australia to whom the Cooper Basin really belongs?

5. If the producers refuse, will the Government take the necessary steps to acquire the Cooper Basin project for the people of South Australia?

**The Hon. C.J. SUMNER:** I am flabbergasted.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. C.J. SUMNER:** I will refer the honourable member's question to my colleague and bring back a reply.

## TERRORIST EXERCISE

**The Hon. B.A. CHATTERTON:** I seek leave to make a brief explanation before asking the Attorney-General a question about the recent terrorist exercise.

Leave granted.

**The Hon. B.A. CHATTERTON:** Today's *Advertiser* reports that an exercise was conducted yesterday to train people in the Police Force, security organisations and so forth for a mock terrorist attack, and the report states:

> Realism for the operation, involving about 200 police, Army and Commonwealth and State officials, included the Commissioner of Police, Mr D.A. Hunt, having the Premier, Mr Bannon, and the Attorney-General, Mr Sumner, called out of Parliament to be advised of the situation. Indeed, the only hint of artificiality was a telex to the media yesterday inviting journalists to take part the following day to test media liaison arrangements.

The other hint of unreality not mentioned in the report was the fact that there are no passenger trains from the Barossa Valley and the industrialists who were to be kidnapped from the passenger train could not possibly have been on one because there have not been any passenger trains to the Barossa Valley since about 1967. Will the Minister inform the police and Commonwealth and State officials involved that the exercise was rather unreal as the likelihood of industrialists being on a train was nil?

**The Hon. C.J. SUMNER:** The exercise is proceeding and I am involved in it at present. I was involved last night, this morning, at lunch time and I will be involved again this evening and tomorrow morning at the unusual hour (for me) of 4 a.m.

*Members interjecting:*

**The Hon. C.J. SUMNER:** The exercise is continuing. It is meant to be as realistic as it possibly can be in the circumstances, knowing of course that it is an exercise, but police are on the job in the area where the hostages are being held and are provided with different situations to which they must react, just as the State Crisis Centre is provided with this information. That is where I am positioned, along with other aspects of the exercise. The Commonwealth Government is involved and there is also the question of calling out the defence forces and the like, all of whom are involved in the procedures, discussions and so on in accordance with the exercise, which started yesterday. As the honourable member says, there are no passenger trains to or from the Barossa Valley, although I suppose it might have been possible to charter a train. I am not sure whether that was in the exercise brief, but passenger trains could go to the Barossa Valley. That is not what happened in this case. Obviously, that aspect was simulated. I do not believe the train actually went to the Barossa Valley but the notification was received indicating the factual situation at the site where the exercise is taking place, and it is proceeding. It is probably a valuable exercise from the State's point of view and the Commonwealth's point of view. Such exercises occur in South Australia once every six years, as each State does a similar exercise every 12 months.

## DENTAL PHOTOGRAPHY

**The Hon. R.J. RITSON:** Has the Minister of Health a reply to my question of 19 February about dentifraud?

**The Hon. J.R. CORNWALL:** In response to the question asked by the honourable member regarding the role of extra oral photography, the Dental Board has provided me with the following statement on the use of photography:

Photographs of patients—

1. Status:

   These photographs can, and commonly do, form part of the medico-legal record of care for a patient together with written records, radiographs and pathology reports.

2. Types of photographs:

   *(a)* these may be of individual teeth or groups of teeth or for appliances such as dentures or of specific pathological lesions in or adjacent to the mouth;

*(b)* the second group is of the whole mouth with lips closed or parted and either a frontal view or in profile;

*(c)* the third group is that of the whole face (or head—which might be called by some a head and shoulders view); this again might be with the lips closed or parted and either a frontal view or in profile.

Some photographs (particularly those in *(b)* and *(c)*) might be used for measurement of facial or oral changes with treatment or post-treatment.

3. Purpose of photographs:

*(a)* to record before, during and after treatment stages (specific photographs might be selected for lectures and publication of treatment methods);

*(b)* to record trauma cases for medico-legal purposes.

4. Dental users of photographs:

*(a)* institutions such as the Adelaide Dental Hospital, School Dental Service and School of Para-Dental Studies;

*(b)* specialists, particularly those in Facio-Maxillary and Oral Surgery, Orthodontists, Prosthodontists and Periodontia;

*(c)* by many (but not all) general dental practitioners for the reasons cited in 1, 2 and 3 above.

5. Cost and charges:

This is usually included as part of the examination and treatment, but as part of the medico-legal record of care of a patient it could be costed like a radiography or pathology service.

6. Rebates for a photographic charge:

The rebate insurance scheme is a contract between the insurer and the patient and to which the dental practitioner is not a party. The practitioner charges this patient his fee. The rebate to the patient is determined by the insurer only. To assist patients to receive rebates, practitioners usually record their fee in a manner coded for processing by insurers. Items for which there is no specific code are detailed in writing. There is a continuing communication between a liaison person from the Australian Dental Association (S.A. Branch) Inc. and the insurers representative. There is also a national yearly conference between the insurers group and the Australian Dental Association in Sydney.

7. If a charge is to be made by the dental practitioner, there should be a degree of relevance associated with the treatment being provided to the patient.

Shortly after the honourable member raised the matter I received a letter from Dr J. Verco, President of the Australian Dental Association, S.A. Branch, Incorporated. In his letter Dr Verco states:

I refer to the question on 'Dentifraud' raised by Dr Robert Ritson in the Legislative Council on 19 February 1985. The Australian Dental Association (S.A. Inc.) has not at this stage received any complaints, neither has the Voluntary Health Benefits Organisations or the Dental Board of South Australia, over photography of dental patients.

As you will be aware, this Association has a Conduct Committee which investigates and acts about complaints about dentists. We believe Dr Ritson would have been better advised to contact the Association to obtain information, rather than taking the course he did, which has caused unnecessary damage to the profession as a group.

Without commenting on the particular case which Dr Ritson has raised, and on which we have no information, I should point out that photography of patients is an accepted method of practice by many dentists and orthodontists in South Australia, particularly for 'before and after' case studies, and in complex restorative care. Photographs are taken full face and profile for orthodontic and oral surgical needs. Photographs are also necessary in prosthetics and reconstructive dentistry.

Dental practitioners also have a duty to keep dental records of patients and these include dental charts, X-rays, photographs, dental casts and 'bite' records from dentures. The Association would like to assure you that if and when complaints are received from patients our Conduct Committee will seriously investigate all such allegations, and where necessary request the Dental Board of South Australia to take appropriate action.

If the honourable member wishes to provide me with the name of the dentist involved I will ask the Dental Board to investigate the specific circumstances of the case.

## PECUNIARY INTERESTS

**The Hon. DIANA LAIDLAW:** I seek leave to make a brief explanation before asking the Leader of the Government in the Council a question about pecuniary interests.

Leave granted.

**The Hon. DIANA LAIDLAW:** The Government and the ALP appear to be obsessed with the subject of pecuniary interests, in fact, to a degree that suggests it has some hang-up about people who have business and property interests. As the Council will recall, in 1983 a Bill was passed requiring members of Parliament and their families to disclose their interests. Last year a further Bill extended this requirement to members of councils, with their families. The latter Bill generated so much anger and bitterness in local government circles that the Government was forced to introduce a further amending Bill last month.

Now we see that the ALP does not seem to be satisfied even yet. At the convention last weekend it was reported that delegates pressed for tough new provisions for the declaration of pecuniary interests in local government. The *Advertiser* on Monday 18 March noted that a new local government platform item reads as follows:

All candidates for elected positions in local government plus senior council officers must declare in the public register details of all business and property interests on behalf of themselves and their immediate families.

My questions to the Attorney-General are as follows:

1. Does the Government propose to implement these new pecuniary interest provisions for local government? If so, when and, if not, why not?

2. To be consistent with the terms of this new platform item, does the Government have plans to require all candidates for Parliament and their families and all senior public servants and their families to declare their interests in a public register?

**The Hon. C.J. SUMNER:** The question of the disclosure of pecuniary interests is very important as far as people who hold public office are concerned. I would have thought that the honourable member would realise that, although it seems from the implied criticism that she has raised about it that she does not seem to think that it is a principle that has any validity. The trend in all democracies over recent times has been for greater disclosure by people in public office of their interests, in particular, the interests that may cause conflict between their public duty as public servants, legislators or whatever and their private interests.

In general, the disclosure of pecuniary interests is a desirable principle, and it is also desirable as far as local government is concerned. There are too many rumours and criticisms in the local government area of people acting in their own interests. If disclosure can overcome that sort of problem and ensure that people in local government, as well as in Parliament, are beyond reproach, it is desirable in our democratic system.

As to the local government policy that was referred to by the honourable member: as she knows, the policies of the Labor Party are considered by the Government, and the Government decides the time table for the introduction of

any of those programmes. All that I can say at this stage is that obviously the Government has not yet considered that proposal.

The question of candidates has some difficulties. For that reason, candidates were not included in the Bill dealing with the disclosure of the pecuniary interests of members of Parliament. There is a reasonable argument to say that public servants should also be covered by some kind of pecuniary interests declaration. That question is currently being examined in the context of the Guerin review of the Public Service and the Public Service Act, and some final decision will be made about that at a later date.

## ADELAIDE TAFE COLLEGE

**The Hon. ANNE LEVY:** I seek leave to make a brief explanation before asking the Minister deputising for the Minister of Agriculture, representing the Minister of Education, a question about the new Adelaide TAFE College.

Leave granted.

**The Hon. ANNE LEVY:** I am sure that most members are aware of the building that has slowly been going up on the corner of Currie Street and Light Square.

**The Hon. C.M. Hill:** Very slowly.

**The Hon. ANNE LEVY:** I agree. It is to be the new premises for the Adelaide College of TAFE. The Hon. Mr Hill interjects that the building has been progressing very slowly: so slowly that I remind people that plans for the building were drawn up under the Liberal Government and construction started under the Tonkin Government. So, the design and contents are no responsibility of this Government.

In the original design of the building no provision at all was made for child care facilities, and that very accurately reflects the low priority given to child care by the previous Liberal Government, despite the affirmations by the Commonwealth educational councils that child care is an education issue if one is considering access to education at a tertiary level. However, one of the sections that was planned to occupy the new building of the Adelaide TAFE College was the Aboriginal Education Unit, which is currently housed at the Wakefield Street campus of the Adelaide TAFE College.

I understand that suggestions have been made that the Aboriginal Education Unit should not transfer to the Light Square premises but remain at Wakefield Street. This is at the Unit's suggestion, as I understand it, and is not imposed on it unwillingly. My question concerns the use of the space that had been allocated to it at Light Square in the design and construction of the building. If the Aboriginal Education Unit is not moving to Light Square, what is happening to the space that was allocated to it? Has consideration been given to using this space for a child care centre for the Adelaide College of TAFE? I am sure that all the other departments at the College could readily expand to fill that space unless it is quickly earmarked for some other activity such as child care. Has consideration been given to using this space for child care and, if not, could such consideration be given as a matter of urgency?

**The Hon. J.R. CORNWALL:** On behalf of the Minister of Agriculture, I shall be pleased to refer that question to the Minister of Education in another place and bring back a reply.

## RACE BROADCASTING

**The Hon. C.M. HILL:** Recently, a very prominent citizen asked me to ask a question in this place concerning problems of broadcasting races between station 5AA and station 5DN. Has the Minister of Health a reply to the question that I asked on 20 February?

**The Hon. J.R. CORNWALL:** This is a matter in which several of the members of this Council have a keen interest. The Minister of Recreation and Sport informs me that a survey has been conducted to ascertain the areas that 5AA will penetrate throughout the State. It has been difficult to arrive at a positive conclusion because of the various qualities of radios that are used. It has also been discovered that, where reception may not be received on a reasonably good quality radio in a house, it can be received in the same town on a car radio.

The above points have been considered and it has been ascertained that it is difficult to obtain 5AA in the following areas:

1. Port Augusta/Whyalla and all points north and directly west of these towns. The survey revealed that a small percentage of the population can receive 5AA on their radio receivers.
2. Riverland: all points north-east of Blanchetown.
3. The South-East: similar to 5DN coverage. The survey revealed that there are a number of 'pockets' where 5AA can be received clearly. Wednesday events are covered by 5GTR-FM.
4. West Coast: the 5AA broadcasting zone extends to Port Lincoln and the immediate surrounding areas; therefore 5AA should be received on a reasonably good quality radio.

The TAB's answering service (1185) is available at the cost of a local telephone call in the South-East and Riverland areas.

The ABC racing coverage will be available in all areas of South Australia on Saturdays and public holidays for major local and interstate galloping meetings. It has been ascertained that approximately 95 per cent of TAB clients will receive a radio coverage of meetings. The 95 per cent is a better coverage than is achieved by interstate TABs.

## LABOR PARTY INVESTMENTS

**The Hon. R.I. LUCAS:** I seek leave to make a brief explanation before asking the Attorney-General a question about Labor Party investments.

Leave granted.

**The Hon. R.I. LUCAS:** It appears from the Attorney's response to the unfavourable publicity of last night and possibly the poll in today's *News* that there has been a change of mind in relation to ALP Holdings in respect of the investment in the Canberra Rex. We can understand from what the Attorney has said that that proposal is not going ahead. It appears from today's *News*, if it is correct, that there are certainly still some members of the Labor Party supporting investing this large sum of money that the Labor Party has ($1 million) outside South Australia.

**The Hon. R.C. DeGaris:** Do you think they have found a second floor?

**The Hon. R.I. LUCAS:** They might have. Equally, others are equivocal about where the money should be invested: that is, they are not really strongly supporting investment in South Australia. Page 2 of today's *News* contains a comment by Mr Don Ferguson, a former President of the State Labor Party and member for Henley Beach, as follows:

> It was a matter that should be discussed within the forum of the ALP
>
> 'All I can say is that there have been different ideas about the investment,' he said.

Then there is a quote from a member of the State Labor Party Executive, the Hon. Anne Levy, as follows:

> MLC Ms A. Levy, a member of the State Executive, said she believed there were arguments for and against making the investment in South Australia.

'I certainly support South Australia in every possible way and I can understand the disappointment that the money may not be invested in South Australia,' she said.

*The Hon. C.M. Hill interjecting:*

**The Hon. R.I. LUCAS:** That is what I want to know. It appears that, irrespective of what the Attorney has said, there are still some members of the Labor Party supporting investment outside South Australia and others who are equivocal about whether or not it should be invested in South Australia. As a result of these views, does the Attorney-General believe that the eventual investment of this money should be in South Australia and, given that he has stated that the Canberra Rex proposition will not be going ahead, is he in a position to advise the Council and guarantee that this money will be invested in South Australia?

**The Hon. C.J. SUMNER:** I confess to being bemused by all of this. While I have been doing my bit for the defence of the nation, apparently a lot of things have been happening without my knowledge. I had to get up so early this morning, and was in such a hurry to have my breakfast and get in my car to get to my command post, that I obviously missed this important bit of news that is so agitating and exciting Opposition members this afternoon. I will obviously have to pay more attention to these matters in the future and not abdicate in favour of matters of greater national import. I would have thought that the matter had been resolved in so far as it is a matter of concern to honourable members opposite.

*Members interjecting:*

**The Hon. C.J. SUMNER:** I do not know, I was defending the nation. I understand that there is still a crisis and I have to return shortly. I understand that there is no intention to proceed with the proposition that the Hon. Mr Cameron mentioned earlier. I anticipate that the money will be invested in some appropriate South Australian investment.

## PLANNING REGULATIONS

**The Hon. I. GILFILLAN:** I move:

That regulations under the Planning Act, 1982, concerning development control, made on 15 November 1984, and laid on the table of this Council on 4 December 1984, be disallowed.

It is rather timely that this morning's *Advertiser* carried an extremely valuable and informative article by Chris Milne under the heading 'Dream Planning Act now a "nightmare".' There are parts of this article that I will quote as an introduction to the comments I will make in relation to the specific regulations. The first is one made by Dr John Coulter, President of the Conservation Council of South Australia, who is quoted in the article as follows:

It is making matters worse in the planning field—

he is referring there to the Act—

undermining the provisions of the original development plan and seriously depleting third party rights of appeal against developments. Under the old Act, the rules and regulations were much clearer cut. Now they appear to be more complex.

It has become more and more plain that the whole area of planning legislation and its implementation is in a shocking mess. It is far from clear in what way the Government, in particular, is going. Nobody seems to have any clear indication of what the legislation and the regulations mean. A further quote from that article relating specifically to appeals states:

One area of special concern involves the right of appeal against planning decisions. Here, there appears to be a glaring loophole. Although the new Act extended the right of objection to people not directly involved, to third parties, in several new areas, those rights have not proved inalienable. In the case of an appeal, people who object to a development need to establish the merits of their case and show that it involves a matter of general or public importance.

Mr Hayes [to whom reference is made in the article] says the requirements make it 'extremely difficult' for the majority of third party appeals to proceed beyond the stage of a conference between all parties. Because of the way the system now operates, people may not hear about a development in time to lodge objections. A council can decide against advertising a development proposal, and recommend it to the SA Planning Commission before residents hear about it.

Objections are tied to the publication of proposals, says Dr John Coulter at the Conservation Council. 'In many cases, there is no publication of the intentions of councils or the State Planning Commission so, effectively, there is no right of appeal.'

The situation had been worsened by the Liberal Government which, at a special Cabinet meeting in the closing days of its period of office, had put through an amendment which no longer required developments of more than five allotments to be advertised, if they conformed to zoning requirements. This had been done to overcome problems with the Grange vineyards subdivision, and automatically took away the right of appeal for all developments which conformed to zoning regulations. Once the Commission has agreed to a development, there is no avenue for appeal or objection to the development.

That involves a situation that is bad enough in regard to third party appeals, but the regulations that I believe should be disallowed go considerably further. Evidence given to the Subordinate Legislation Committee from several sources makes very substantial and severe criticisms of the regulations and their effect. In particular, there has been substantial criticism from the Law Society, not a body that one would normally regard as being a radical, greenish organisation. In support of disallowance of the regulations, it is stated:

The regulations unduly trespass on rights which are perilously established by law. It unduly makes rights dependent upon administrative and not judicial decisions. It deals with arguments that development should be permitted if an area is zoned for that sort of development, that is, once it is zoned then there is no further question about its adaptability or the opportunity for third parties to appeal. Some of these zones were laid down 15 years ago and unlikely to still be relevant.

It was further stated:

The Planning Act Review Committee did not recommend any changes along the lines of these new regulations.

It was also stated:

There has in fact been very little abuse of the system by third party objections.

One of the major reasons put forward for these regulations is that we should avoid unfortunate delays in so-called development due to the time taken to deal with objections. Some of these objections are considered to be from a frivolous and not particularly substantial source, probably from people living adjacent to these developments. The second category, which is more substantial and more portentous in regard to the impact on development, quite often involves competitors who may be using the appeal situation to obstruct the development. I believe that there is, therefore, very good reason to take notice of the facts stated—that at this stage there is very little abuse of the third party objections and that it seems, as they say, to be taking a sledge hammer to crack a nut if we wipe out virtually all opportunity for third party appeal.

Third party appeal is a very important part of the planning system and it has been recognised by most people who have argued for comprehensive planning legislation. Therefore, we would expect that both major Parties would at least give lip service to supporting and encouraging the opportunity for third party appeals to be received and dealt with thoroughly and expeditiously.

One of the criticisms of these regulations, in effect supporting the retention of third party appeals, is that third party appeals take the emotive pressure out of planning issues, and I believe that that is a very substantial reason for allowing what may at times be bothersome third party appeals to proceed. We would far rather see positive sug-

gestions for streamlining the appeals procedure so that it does not necessarily clog up the works, and I will suggest effective action in that respect later.

Regulation 223 of 1984 replaces regulation 38; there is only minor amendment, but it adds quite substantial material. I will refer to several parts of the regulation to highlight the fact that there are often genuine reasons for a third party to wish to appeal against development. Exactly what proportion of all development plans would involve third party rights of appeal, which will be removed by these regulations, is difficult to say, but a quick look through the revised regulations leaves the impression that just about all third party rights of appeal are being revoked. A cynical opinion would be that this amendment in effect tends to do just that.

Third party right of appeal gives individuals one of their few chances to have some say in the planning process. It recognises the fact that the best laid planning Acts, regulations, zoning rules and statements of principle do not necessarily control the micro-environment between one neighbour and another. It recognises that citizens' real or perceived rights may be trampled on by a development that fulfils all planning requirements. Although amended regulation 38 apparently deals only with rather special cases, in fact it removes the rights of third party appeal from many situations where that right of appeal is most necessary. I can cite examples.

Regulation 38 (1) *(a)*, dealing with row dwellings, provides that the erection, construction alteration of or addition to a farm building, detached dwelling, semi-detached dwelling or row dwelling will no longer be subject to the requirements of public notification by the council or therefore subject to third party appeal. I take the supposition that, if the owner of a row dwelling wishes to change it in a way that is grotesquely out of character with the rest of the row, the owners of other buildings would have no right to object under this regulation.

Before proceeding I would like to make plain that the regulations will prevent third party appeals because they prevent the obligation of the publication of the intended development. Under the Act a third party can lodge an appeal only following publication of intended development. Therefore, even though that may not be the intention, it has the effect of preventing anyone from appealing, unless there has been publication of the development according to the Act and regulations. Many row dwellings are historically important and architecturally coherent, but most are not protected by heritage legislation.

Regulation 38 (1) *(b)* provides that the division of land which creates not more than four additional allotments will be exempt from these requirements. Subdivision of urban land into small blocks frequently involves not more than four allotments, and strenuous objection from neighbours may well be justified. It is not unknown for local councils' interpretation of their own planning principles or regulations to be overturned by the Planning Appeals Tribunal. It is not unknown for this to be the result of an appeal by third parties.

Regulation 38 (1) *(c)* relates to a kind of development which, in the reasonable opinion of the council, is of a minor nature and is unlikely to be the subject of reasonable objection from the owners or occupiers of land in the locality of the site of the development. If that is to be exempted, it is a wonderfully vague clause. It appears to depend wholly on the opinion of councils as to what is 'of a minor nature', what is 'reasonable objection' and even whether reasonable objection is 'likely'. It is open to all sorts of extensions of the powers of councils to avoid complying with notification of development, therefore preventing an appeal by the third party.

Regulation 38 (1) *(d)* specifies that the division of land where the use of land specified would be permitted absolutely or conditionally will be exempt. This seems to assume that the principles of development should rule regardless. That completely negates the principle involved in third party appeals, which has been provided so that people can have a contribution to decision-making under the development Act. Regulation 38 (1) *(f)* provides:

> Development which may be undertaken pursuant to section 47 (3) of the Act, but which does not comply with any conditions under which it would be permitted, and the extent of failure to comply with such conditions is, in the reasonable opinion of the council, of a minor nature;

This appears to contain a contradiction. How can a development not comply with any conditions under which it would be permitted when at the same time its failure to comply is of a minor nature? I seek leave to incorporate the remainder of the regulation in *Hansard* without my reading it. Is that in order, Mr President?

**The PRESIDENT:** Not unless it is statistical.

**The Hon. I. GILFILLAN:** In that case, I will read in to the record what I require as follows:

*(g)* —

(i) Shops and Banks in 'Local Shopping' and 'District Shopping' Zones as delineated in the Development Plan;

(ii) Petrol Filling Stations in 'Local Commercial', 'District Commercial', 'Light Industry' and 'General Industry' Zones as delineated in the Development Plan;

(iii) Warehouse, Store, Timber Yard and Service Industry in 'District Commercial', 'Light Industry' and 'General Industry' Zones as delineated in the Development Plan;

(iv) Bank, Office and Consulting Rooms in 'Local Office', 'Local Commercial' and 'District Commercial' Zones as delineated in the Development Plan;

(v) Shop, Office, Consulting Room and Bank in 'Business' Zones as delineated in the Development Plan;

(vi) Motor Showroom, Used Car Lot and Auction Rooms in 'District Commercial' Zones as delineated in the Development Plan;

(vii) Light Industry and Motor Repair Station in 'Light Industry' and 'General Industry' Zones as delineated in the Development Plan;

(viii) General Industry in 'General Industry' Zones as delineated in the Development Plan; or

(ix) Any kind of development within 'Local Centre', 'Neighbourhood Centre', 'District Centre', 'Regional Centre', 'District Business' and 'Port Adelaide Centre' Zones as delineated in the Development Plan.

Subregulation (3) provides:

> (3) Where a particular kind of development is prohibited by the principles of development control in a particular area, zone or locality, the provisions of regulation 33 shall not apply if the application is:
>
> (i) for an alteration or addition to any building; or
>
> (ii) for the erection or construction of a building to be used as ancillary to or in association with an existing building and which will facilitate the better enjoyment of the purpose for which the existing building is being used,
>
> and which, in either case, or in both cases also constitutes, in the reasonable opinion of the council, development of a minor nature only.

In my opinion, subregulation (3) goes beyond the bounds of being acceptable in that it allows a council to form its own reasonable opinion that a prohibited activity in a zone can be expanded or extended. That is completely contrary to the whole intention of the Planning Act. I am absolutely amazed that anyone who is really enthusiastic about the general intention of planning legislation could have brought forward such a regulation.

We accept that there could be times when objections are a bother, and there may be times when objections are mischievous. To wipe out completely the possibility of innocent and genuine third party appeal, just to prevent that, is quite without any justification. We believe that there are other ways in which an obstruction or an interference can be reduced and, in some cases, avoided. I refer to the current procedure whereby a development plan is submitted to a

council. The council notifies the third parties, including adjoining owners and others affected by the development and publishes the notice of development. That is outlined in the Act quite specifically. Third parties have time to lodge an objection. The council makes a decision to approve or not approve, taking any objections into account. If development is approved, the third parties may appeal to the Planning Appeal Tribunal objecting to approval. I understand that there is a conference procedure that can be instituted by the Tribunal at a stage before the Planning Appeal Tribunal goes into full hearing. No judgment can be made prior to the appeal hearing as to whether an appeal is frivolous or mischievous. The Tribunal hears the appeal and there can be a wait of some months before a decision is announced. A further appeal can be taken against the Tribunal decision, but it is probably only on the grounds of legal technicalities. That can be very frustrating for people who have developments waiting to proceed.

We believe that there could be the inclusion of an officer from the Environment and Planning Department who could be made available to the third party appellant. In fact, the third party appellant must discuss the objection with an officer of the Department of Environment and Planning after a council has overturned an appeal. We believe that this would provide an opportunity for a defusing and cooling off period and that there could be intervention from someone in a position completely detached from the issue. In many cases the appellant may well feel that he does not wish to pursue the complaint or objection. As well as that, where there are reasonable grounds that an appeal has been made mischievously, attempting to delay a commercial enterprise, the officer from the Department may well be able to form an opinion on that.

On that basis, that opinion could be referred to either the Tribunal for an immediate decision—allowing for dismissal at that stage on the basis of mischievous or frivolous appeal. We also believe that another option is for a conference, which is at a level lower than that of a full Tribunal hearing. There seems no reason why, following discussions with a representative from the Environment and Planning Department, there could not be an informal conference between the council, the developer, the third party and the Environment and Planning Department officer. We are convinced that, for people who have genuine objections, the greater the opportunity for an amenable climate for that objection to be talked through, the more chance there is for a proper and fair resolution to that objection.

Finally, there could be a report to the Minister by the Environment and Planning Department officer, and the Minister could decide on whether in his opinion the appeal is frivolous or mischievous, in other words, causing obstruction on the ground of commercial competitiveness. I realise that my comments do not constitute an exhaustive analysis of the regulations in relation to planning, and there may well be some modification of the regulations to which I am moving disallowance which could make them more acceptable. It is on those grounds that I hope the Minister will now proceed. Those with whom I have discussed this matter, and I believe the Law Society, cannot see any justification for these regulations in regard to the effect they have on the right and operation of third party appeals. Therefore, I strenuously urge support for my motion, because I believe that the regulations are contrary to the intention and spirit of the Planning Act. On that basis, I feel that the regulations should be thrown out and redrafted.

**The Hon. G.L. BRUCE** secured the adjournment of the debate.

## REST HOMES

Adjourned debate on motion of Hon. J.C. Burdett:

That in the opinion of this Council, rest homes have an important role to play in the provision of aged care, and as the provision of aged care is of growing concern in the community, the rest homes deserve the maximum possible support by both the State and Federal Governments.

which the Minister of Health had moved to amend by striking out all words after 'have' and inserting:

a role to play in the provision of aged care.

(Continued from 27 February. Page 2884.)

**The Hon. L.H. DAVIS:** I have much pleasure in supporting the motion moved by the Hon. Mr Burdett. It is appropriate for this Chamber to discuss the important issue of rest homes against the background of controversy and growing public interest in this important matter. We are aware that there is an ageing population, that indeed South Australia already has the greatest percentage of population in the age group 65 years and over.

A review of private rest homes in South Australia was conducted by the South Australian Health Commission, and that was made available to the public on 30 November. That review sampled residents of rest homes and established a high level of supervision was required. Indeed, only 16.5 per cent required no supervision; 71 per cent was over 70 years; 68 per cent of residents were males, reflecting of course the fact that women tend to outlive men.

The financial circumstances of rest homes are somewhat uncertain. However, on the information provided to the task force, five rest home proprietors stated that they took out nothing in drawings; three proprietors stated that they received less than $10 000 in drawings annually; and five received less than $15 000 annually. That is in a total rest home population in South Australia in the metropolitan area of 19 rest homes. Those 19 rest homes agreed to take part in the review. Fourteen of those rest homes are members of the Rest Homes Association and between them they have just over 400 beds. Those beds are mostly fully occupied.

However, rest homes do not receive any Commonwealth Government assistance, although often the level of care that they give residents is little different from the care given to residents in voluntary hostels. There is a distinction between rest homes and hostels. The Department for Social Security defines a hostel as 'an institution to take people who receive personal care subsidy'. Again, there is an apparent financial discrimination against rest homes in the sense that, if there is an aged person at home with supervision by a visiting registered nurse, persons caring for that aged person will receive the home nursing home care benefit of $4 a day.

The task force made clear in its review of private rest homes that it was seeking factual information: it was not seeking to comment on the merits or otherwise of the information elicited from rest homes. However, that having been set out in the report, comment is later made, often critically, about the conduct of rest homes. It is stated that seven rest homes did not meet building, fire and safety committee standards and regulations—about half of the rest homes did not comply with the regulations in respect of building and fire safety and local government regulations.

The argument provided by rest homes for non-compliance with regulations was that they simply could not afford to comply. Furthermore, the task force noted that invariably the fees charged by rest homes were tied to the full pension. The majority of residents in rest homes are people receiving the full pension, which is $213.80 a fortnight, including $30 a fortnight supplementary assistance. Invariably, the scale of fees set by rest homes was $10 to $20 below that fortnightly amount received by residents.

In other words, rest homes were charging residents about $13 or $14 a day. Although the task force criticised rest homes for not providing sufficient financial information to make a proper judgment on their profitability or otherwise, at page 31 of the report it was admitted that on the basis of information provided not one single rest home reported a rate of return comparable to the current bond rate, and in December that was 12 per cent.

In the conclusion of the task force report to the Health Commission, the question was asked whether the Government should add to an already over supplied nursing home and hostel market by subsidising beds and occupants in private rest homes. The question was asked but not answered. It is interesting to note that question and compare it and the inference from it with the evidence contained on page 18 of the report where an assessment was made of the residents of rest homes in an effort to establish whether they were appropriately accommodated. The table at paragraph 5.2 on page 18 of the report is a summary of accommodation in rest homes and whether or not the residents are appropriately accommodated, and the findings are as follows: 67.2 per cent of residents were appropriately accommodated; 3.8 per cent should be in nursing homes; 10.8 per cent should be in psychiatric hostels; 11.8 per cent should be in other hostels; 2.2 per cent should be in independent living units; 1 per cent should be in boarding houses; 2.2 per cent should be in group houses; others, 1 per cent; and private homes, nil. That totals 100 per cent. In other words, the assessors said that not one of nearly 400 residents in the 19 rest homes in the metropolitan area should be in a private home.

If one takes the financial information that is provided by the task force review and lines it up with the anecdotal information provided by rest home proprietors, it is easy to see that the vast majority of rest homes in South Australia are not Rolls Royce investments. Indeed, they are not the sort of investments that the Labor Party in South Australia, with $1 million hot in its hands, would rush to.

The average private rest home with, say, 23 beds, charging $14 a day, assuming full occupancy, would have gross annual fees of $117 530, out of which salaries and wages, food, medicines and clothing would have to be paid. There would be a staff of three to four. Yet, the Hon. Dr Cornwall has suggested that rest homes are beating up a crisis that does not exist. There certainly is, on my reading of the situation, a serious financial crisis in the rest home industry in South Australia. I am sure that on the facts the Minister would prefer to invest his money elsewhere. Certainly, the financial information given to the task force left some doubt as to the exact financial situation within rest homes.

**The Hon. R.J. Ritson:** They were only given three days to put it together, you know.

**The Hon. L.H. DAVIS:** As my colleague the Hon. Dr Ritson rightly interjects, they were given very little time to provide the information. It should not be forgotten that rest homes in South Australia are more often than not family businesses that are run seven days a week, 18 hours a day, by a husband and wife or family and friends. They do not have sophisticated financial accounting: they are not in a position to provide information readily as required by the Health Commission.

As a result of the uncertainty about the financial situation in rest homes, the Health Commission has recommended that there should be a further independent survey of the financial viability of rest homes, and that will be shortly under way. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

## EVIDENCE ACT AMENDMENT BILL (No. 4)

Adjourned debate on second reading.

(Continued from 31 October 1984. Page 1623.)

**The Hon. I. GILFILLAN:** I will speak briefly in favour of this Bill. This is an issue of perplexity and concern. I do not pretend that it has not been the source of some debate in my mind as to which way the decision should go, because those who have been advocates of the use of the unsworn statement are protecting what they regard as the rights of a minority and sometimes a persecuted section of society—those who are not readily able to conduct themselves adequately and competently in a court of law; that can be an intimidating experience for anybody, even the most articulate of us. Therefore, it is not easy to attack the use of the unsworn statement on any moral grounds if one believes, as I do, that it was instituted with the best intention in mind of offering the ultimate in justice and fair play for people accused of crimes in our society.

However, I think that the opportunity for a court and a jury to make an accurate assessment of evidence given and then the cross-examination on that evidence is such that I have decided that the protection that the unsworn statement would allow an offender would only be marginally lost in the normal procedures of a court of law and that, although certain accused may be exposed to more rigorous and perhaps even more taxing experiences in the court, the end result is not likely to be less just or less fair than if they have recourse to the use of the unsworn statement. I say this because of my respect for opinions given by people who have had much closer experience with this matter and I include the shadow Attorney-General, the Hon. Trevor Griffin, the Mitchell Report and other distinguished jurists in our society who have come out against the unsworn statement.

I have also been influenced by a submission made to me by the Victims of Crime organisation and in particular their Director, Ray Whitrod. I place much significance on the remarks passed to me by that organisation. I realise that there will be further debate on this matter in the Committee stage if the Bill passes the second reading. I intend at that stage to listen attentively to what I hope will be some discussion relating to safeguards that the shadow Attorney assures me are in his Bill to give reasonable protection for an accused without their having to have recourse to the unsworn statement. He advises me that these are not precisely the protections that the Mitchell Committee recommended when it made its decision in 1975.

I would like to hear justification from the shadow Attorney-General as to why he has varied that. In summary, those are relatively minor matters in comparison with the major issue of whether or not we should continue to offer an opportunity for recourse to an unsworn statement by an accused person in our courts in South Australia. I believe on balance that it would be a better situation if persons could not have recourse to the use of the unsworn statement. I will support the second reading of this Bill.

**The Hon. K.T. GRIFFIN:** This Bill has been on the Notice Paper for some months, since 29 August, but deliberately so to enable those who wished to give consideration to its objective to have adequate time to do so. I must say that the principle of the abolition of the unsworn statement has been around at least since the Mitchell Committee reported in 1974 and in the Parliamentary arena since the Liberal Party made it a plank of its election policy in 1979—that the right of an accused person to make an unsworn statement from the dock rather than being required to give evidence on oath or to remain silent should be abolished.

I appreciate the attention that honourable members have given this Bill and am pleased that the Hon. Ian Gilfillan has been persuaded to support its objective. I indicate to him that, if the second reading passes, as I expect it to, I am prepared to report progress during the Committee stage to give him and other members an opportunity to consider the protections that have been provided in my Bill for an accused person in respect of questioning during cross-examination. The Mitchell Committee made a recommendation in 1974 to abolish the unsworn statement and also recommended that certain protections ought to be included for an accused person in relation to prior convictions particularly.

I think that honourable members would be well aware, because I have said it on so many occasions, that the unsworn statement has been abolished in New Zealand, since 1966 in Queensland, in Western Australia, and I think in the Northern Territory (it was certainly on the legislative programme a year or two ago for abolition). Abolition has been recommended by the Law Commission in the United Kingdom as well as by the Criminal Law Reform Committee in that country and in other countries. It is not new, but in those countries and States where it has been abolished there is no evidence of injustice being caused as a result. The Mitchell Committee canvassed the arguments that the Hon. Anne Levy raised in relation to retention and said in paragraph 7.3.2:

> It is contended that the system under which an accused can choose to give evidence on oath, to stand mute or to make an unsworn statement has worked well and should not be changed. If the exculpatory facts were within the knowledge of the accused alone and he had not disclosed such facts when being questioned by the police, and if he were not entitled to make an unsworn statement, his only way of conveying the facts to the jury would be by giving evidence on oath and being subject to cross-examination.
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> It has been put to us that 'too much would then turn on his appearance, his composure, his demeanour, and his powers of self-expression. The plausible, the suave, the glib, the well-spoken and the intelligent would be unduly favoured as compared with the unprepossessing, the nervous, the uncouth, the halting, the illiterate and the stupid. Many people in the dock have something to hide, even if innocent of the crime charged, and the consciousness of that may give a misleading appearance of shiftiness'.
>
> This is a compelling argument. We have been concerned particularly with the case of the unsophisticated type of Aborigine who tends to give the answer which he believes will please his questioner. We think, however, that the judge and the jury, in their respective ways, can be relied upon to appreciate and to make allowances for the witness who may be at a disadvantage for lack of education or lack of comprehension. One danger with the illiterate or semi-illiterate witness is always that he may answer a question as he did not intend to answer it merely because he did not comprehend all the words in the question. It is for the judge and for counsel for the accused to be alert to appreciate any difficulties which the witness may have in understanding what is put to him and to see that such difficulties are corrected.

Subsequently, the committee report continues:

> On the other hand sometimes the illiterate person becomes more convincing under cross-examination when he stands his ground on vital matters although he may give unconvincing answers on others. The major objection to the abolition of the right to make an unsworn statement appears to us to be that in the present state of the law a person who has had prior convictions and who gives evidence is likely to put himself in jeopardy of having such convictions disclosed to the jury.

In its conclusion the committee states:

> We recommend that the right to make an unsworn statement should be abolished, but that section 18 vi *(b)* of the Evidence Act, 1929-1974, should be amended to excise the words 'or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or the witnesses for the prosecution'. If that amendment were made an accused could be cross-examined as to his previous convictions or as to his character only if the proof of the commission of another offence was admissible to show him guilty of the offence with which he was charged, or if he had attempted by examination or by cross-examination of other witnesses or by his own evidence to establish his good character, or if he had given evidence against any other person charged with the same offence.

That matter is dealt with by way of the protections in my amending Bill, so there is adequate protection for an accused person who resolves to give evidence on oath which makes him subject to cross examination. If the unsworn statement is abolished, as I believe it should be, the accused will be protected not just by the statutory protections that I propose but also by the judge, who is charged with the responsibility of ensuring that fairness prevails within the court. In those circumstances, the accused will have the option to either remain silent or, if making a statement, to do so on oath and be subject to cross examination. In my view that represents a most equitable position between the alleged victim and the accused, and I believe it is appropriate that the unsworn statement be abolished. I thank honourable members for their contributions on this private member's Bill.

The Council divided on the second reading:

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

Noes (9)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, Anne Levy, K.L. Milne, C.J. Sumner (teller), and Barbara Wiese.

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

Majority of 1 for the Ayes.

Second reading thus carried.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

## FOOD BILL

In Committee.

(Continued from 19 March. Page 3314.)

Clause 2 passed.

Clause 3—'Interpretation.'

**The Hon. J.C. BURDETT:** This is the definition clause. My comments pertain to the definition of 'food'. This definition is vital because the Bill deals with food, so it is necessary to know what we are dealing with. Section 5 of the Food and Drugs Act presently provides:

> 'Food' shall mean any article used for food or drink by man, other than drugs, and any article which ordinarily enters into or is used in the composition or preparation of human food; and shall include flavouring matters, condiments, and confectionery:

Clause 3 of the Bill provides:

> 'Food' means any substance (whether in solid or liquid form) for human consumption or represented to be for human consumption and includes—
>
> *(a)* a gaseous food additive—

and that is what my question is directed to—

> *(b)* a substance that is intended to be introduced into the mouth but not ingested:

One reason for the introduction of this Bill was to introduce uniform legislation. The model food Bill defines 'food' as follows:

> 'Food' means a substance or matter ordinarily consumed or intended to be consumed by man and includes—
>
> *(a)* drink;
>
> *(b)* chewing gum;
>
> *(c)* any ingredient, food additive or other substance that enters into or is capable of entering into or is used in the composition or preparation of food; and
>
> *(d)* any other substance for the time being proclaimed under subsection (3) to be food, but does not include a drug.

At this stage I indicate by way of aside that the model Food Bill is rather indelicate and is specific when it mentions 'chewing gum'; whereas the South Australian Bill now before

us is much more sophisticated in that it provides, 'a substance that is intended to be introduced into the mouth but not ingested'. Obviously that includes chewing gum and I suppose toothpaste, mouthwash, and many other things.

I refer to 'a gaseous food additive'. The model Bill includes all additives as food, and it goes further than the South Australian Bill. In the present Food and Drugs Act it seems to me that a gaseous food additive—that is, the gases which are put into soft drinks and those used for pulling beer—are not themselves included within the definition of 'food' in the present Act. Of course, once the gas is in the product—in the soft drink or the beer, if it is being pulled—that is food within the meaning of the present Act.

The gas itself at the point of manufacture is not regarded to be food under the present Act. In the Bill 'food' means any substance and includes a gaseous food additive. It seems to me that there is a change in the law, namely, that when the gas intended to be added to a food is produced it becomes food and comes within the ambit of the legislation. I do not make any criticism about this because quite some time ago I raised this matter with the manufacturers of gases which are put into soft drinks and beer. They have not yet responded with a complaint. As a matter of interest I would like to know why this change has been made, whether there have been any problems and why it is now intended that gas apparently at the point of manufacture is deemed to be food whereas it was not before.

**The Hon. J.R. CORNWALL:** Parliamentary Counsel considered that the definition in the Bill before the Committee is more succinct than the definition in the model Bill. In relation to 'a gaseous food additive', which is specifically mentioned although it is not in the model Food Bill, it covers such things as sulphur dioxide, which is a commonly used preservative.

Clause passed.

Clauses 4 to 9 passed.

New clause 9a—'Annual report.'

**The Hon. J.R. CORNWALL:** I move to insert the following new clause:

9a. (1) The Commission shall, on or before the thirty-first day of October in each year, submit to the Minister a report on the administration of this Act during the year ending on the preceding thirtieth day of June and information upon such other matters as the Minister may direct.

(2) The Minister shall cause a copy of a report furnished to him under subsection (1) to be laid before each House of Parliament within 14 sitting days of his receipt of the report if Parliament is then in session, but if Parliament is not then in session, within 14 days of the commencement of the next session of Parliament.

The Health Commission is required to provide an annual report under the Health Commission Act. That is a general report on all of the activities of the Commission. There are other examples, such as the Radiation Protection and Control Act which requires the Commission to provide an annual report specifically on the administration of that legislation. I believe, and the Government believes, that it is important to ensure that the public and Parliament are kept informed of developments in relation to the administration of food legislation and to ensure that the Commission is accountable for its responsibilities under the proposed legislation. This was overlooked, I must say, in the many drafts of the original Bill. We received a specific request from the Consumers Association of South Australia for an annual report to ensure what one would hope to be the ultimate in accountability. I think it is a sensible suggestion and I commend the amendment to the Committee.

**The Hon. J.C. BURDETT:** This is a distinct improvement. It is necessary and I support it.

New clause inserted.

Clause 10—'The Food Quality Committee.'

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

Page 4, line 22—Leave out 'who has' and insert 'selected by the Minister from a panel of three persons, nominated by the Chamber of Commerce and Industry S.A. Inc., being persons who have'.

As the Minister has similar amendments on file to be dealt with later in this clause, I do not expect any opposition to my amendment. It should be written into the Bill what the food industry input will be in the committee of 14 members. True, it will be a committee of individual expertise, an advisory committee and not an executive committee. It is important not only to have a good Minister but that it is written into the Bill that the food industry itself has input. I refer to paragraph *(f)*. It is appropriate that food manufacturers have input to the Food Quality Committee and that it is written into the Bill. Although I have no doubt that the present Minister would see that that happened, it might not always apply and it is important to ensure that the industry is not left out in the cold.

**The Hon. J.R. CORNWALL:** My late mother told me that I could count by the age of three. It is a skill that I have never lost. As a matter of principle I am generally opposed to specifying nominating organisations for specialist areas such as this. However, the honourable member's amendment has the twin virtues of keeping both the Chamber of Commerce and the Opposition happy and I am willing to accept it graciously. I indicate to the Committee that I have an amendment on file to this clause to be dealt with subsequently to specify the United Trades and Labor Council as the body to nominate the person representing the interests of employees in the food industry, and the Hon. Mr Gilfillan has taken up the cudgels for the Consumers Association of South Australia.

We have moved from my general position of wanting the nominations to be drawn from non-specific areas to enable the Government of the day to choose the most appropriate and specialist person for the technical committee to one where a number of specific bodies such as the Chamber of Commerce, the UTLC and the Consumers Association of South Australia will be specifically identified. It is not a matter of great moment about which the Government should go to the trenches or take to the barricades. There is probably a *quid pro quo* all round and honour should be satisfied.

**The Hon. C.M. HILL:** I have received correspondence from the President of the South Australian Soft Drink Manufacturers Association who has expressed concern about this clause and who points out that the proposed committee will include only one food industry representative. He says that because of the range of manufacturers and diverse technology in the food industry his association considers that two representatives should be on the committee as a minimum. After all, it is a food Bill. Will the Minister further consider the matter?

**The Hon. J.C. Burdett:** There will be two, and it is covered by another amendment on file in my name.

**The Hon. C.M. HILL:** As I have received a wise interjection from my colleague, perhaps I will complete my question and the Minister can reply.

**The Hon. J.R. Cornwall:** I am always magnanimous and gracious.

**The Hon. C.M. HILL:** I am glad to hear it. That means a change of heart. I seek an assurance from the Minister that he supports the concept that the President of the Association has advanced that there be two people on the committee from the food industry.

**The Hon. J.R. CORNWALL:** I am saddened by a couple of the disparaging remarks that the Hon. Mr Hill made. I should place on record that since I recently had my 50th birthday, I wash my feet carefully every morning because people come to sit at my feet to hear my pearls of wisdom. It does not involve some sudden change of heart at all: it

simply means that in the continual evolution of man some of us grow old and some of us grow old and wise. In my case the latter applies. Therefore, in the spirit of concordiality that has characterised the development of this Bill over a long period, we have virtually consulted every interest group in the State to exhaustion, which has culminated most recently in our indicating that we were accepting amendments of the Hon. Mr Burdett to line 22 and line 24. In the event, the industry will be represented by two persons—not one, so the query raised by Coca Cola Bottlers will be satisfactorily attended to.

**The Hon. C.M. HILL:** I thank the Minister for his explanation.

Amendment carried.

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

Page 4, line 24—Leave out 'suitable person' and insert 'person selected by the Minister from a panel of three persons, nominated by the Chamber of Commerce and Industry S.A. Inc., being suitable persons'.

This amendment to clause 10 (2) *(g)* has already been referred to. The amendment which has just been passed (to clause 10 (2) *(f)*) related to the person who had a wide knowledge of and experience in food technology. The amendment that has been carried means that that person shall be selected by the Minister from a panel of three nominated by the Chamber of Commerce and Industry. Clause 10 (2) *(g)* as it stands in the Bill provides that one shall be a suitable person to represent the interests of manufacturers and retailers of food. I seek in this amendment that that person also shall be selected by the Minister from a panel of three persons nominated by the Chamber.

This accommodates the matter that was raised by the Hon. Murray Hill. A number of industry people who have transmitted their views to us in one form or another have said that, with a committee of 14, it ought to be enshrined in the Bill that at least two members are appointed by the industry. That is the purpose of the previous amendment and this one.

Amendment carried.

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

Page 4, line 26—Leave out 'suitable person' and substitute 'person selected by the Minister from a panel of three persons, nominated by the United Trades and Labor Council, being suitable persons'.

This has already been canvassed to a significant extent and is self-explanatory.

**The Hon. J.C. BURDETT:** I accept the amendment.

Amendment carried.

**The Hon. I. GILFILLAN:** I move:

Page 4, line 28—Leave out 'suitable person' and substitute 'person selected by the Minister from a panel of three persons, nominated by the Consumers Association of South Australia Incorporated, being suitable persons'.

With some enthusiasm, I leap into the Committee stage of this Bill and commend the amendments that are consecutively being moved in relation to the Food Quality Committee, and improving its representation. In the same spirit I move this amendment so as to recognise in clause 10 (2) (i) that there should be a suitable person to represent the interests of consumers—not just left to appointment by the Government but truly reflecting a selection of people from the only organisation that I am aware represents the consumers of South Australia: the Consumers Association of S.A. Inc.

Amendment carried.

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

Page 4, after line 31—Insert new subclause as follows:

(2a) Where the Minister, by notice in writing, requests—

*(a)* the Chamber of Commerce and Industry S.A. Inc.;

*(b)* the United Trades and Labor Council; or

*(c)* the Consumers Association of South Australia Incorporated,

to make a nomination for the purposes of this section, and the body to which the request was addressed fails to make such a nomination within the time allowed in the notice, the Minister may select a person for appointment as a member of the committee in lieu of a nominee of that body, and a person so selected may then be appointed to membership of the committee as if he had been nominated by the body to which the request was addressed.

This is really a procedural amendment, providing that where a nominating body fails to make nomination the Minister of the day may select the person for membership. Most members would be aware that a similar provision exists in other Statutes that specify nominating bodies.

Amendment carried; clause as amended passed.

Clause 11—'Term of office of members.'

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

Page 4, lines 38 to 41—Leave out subclause (1) and substitute new subclauses as follows:

(1) A member of the committee shall be appointed—

*(a)* if he is one of the first members of the committee—for such term, not exceeding three years, as the Governor determines and specifies in the instrument of his appointment;

*(b)* in any other case—for a term of three years.

(1a) A member of the committee shall, upon the expiration of a term of office, be eligible for re-appointment.

This is a matter that the Opposition has taken up on several occasions. The Bill provides for members of the Food Quality Committee to be appointed for a term not exceeding three years. The Opposition has often believed that such provisions are usually unsuitable, because the very purpose of having this kind of committee is that it be truly independent and be able to advise the Minister without fear or favour and without the Minister's breathing down its neck: not that I am suggesting that this Minister would do so, but there is no point in having a committee of this sort unless it is really independent.

If the committee is appointed for six or 12 months its members would lack security of tenure and would not be truly independent. As we have done on so many other occasions, we are moving for a fixed term of three years, but allowing staggering of the terms in the first term of office so that the committee will not be suddenly without any ongoing members, and that there will be some sort of continuity.

I recognise that there are different sorts of committee. This is a technical committee, with expertise. I recognise that one might get such a situation as having people coming to the State for a short period with a great deal of expertise to contribute in this area. It might be said that it could be convenient if they could be slotted in for a year or whatever. However, their expertise will not be lost: it can be contributed notwithstanding the fact that they are not members of the committee. It seems to be important to see that the committee is and always will be, while the Act remains, independent and will not rely on Ministerial patronage in the short term, and that the members of the committee will have secure tenure of office for three years and be able to do their independent job of giving advice to the Minister and to the Commission.

**The Hon. J.R. CORNWALL:** The Government opposes this amendment. I certainly reject the imputation that it would politicise the committee. It is very much an expert committee. A situation could arise where, for one of many examples, we have a visiting academic of world status in a particular field. It may be entirely desirable that he or she be appointed to this expert committee for the duration of that visit, whether it be on a sabbatical leave or for whatever other reason. By making them statutory fixed terms of three years, that virtually precludes that possibility, and that would be regrettable.

Nobody more than I would support any action that could be taken to ensure that an expert committee such as this

was not politicised in such a way. That would be entirely inappropriate. However, I would find it regrettable, as the present incumbent of the position of Minister of Health and for all my successors, to be lumbered with a situation where an amendment had been contrived to try to write something in in perpetuity that would limit the flexibility of the Minister and the Government of the day at some time in the future.

That flexibility, to a certain extent, does exist with the appointment of the first board, but it is flexibility this amendment would take away for all subsequent boards. Whether or not we divide on this issue depends on the Democrats and I wait with interest for the response of the Hon. Mr Gilfillan. I am sure that he may well have been pursuaded by the logic and eloquence of my argument.

**The Hon. I. GILFILLAN:** That is a reasonable prediction, but in this case falsely based. I am more pursuaded that the appointment for a predictable and fixed term is a better course to take. Recognising that the Minister of the day may have reason to invite or appoint somebody for a specific period, or to make a contribution which may only require a specific period of time, I feel that the arrangement could be made that that person could retire before the completion of a three year term and there could be a replacement announced by the Minister for the balance of that term. I can see no disadvantages arising from a predictable fixed three year term, and I indicate that we will support the Hon. Mr Burdett's amendment.

**The Hon. J.C. BURDETT:** I thank the Hon. Ian Gilfillan for his contribution. The case of an expert, say, from overseas or interstate who is on a sabbatical leave is the sort of person I was thinking of when I spoke first about this matter. There is a possibility, as the Hon. Ian Gilfillan has said, of fitting that person into the committee. However, even if he were not so fitted in, I do not think it is necessary that he be on the committee as he can contribute his expertise, in any event, through the committee or through the Health Commission at large.

Amendment carried; clause as amended passed.

Clauses 12 to 15 passed.

Clause 16—'Secrecy.'

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

Page 5, line 41—After 'employed' insert 'or engaged'.

This amendment adds an additional protection to the Bill in view of the sensitivity of industry to the issue of trade secrets. That has become very clear to me in negotiations in recent weeks, particularly with the Food Technology Association. The amendment extends the effect of clause 16 restricting disclosure to include persons engaged in the administration of the Act as well as employees, as was originally provided for in the Bill as introduced. That, I believe, is a desirable safeguard. There are many examples of trade secrets, I suppose the most famous in the world being the Coca Cola formula, which quite remarkably, despite industrial and commercial espionage, seems to have remained a secret for more than 40 years, although I think that that secret resides in the USA and I do not know that it has ever been exported. I think that the product is exported. In those circumstances the amendment is self explanatory and I commend it to the Committee.

Amendment carried.

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

Page 6, line 6—Leave out 'Five' and insert 'Eight'.

I hope that the Minister accepts this amendment to increase the penalty from $5 000 to $8 000 for an offence involving a breach of confidentiality. I made the point when speaking during the second reading debate that we have just considered the Police Offences Act Amendment Bill, and there the penalty of imprisonment related to a fine would have resulted in this Bill imposing a $8 000 fine or imprisonment for two years. I understood the Attorney to say during the course of debate on that Bill that steps are being taken to review all penalties with a view to putting them in better order and allowing an easier option for their review from time to time. It seems to me that if this Bill has imprisonment for two years as a penalty and a monetary penalty of only $5 000 that will be out of line with that objective.

**The Hon. J.R. CORNWALL:** The Government accepts this amendment. I believe that this is an opportune time to make the point, for the benefit of the Consumers Association of South Australia in particular, that trade secrets should legitimately be protected with very considerable penalties attaching to anybody who breaches them. I think that the Consumers Association may have misinterpreted this clause. I have received at least two fairly strong representations to my office that we are engaging in excessive secrecy. That, of course, is not the position. If one reads the rest of the Bill one sees that there will be adequate powers for an authorised officer to gather whatever information is relevant to his *bona fide* duties, but the Government takes the view, and I am sure all members of this Parliament take the view, that trade secrets are something that legitimately ought to be protected.

Amendment carried; clause as amended passed.

Clauses 17 to 20 passed.

Clause 21—'Observance of hygiene requirements by persons who handle food intended for sale.'

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

Page 7, line 16—Leave out subparagraph (1).

This amendment, to make any real sense, has to be considered simultaneously with the amendment to insert new clause 21 *(a)*. I believe that it is desirable that I canvass those simultaneously, although I will not move them simultaneously. Industry has expressed concern over its liability under clause 21 for employees suffering from a prescribed disease where the employer has not been informed of this. In the submission to me the point is raised that there may be no reasonable way of knowing about it. I believe that it is not unreasonable, because of the important and special nature of food legislation, to link the employer to the employee in matters where that employee contravenes or fails to comply with the regulations relating to hygiene or otherwise fails to observe reasonable standards of personal hygiene, and that the penalty in that case for the employee should not be too Draconian.

However, if the employee knows that he or she is suffering from a prescribed disease (for example, if he or she is a salmonella carrier) an additional and stiffer penalty should apply. Industry has expressed concern about its liability under clause 21 in relation to those employees who may be suffering from a prescribed disease where the employer has not been informed. Industry links this problem with the fact that, under clause 28, the defence 'of reasonable diligence' was not available where the actions or omissions of a third party involved their agents or employees. This amendment attempts to overcome these concerns and in turn not only should it be linked to the subsequent amendment (to insert new clause 21a) but also it should be considered in conjunction with the proposed amendment to clause 28.

The amendment is reasonable: it attempts in a very real way to overcome the concerns of industry. It makes the offence of handling food while suffering from a disease relate to persons who knew that they had the disease. Similarly, the offence in relation to employers arises where the employer, knowing that the employee is suffering from a disease, permits the employee to handle food. This is a significant amendment that goes a long way towards satis-

fying the concerns of industry on this point, including concerns in relation to clause 28.

**The Hon. J.C. BURDETT:** I am happy to support the amendment. It is an improvement that the employee who suffers from a disease is under an obligation to tell the employer. However, in supporting this amendment I do not resile from my proposed amendment to clause 28 dealing with a defence mechanism in regard to offences committed not by the manufacturer or distributor but by a third party. I propose that the words 'not being an agent or employee of the defendant' be left out, because in all cases, whether or not related to industrial disease, it is not just where the manufacturer or distributor in the exercise of his operation did not know of the offence committed by a third party, including an employee or agent, and could not have known by the exercise of reasonable diligence. In such case the manufacturer or distributor should not be liable. While I believe that the Minister's amendment is an improvement and is sensible, imposing the obligation on the employee, I signal that I will still move an amendment to clause 28.

Amendment carried; clause as amended passed.

New clause 21a—'Persons suffering from prescribed diseases not to handle food.'

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

Page 7, after clause 21—Insert new clause as follows:

21a. (1) A person who, knowing that he is suffering from a prescribed disease, handles food in the course of its manufacture, transportation or storage for sale, or for the purposes of its sale, shall be guilty of an offence.

Penalty: One thousand dollars.

(2) Where—

*(a)* a person commits an offence against subsection (1) in the course of his employment; and

*(b)* the employer knew, before the commission of the offence, that the person was suffering from a prescribed disease, the employer shall be guilty of an offence.

Penalty: Two thousand five hundred dollars.

I have already canvassed this matter in conjunction with the previous amendment, and I commend the new clause to the Committee.

New clause inserted.

Clause 22—'Powers of entry and inspection.'

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

Page 8, line 9—Leave out 'An' and substitute 'Subject to subsection (4a), an'.

My amendments to this clause go together: they relate to the power of entry and inspection, particularly in regard to access to documents. The Minister referred to secrecy. We are dealing with food, and recipes are most important. Certainly, by far the most compelling lobbying that I have received from the food industry has related to this matter.

Clause 16 imposes a significant sanction in relation to secrecy. The penalty for breach of confidence is $5 000 or imprisonment for two years. It has been put to me that if the recipe for Coca Cola or Kentucky Fried Chicken, for example, was divulged, it would be worth a lot more than $5 000 or two years imprisonment. I have been concerned with the representations made to me by the industry: they have gone so far as to suggest that a provision should be written into the Bill so that documents in the nature of recipes will be excluded, that there should not be access to them unless there is a court order in relation to public health. I am not prepared to go that far in my amendment, because I believe that until the documents can be looked at we would not know whether or not they related to public health.

I also fear that if such an amendment was passed all sorts of things could be written into the document that contained the trade secrets. The balance sheet might even be included. My substantial amendment to insert a new subclause takes that into account. Many of the people who made representations to me expresssed the view that the inspector who is an eager beaver and wants to get stuck into things should not be able to make that decision, that it should rest with the Commission to say that on a certain occasion, for a certain purpose and at this time the inspector has the authority to inspect the books and documents and take copies.

I have been prepared to go along with the suggestion that far; I am not prepared to go any further. I strongly support the amendment. It should not rest with the inspector on the doorstep; it should rest with the Commission, which should take the responsibility. I believe—and I certainly hope that this will work—that, in conjunction with the now strengthened clause 16, Division III, relating to secrecy, along with the present amendment, the authorised officer, before he exercises his powers under clause 4 to inspect documents and take copies or extracts, should have the authority of the Health Commission. I believe that this is a reasonable balance between the two views that have been expressed. In the interests of the public I believe that it is necessary that inspectors should have access to all documents and that they should include the recipes and the trade secrets. I think it is very important that the trade secrets are not disclosed. We have mentioned particular examples, and there may be many more.

**The Hon. J.R. CORNWALL:** The Government vigorously opposes the amendment. It is a watering down to the extent that it would virtually make the clause useless. We have been sensitively aware of possible difficulties with regard to trade secrets. We have taken every possible and reasonable action to protect them. On the other hand, I think we have to be very much aware of the duty to protect consumers. If we go back to the model Bill, which was agreed to by all State and Federal Health Ministers some five years ago, we see that it provides that an authorised officer may at any reasonable time examine and if necessary remove for copying any books, documents or records which he has reasonable grounds to believe contain information relevant to the enforcement of the Act—right across the board, with no prescription of documents whatsoever, let alone having to go back to head office, consult a superior along the way and obtain the full authority of the Commission to act.

To require Commission approval would quite unduly hinder an authorised officer in the administration of his duties. I am aware that on occasions one can have a reasonably officious health surveyor, for example, involved in this type of work. However, the officer can only act within his authority. Regardless of his attitude—he can be as friendly or as officious as you like—he can only act within his authority. It is a nonsense to suggest that, because he has a particular disposition, he may exceed his authority. Quite clearly, to do so would break the law. If he were to break the law, the revised penalty successfully moved by the Hon. Mr Griffin—two years imprisonment or a fine of $8 000—is available.

*The Hon. J.C. Burdett interjecting:*

**The Hon. J.R. CORNWALL:** There is no recipe for Coca Cola in this country. The Hon. Mr Burdett can be assured that the formula rests secure in the United States of America. That is not a consideration in this Bill. It is a nonsense and the honourable member should not raise it. I am aware that there are trade secrets and recipes: we have taken every reasonable precaution in the Bill to protect them. To confine the ability of an authorised officer to seek papers and records, books or documents to a situation where he must get into his car and travel to the Commission from wherever he may be would be quite ludicrous (and I point out that the Commission might be closed for the day by the time he arrives, which means that he would have to wait overnight and it would be the next day before a determination could be made). I have taken it on board during discussions and

have agreed that the width that existed in the legislation as it came before us ought to be restricted by adding the words 'documents or records of a prescribed class'.

Of course, industry will be able to scrutinise the draft regulations and be satisfied that authorised officers will have access only to particular documents or records. If in practice an authorised officer arrived and demanded that a safe or files be opened and that he be given access to a number of records not prescribed by regulation, quite obviously the manager or the responsible officer of the company could tell him exactly where to go. That person would be entirely within his rights to tell the officer where to go. If the authorised officer persisted in wanting to see a document that was not of a prescribed class, he would be guilty of a serious offence.

There will be quite adequate protection for all parties if the Committee adopts my amendment to line 10. As I said at the outset, the Government opposes very vigorously the Hon. Mr Burdett's amendment. I would have thought that my amendment was a compromise: it goes a long way towards meeting the concerns of industry; but at the same time it does not entirely remove the powers of an authorised officer to act on the spot. Therefore, I indicate that we oppose the Hon. Mr Burdett's amendment, and most certainly we will call for a division if necessary.

**The Hon. J.C. BURDETT:** I will speak at large on the question of access to documents by the inspectors. I believe that both my amendment and the Minister of Health's amendment should be passed. We would then have two categories: we would have prescribed documents which could not be inspected, and we would have other documents. In the case of other documents, it would be necessary for an inspector to obtain the authority of the Commission, and that I believe is perfectly reasonable. Industry is certainly not satisfied—and it has canvassed this with me actively as late as this morning—with excluding documents of a prescribed nature because it points out that the Minister could prescribe all documents or documents covering a large range. That would certainly be possible under some administrations. Industry is not satisfied with that. It wants what I am not prepared to do—to write into the Bill a class of documents to which inspectors cannot have access.

The Minister said that the secrets of Coca Cola Bottlers are safe because they are held in the USA. Coca Cola is made in South Australia and obviously the recipe is here. I refer also to Kentucky Fried Chicken, Arnott's Biscuits, Menz Biscuits and so on. We are dealing with recipes that are a matter of secrecy. I am in trouble with the industry because I am unwilling—and I have told them—to go as far as the industry wants me to go, but the minimum that I believe we can go is to pass this amendment and also pass the Minister's amendment so that we will have some documents which are prescribed and which cannot be looked at in any circumstances.

**The Hon. J.R. Cornwall:** They can be looked at. You have it back to front. Prescribed documents can be looked at in my proposal.

**The Hon. J.C. BURDETT:** That is fine. If you prescribe the documents that can be looked at there will be others that cannot be looked at.

**The Hon. J.R. Cornwall:** The employer or manager will know.

**The Hon. J.C. BURDETT:** The same situation applies; it does not matter which way you put it. Before documents can be looked at there should be an authority from the Commission. This is one matter that the industry has pressed most strongly: it should not be up to the inspector on the doorstep. After all, if he has to come back tomorrow—so what? If he wants to look at documents that certainly include and are likely to include trade secrets, there ought to be an authority from the Commission.

**The Hon. J.R. Cornwall:** The documents could disappear in the meantime. Has that ever occurred to you?

**The Hon. J.C. BURDETT:** It has occurred to me but I do not see why the Minister should presume that the documents could disappear in the meantime. I am not satisfied just to leave it to prescribing the documents that can be looked at, because one can never set out all the documents in question. One cannot specify in regulations everything that may pertain to some aspect of trade secrets. This is a matter about which industry has been most sensitive. It has said that this issue is more important than anything else, and it has said that it is not satisfied with what the Minister is trying to do. Therefore, I ask the Committee to support my amendment, and I will also support the Minister's amendment.

**The Hon. J.R. CORNWALL:** That technique might have worked in the Mannum local court, but it will not work here. There is a vast difference between trying to prescribe a whole mass of documents that cannot be looked at as distinct from prescribing those that can be looked at. To prescribe classes of document that an authorised officer may look at or copy is not impossible.

**The Hon. I. Gilfillan:** He's going to support you in this.

**The Hon. J.R. CORNWALL:** I want to clarify the position. I want the honourable member to have it clear in his mind.

**The Hon. I. GILFILLAN:** The amendment of the Hon. Mr Burdett goes a little further than it should to be effective in what it is aiming at. I float the idea for the Minister to consider that, for the authorised officer from his or her own authority to have access and to demand immediately the disclosure of documents that could be sensitive, could be an unfortunate consequence of the activity that flows from this Bill. If the Hon. Mr Burdett's amendment were carried the requirement for disclosing any documentation requiring written permission from the Commission could easily be used as a delaying tactic and obstruction from people in the area who do not want to co-operate. In fact, that was suggested to me, by the Food Technology Association who saw that it could act against the best interests of the working of the Bill.

The industry suggested a requirement that an authorised officer would need to have written authority from the Commission for access to 'those documents or records that contain details of any trade secret or formulation for the making, preparation or compounding of any article of food for human consumption.' If that qualification applied it would be only in limited circumstances that it would be required, and it would be to apply to those areas of the greatest sensitivity in the industry. The Minister has indicated that the prescribed documents may well largely exclude such documents from being available anyway, but there may be times when those who want to track down the abusers of the system would be required to have recipes made plain, so there could be some checks of conformity with what they are publicising as their product.

It seems that it is a reasonable safeguard and some sort of assurance to people who are holding material that is very sensitive for them commercially to feel that they are protected from a council appointed authorised officer who can bumptiously turn up and with all the authority under this Bill demand instant disclosure of material that falls into this category. A modification of the Hon. Mr Burdett's amendment would be worth considering, and I ask the Minister to comment.

**The Hon. J.R. CORNWALL:** We have gone as far as we can possibly go in this matter. I am touched and impressed by the great concern shown for industry—I share that concern. I am also impressed by the desire to protect consumers.

In some circumstances we are dealing with situations that can cause serious illness or death. There were greater contributions made to the longevity of the human species by the great public health measures of the nineteenth century than have ever been made by the technology or antibiotics of the twentieth century.

That is the level at which we are dealing. We are talking about protecting the wellbeing of the citizens of South Australia. I am concerned to give the industry every reasonable protection—to protect it from the over zealous authorised officer, to protect trade secrets and to look after commercial interests. Any reasonable Government would do likewise.

I am also concerned to ensure that my officers in the Public Health Division of the South Australian Health Commission have adequate power. They do not want to be like the eunuchs sitting on the barbed wire fence. That is the general thrust of the Opposition's amendment. I have gone as far as the Government is willing to go. The prescribing of certain classes of documents limits access to those documents. There would not be anyone in the food industry generally in the manufacturing sector who would not have a good working knowledge of what documents were prescribed. I come back to the point that I made some time ago: if an over zealous authorised officer tried to demand access to documents that were not prescribed, the manager, owner or responsible person in the company would promptly tell the officer where to go and might well not be too polite about it; nor should they be.

I cannot go one millimetre further. The amendment that we have arrived at after a great deal of exhaustive consultation significantly waters down the original provision in the model legislation that was agreed on by every Health Minister—Labor, Liberal or National—in this country at the Health Minister's Conference almost five years ago. How much longer do we have to fiddle and fall about to get ourselves into line with Queensland? For goodness sake, Queensland, the home of the brave and the free, has had a Food Act for more than 12 months. It is the same Act under which Queensland banned the distribution of New Zealand chocolates. It was referred to at the time as an obscure piece of legislation, but I can assure honourable members that it is not an obscure piece of legislation but a very good piece of legislation, which the Queensland Government passed over 12 months ago. That is supposed to be the place where it is open slather for industry, but at least it has a very good Public Service and from time to time, clearly, it also has some regard for the safety and well being of Queenslanders.

I can assure members that Queensland's food legislation goes considerably further than the South Australian Government proposes with this amendment. Its legislation is very much in line in this area with the original proposed model legislation. I am amazed that anyone would want to go any further than that. The Government will not accept it. We have been more than reasonable in protecting the interests of industry, but we cannot go any further and sacrifice the interests of the health and well being of South Australians.

**The Hon. J.C. BURDETT:** I have supported the amendment, which I will support and will vote for and divide on. I do not propose to canvass the reasons again; I have done that amply. We are in a very delicate area where trade secrets are important and are endangered. I spoke to the Hon. Mr Gilfillan this morning about this and I had not been aware of his present stance, which is apparently that he will oppose the amendment and support the Government amendment. I trust that the Hon. Mr Gilfillan will be prepared to bear the brunt of any criticism that is made by industry through his non-support.

**The Hon. J.R. Cornwall:** The Hon. John Burdett never talks about consumers.

**The Hon. J.C. BURDETT:** I frequently talk about consumers: in fact, in this place it is mainly what I talk about. Obviously, one has to have a balance between the rights of individuals and the consumers. I cannot see that my amendment will detract at all from the rights of consumers, but it will protect the balance.

If the Hon. Mr Gilfillan thinks that he is satisfying the reasonable requests of the industry, okay: he will be answerable to the industry. The industry was not satisfied with what I was prepared to do: it will be less satisfied with what will happen if this amendment is not passed and if only the Government amendment is passed. That is up to him. I was prepared to give what I felt was a reasonable measure of protection to the industry, which was consistent with the rights of consumers and which was a fair balance. For that reason, I moved my amendment. If the Hon. Mr Gilfillan is disposed to oppose that, that is up to him: he can bear the umbrage of industry for having done so.

**The Hon. I. GILFILLAN:** I can only reflect the conversation that I had from Mr Stuart MacDonald, who I understood was representing the FTA this morning. He indicated that it was more than his own opinion, I understood, that the FTA saw problems with the Hon. John Burdett's amendment to require written permission in all cases since it could be obstructive to a proper investigation. I thought that that was a reasonable point of view, but to reflect protection for the particularly sensitive areas that industry has recognised, it seems a reasonable amendment that the written permission be required only for those documents or records that contain details of any trade secret or formulation for the making, preparing or compounding of any article of food for human consumption.

I have canvassed that already and had categorical rejection, I understand, by the Government. I am interpreting the Hon. John Burdett's statements as meaning that he would not support that as an amendment and that my reluctance to support his amendment will have dire consequences. I am prepared to wear that. Of the two, if my amendment is not likely to be successful, I would prefer not to have the cumbersome imposition on the authorised officers that they have to get written permission from the Commission every time they seek to have access to material.

However, had I had any indication from either side that it was prepared to consider what I believe to be a reasonable amendment to the Hon. John Burdett's amendment, I would have proceeded and sought leave to take whatever steps were necessary to introduce it, but I am assuming—and the Hon. John Burdett can correct me if I am wrong—that would he not support my amendment to his amendment.

**The Hon. J.C. BURDETT:** Because someone engaged me in necessary conversation, I did not hear the proposed amendment of the Hon. Ian Gilfillan. I would be prepared to consider any amendment that he had, but I do not agree that what Mr Stuart MacDonald said this morning detracted from my amendment at all. He said that there would be cases when manufacturers would be prepared to allow inspectors without any authority from the Health Commission to look at documents that were not trade secrets. They can do that. If the manufacturers are prepared to let the inspectors look at documents, they can do so and there is no need to write it into the Bill.

My amendment is simply to provide that before the inspectors use the heavy handed attitude of demanding that they have access to documents they get the authority of the Health Commission. If they are documents such as receipts and invoices that the manufacturers or distributors have no objection to showing to the inspectors, they can show them to them. There is no need to write that into the Bill, and I

do not really understand what the Hon. Ian Gilfillan is talking about.

The Committee divided on the amendment:

Ayes (9)—The Hons J.C. Burdett (teller), M.B. Cameron, L.H. Davis, R.C. DeGaris, Peter Dunn, K.T. Griffin, Diana Laidlaw, R.I. Lucas, 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. C.M. Hill. No—The Hon. Frank Blevins.

Majority of 1 for the Noes.

Amendment thus negatived.

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

Page 8, line 10—After 'records' insert 'of a prescribed class'.

Amendment carried; clause as amended passed.

Clause 23 passed.

Clause 24—'Power to destroy food in certain circumstances.'

**The Hon. J.C. BURDETT:** I indicate that I am prepared to accept the Minister's amendment to this clause as being practical and effective. My amendment would have been to call on the person concerned to show cause to the Minister why food should not be destroyed, because that is what the clause is about. The Minister's amendment calls on the person to show cause to the Commission—that takes out the political element. Therefore, I feel that what I was trying to achieve will be satisfied by the Minister's amendment, so I will not move my amendment.

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

Page 10, line 3—Leave out all words after 'may' and insert the following passage:

, by notice in writing given personally or by post to the owner of the food, require him to show cause, within a period specified in the notice (being not less than two days), why the food should not be destroyed under this section.

I thank the Hon. Mr Burdett and his colleagues for the spirit of tripartisanship that is creeping back into this debate.

Amendment carried.

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

Page 10, after line 3—Insert new subclause as follows:

(1a) Where—

*(a)* a person to whom a notice under subsection (1) has been given fails to show cause within the specified period why the food should not be destroyed;

or

*(b)* the Commission has, after reasonable inquiries, been unable to ascertain the identity or whereabouts of the owner of the food,

the Commission may authorise an authorised officer to destroy the food.

This is part of a series of amendments that relate to the suitable compromise reached by all parties.

Amendment carried.

**The Hon. J.C. BURDETT:** This is part of the same thing, so I am prepared to allow the Minister to move his amendments and I will support them. I will not be moving my amendments to this clause.

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

Page 10—

Line 5—Leave out '(1)' and insert '(1a)'.

After line 10—Insert new subclause as follows:

(3) Where, after receiving submissions from the owner of food under this section, the Commission decides that he has not shown cause why the food should not be destroyed, the Commission shall, if so required by the person, state in writing the reasons for its decision.

Amendments carried; clause as amended passed.

Clause 25 passed.

Clause 26—'Powers with respect to hygiene.'

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

Page 10, line 44—Leave out 'or' and substitute 'and'.

This amendment was caused by a typographical error.

Amendment carried; clause as amended passed.

Clause 27 passed.

Clause 28—'Defence.'

**The Hon. J.R. CORNWALL:** I intend to move:

Pages 11 and 12—Leave out clause 28 and substitute new clause as follows:

28. It is a defence to a charge of an offence against this Act for the defendant to prove—

*(a)* that—

(i) the circumstances alleged to constitute the offence arose in consequence of an act or omission on the part of some other person (not being an agent or employee of the defendant);
and

(ii) that he could not, by the exercise of reasonable diligence, have prevented the occurrence of those circumstances;

or

*(b)* that—

(i) the circumstances alleged to constitute the offence arose in consequence of an act or omission on the part of an agent or employee of the defendant;
and

(ii) that he could not, by taking all possible precautions, have prevented the occurrence of those circumstances.

I believe that this amendment goes a significant way towards what the Hon. Mr Burdett canvassed in his second reading speech and on which he now has an amendment on file.

**The CHAIRMAN:** Does the Hon. Mr Burdett wish to pursue his amendment, as follows:

Page 11, line 43—Leave out '(not being an agent or employee of the defendant)'.

**The Hon. J.C. BURDETT:** I would like to hear what the Minister has to say first.

**The Hon. J.R. CORNWALL:** The difficulty that we have with the amendment that the Hon. Mr Burdett has on file (and I think that it is necessary that I briefly canvass our response to that amendment before coming back to what I hope is a reasonable compromise) is that it would be possible, based on overseas experience, for an unscrupulous employer to find an employee who would go up front whenever the employer was apprehended or charged and take the rap. In a significant manufacturing industry the maximum fine for the employee of $500 would be no sort of deterrent for the unscrupulous manufacturer. We cannot, therefore, accept the amendment. I think it leaves a loophole that is significant and far too large.

My amendments contain a defence provision, which has been of concern to all of us: it is an adequate defence provision that protects the interests of the legitimate and fair manufacturer but it is approached from two levels. One has to consider this in conjunction with the amendments that were passed to clause 21. New clause 28 *(a)* provides that a person can claim a defence if an offence arises from an act or omission of a stranger, that is, someone other than his agent or employee, and that he could not have prevented the occurrence by exercising due diligence. The expression 'due diligence' is central to that part of the amendment. It means that a person must take reasonable measures to ensure that strangers cannot affect the quality of the food sold or manufactured. So much for that part in reference to strangers.

An employer is able to exercise a greater degree of control over the actions of employees and agents. I would submit that that is a very reasonable proposition. It is not possible for an employer, a wholesaler or a retailer of food to exercise very much control over strangers, but it is possible for that person to exercise a far greater degree of control over the actions of his employees or agents. For that reason, an employer should be allowed to claim a defence only if he can show that, despite having taken all possible precautions,

the actions of the agents or employees led to the commission of an offence. Accordingly, new clause 28 *(b)* provides this defence in respect of agents or employees.

I submit that again this is a very reasonable compromise; it has been arrived at after very exhaustive processes of consultation. I must admit that, on the one hand, it does not go as far as industry would like, but on the other hand it substantially alters the general thrust of what the public health authorities would like. One can always understand that the law enforcement agencies want as much power as possible. One only has to look at the whole range of law enforcement legislation that is passed in this Parliament from time to time to appreciate and to understand that it is a very natural reaction to want to ensure that the people who are responsible for that enforcement try to cover every possible contingency. However, on the other hand it is necessary, and in fact I believe essential, in this situation to provide a reasonable defence. My amendments provide a very satisfactory and substantial middle course.

**The Hon. J.C. BURDETT:** The Minister and I are not very far apart in what we are trying to achieve, but I cannot agree with the amendment. First, we must acknowledge that the Bill imposes on a person a penalty for something that he has not done and, generally speaking, that is a fairly serious thing to do. There are precedents for that, and I will refer to them later. We are making the employer guilty of something which he has not done or about which he might not have known, by the exercise of reasonable diligence, in respect of an act carried out by an employee or agent, and that is fairly serious. It is true that in this area of protection of the public health and protection of consumers (which is an area, despite what the Minister has said, I have always been concerned about) there are precedents. There are cases where *mens rea* is excluded or where an offence is made absolute for the protection of the public, whether or not the person who is to be charged knows anything about it. Where this can be avoided, in the interests of justice, it should be avoided. If an employee or agent of a manufacturer or a distributor does something that constitutes a breach of the Act, and where the manufacturer or distributor did not or could not have reasonably known about it, it does not really protect the public interest to make that person suffer the penalty.

The Minister's amendment applies to a servant or agent and I agree that the manufacturer or distributor can have more control over a servant or agent than over another third party, but that could be taken into account by a court in determining whether or not the defence had been made out. New clause 28 *(b)* (ii) relates to a person who could not, by taking all possible precautions, have prevented the occurrence of those circumstances. That is no defence at all. 'All possible precautions' would mean that, irrespective of cost, convenience or anything else, that person would have to take every precaution that could possibly be taken. My amendment (and I take it that I am at liberty to refer to that amendment, because it relates to the same line) strikes out the words 'not being an agent or employee of the defendant'. We are still left with the position where the defendant must prove; it is a defence. No-one has to prove to the contrary: that person must prove that he did not know and could not by the exercise of reasonable diligence have known that the other person had committed the offence—performed the act or omission that gave rise to the circumstances of the offence.

If my amendment is passed, a court would take into account that, in order to establish this defence, obviously the defendant would be more in charge of the acts of his employees or agents than those of other persons. That would be taken into account in deciding whether or not a defence was made out. The Minister in his reply yesterday said that I was trying to move to the Victorian 'all reasonable precautions' clause in lieu of the South Australian 'reasonable diligence' provision. I am not doing that. If the clause is amended as I suggest, the words 'could not by the exercise of reasonable diligence have prevented the occurrence of those circumstances' would stand. Because the Minister raised that issue, I will cite the Victorian 'reasonable precautions' provision: it is as follows:

> Every person who sells, prepares for sale, manufactures, applies a description to or sells under any description anything contrary to the provisions of this Part shall be guilty of an offence against this Part unless he proves—
>
> *(a)* that having taken all reasonable precautions against committing an offence he had at the time of the alleged offence no reason to suspect that there was in regard to the same any contravention of the provisions of this Part; and
>
> *(b)* that on demand by any officer he gave all the information in his power with respect to the person from whom he obtained the same; and
>
> *(c)* that otherwise he acted innocently—
>
> and has, not less than two days before the hearing of the prosecution, notified the informant in writing that he intends to avail himself of the protection of this section giving details of the reasonable precautions which he claims he has taken.

It then lists further provisions. I am not moving anything like the Victorian 'reasonable precautions' provision. I am using our concept of 'reasonable diligence', which would remain in the clause if my amendment were carried. I am not prepared to support the Minister's amendment; I do not think it goes far enough in giving a reasonable protection to people who did not know and could not have known by the exercise of reasonable diligence that an act or omission occurred which gave rise to an offence. The Minister's amendment refers to all 'possible' precautions. That means all things that it is physically possible to do. I think that is unreasonable.

It seems to me that it would be perfectly reasonable to leave the position as is provided in my amendment—that he did not or could not by the exercise of reasonable diligence have prevented the occurrence of the circumstances. If the Minister would be prepared to amend his amendment to strike out 'possible' precautions and substitute 'reasonable', I would be prepared to support it. However, if he insists with his amendment as it now stands, it means absolutely everything that it is possible to do, irrespective of cost, convenience or anything else. It may as well not be there, because almost any precaution is possible. If it remains in this form, I will not support it but, if the Minister changed 'possible' to 'reasonable', I would.

The Committee would have to seek your direction, Mr Chairman, as to how we can deal with the amendments procedurally. I will oppose the Minister's amendment if he insists on 'possible'; if the Minister's amendment is successful, I will seek to promote my amendment, which I suggest is reasonable. It is a defence which has to be proved. The defence is that the defendant did not know and could not have known by the exercise of reasonable diligence—I believe that is a reasonable provision. I do not believe that persons ought to be guilty of an offence if they did not know and could not have known.

**The Hon. J.R. CORNWALL:** I do not want to hold up the proceedings of the Committee unduly. I will be interested to have a brief indication from the Hon. Mr Gilfillan on where he stands on these matters. I think it is important to place on the record what the Hon. Mr Burdett proposes. Under the Hon. Mr Burdett's amendment clause 28 will read:

> It is a defence to a charge of an offence against this Act for the defendant to prove—
>
> *(a)* that the circumstances alleged to constitute the offence arose in consequence of an act or omission on the part of some other person—

that is, any other person—

and

*(b)* that he could not, by the exercise of reasonable diligence, have prevented the occurrence of those circumstances.

All he has to do, if he is an unscrupulous operator, is have an employee jump up and say, 'No, the boss did not know. I am responsible and I will take the rap.' The employee would face a maximum fine of $500, if the employer's defence is accepted. If it happened again, a different employee could be used. It creates an enormous loophole through which one could drive a Kenworth prime mover. That is the effect of the amendment, on all the advice that I have received. That is totally unacceptable to the Government.

**The Hon. J.C. BURDETT:** That sort of thing just does not happen, and the Minister knows it. In South Australia that would not happen—it is totally unrealistic. I suggest, if the Minister proceeds with his amendment and strikes out 'possible' and replaces it with 'reasonable', I will be quite happy to accept it—but not otherwise.

**The Hon. I. GILFILLAN:** I believe that there are two categories of operation and hazard involved in this provision, and I think it is reasonable to divide them into sections. First, there are those who have no allegiance or link with an employer, and yet cause an offence. Obviously the sense of involvement and responsibility of an employer in those circumstances we anticipate would be less than that required for an employee of the organisation. I believe that it is reasonable to have a different degree of required responsibility from the employer when one is dealing with some other person (and it could be any other person) other than an agent or employee. I believe we are dealing with uncertainties.

It is no good saying there will be an anticipated and accurate response from a court when reacting to the words 'reasonable diligence'. Neither do I believe that one can predict that there will be a consistent and predictable response to 'possible precautions'. I think there is an attempt to place too much emphasis on being precise and definite beyond the capacity of the meaning of the words in the legislation. We believe that there should be two categories and, by the wording in the legislation, there should be a clear distinction between the responsibility of an employer in the two cases. It seems to us that the words in the amendment as it stands give the courts a reasonable direction as to the degree of responsibility that this legislation imposes on an employer in the two different categories. I think it is very important that the opportunity for an employer to get around this obligation is kept to an absolute minimum. That is why I think that the amendment moved by the Minister has more in its favour than the Hon. Mr Burdett's foreshadowed amendment.

**The Hon. J.C. BURDETT:** The Hon. Mr Gilfillan has conceded that the words 'possible precautions' could have a different interpretation in a court, too. There cannot be many different interpretations about that, because it means absolutely anything that can possibly be done. The phrases 'reasonable diligence' and 'reasonable precautions' have been considered on many occasions by the courts.

**The Hon. I. Gilfillan:** And the courts would determine 'possible'.

**The Hon. J.C. BURDETT:** Yes, but 'possible' goes much further than 'reasonable'. I ask the Hon. Mr Gilfillan whether he would consider supporting the Minister's amendment—as I would—if the word 'possible' was changed to 'reasonable'. If we use the word 'possible', it means absolutely everything irrespective of cost, money and convenience. It includes anything possible that could be done. I believe that that goes too far. The word 'reasonable' is very well known to the law and the courts, and I refer to, say, reasonable doubt in a criminal trial: a person charged before the criminal courts must be found guilty beyond all reasonable doubt. The word 'reasonable' is very well known to the courts and to the law. Surely the Hon. Mr Gilfillan is prepared to be reasonable and support the word 'reasonable' instead of 'possible'. If that were done, I would support it. I do not think the word 'possible' offers any real defence at all.

**The Hon. J.R. CORNWALL:** I am not a lawyer, for which I am sometimes grateful and sometimes I have regrets. On all the best advice tendered to me, from medical practitioners and lawyers in the course of my duties as Minister of Health, I understand that the court would be likely to say, 'We believe that the manufacturer, the employer or the manager took all possible precautions in the circumstances.'

On the advice available to me this is the way it would be interpreted by any reasonable court. I gave an undertaking to keep the workings of this Act and its practical application under close scrutiny once it is proclaimed. I repeat that undertaking now. True, even with the amendments the clause is a reasonably harsh one, but we have to remember that we are dealing with food legislation and, in such circumstances, when one compares this provision with legislation in other States and in other parts of the world, it is a reasonable clause indeed.

**The Hon. J.C. BURDETT:** What the Minister said in the first part of his remarks about what he understood, on advice, a court would say, is what it would say in regard to the word 'reasonable'; it is not what it would say in regard to the word 'possible'. The words are different. The Minister has been using the word 'reasonable' so much, and so has the Hon. Mr Gilfillan, that I ask the Minister to take further advice and perhaps report progress to enable him to do so. The word 'possible' really makes this defence nonsense. If the word 'reasonable' is used—and that is what everyone has been talking about—why not write it in?

**The CHAIRMAN:** I suggest that the Committee deal first with the amendment of the Hon. Mr Burdett. If it were carried the Minister would still be able to move to strike out the whole clause and insert a new clause.

**The Hon. J.C. BURDETT:** In that case, I move:

Page 11, line 43—Leave out '(not being an agent or employee of the defendant)'.

The Committee divided on the amendment:

Ayes—(8)—The Hons J.C. Burdett (teller), M.B. Cameron, L.H. Davis, R.C. DeGaris, Peter Dunn, 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 K.T. Griffin and C.M. Hill. Noes—The Hons Frank Blevins and C.J. Sumner.

Majority of 1 the Noes.

Amendment thus negatived.

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

Pages 11 and 12—Leave out clause 28 and substitute new clause as follows:

28. It is a defence to a charge of an offence against this Act for the defendant to prove—

*(a)* that—

(i) the circumstances alleged to constitute the offence arose in consequence of an act or omission on the part of some other person (not being an agent or employee of the defendant);

and

(ii) that he could not, by the exercise of reasonable diligence, have prevented the occurrence of those circumstances;

or

*(b)* that—

(i) the circumstances alleged to constitute the offence arose in consequence of an act or omission on the part of an agent or employee of the defendant;

and

(ii) that he could not, by taking all possible precautions, have prevented the occurrence of those circumstances.

Amendment carried; new clause inserted.

Remaining clauses (29 to 32), schedules and title passed.

Bill read a third time and passed.

## CARRICK HILL TRUST BILL

The House of Assembly intimated that it did not insist on its amendment to the Legislative Council's amendment No. 1.

## ASSOCIATIONS INCORPORATION BILL

Returned from the House of Assembly with amendments.

## ROADS (OPENING AND CLOSING) ACT AMENDMENT BILL

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

**The Hon. J.R. CORNWALL (Minister of Health):** I move:

*That this Bill be now read a second time*

In view of the fact that it is now 6.22 p.m., I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

### Explanation of Bill

This Bill makes amendments to the Roads (Opening and Closing) Act, 1932, which will enable the South Australian Planning Commission to make orders with respect to the opening, closing and alterations to roads, where those proposals form part of a development for which the appropriate planning authority under the Planning Act, 1982, is the South Australian Planning Commission or the Governor.

The purpose of the Bill is to ensure that the South Australian Planning Commission is the authority that will decide proposals under this Act that are part and parcel of a development in which the local council has an interest or which is regarded as being so important that the Governor should constitute the appropriate planning authority under the Planning Act, 1982.

Amendments along these lines have been suggested by judges of the full Supreme Court in recent judgments and will enable road proposals hindered by those judgments to proceed for determination, pending a more extensive review of the legislation.

The Bill provides that road proposals will continue to be initiated and lodged by the Commissioner of Highways or by councils as heretofore, but, in the particular circumstances outlined above, moves the responsibility for considering objections and for making orders under the Act, to the South Australian Planning Commission. The authority to confirm all orders is retained by the Minister of Lands.

Clauses 1 and 2 are formal. Clause 3 makes a consequential amendment. Clause 4 replaces existing section 8 and inserts two new sections in addition. New section 8 comprises consequential changes to the substance of the existing section. New section 8a sets out the three authorities, namely, the Commissioner of Highways, the local council and the South Australian Planning Commission, which may make orders for the opening, closing and alteration of, or addition to, a road under the principal Act. The section also sets out the circumstances in which each authority may act. New section 8b provides that the proceedings under the Act leading to the making of an order will, as at present, be undertaken by the Commissioner or the local council. The council is better placed to fulfil this function than the South Australian Planning Commission even where the Commission is the body that will hold the public meeting and make the order.

Clauses 5 and 6 make consequential amendments. Clause 7 amends section 12 of the principal Act to provide for notice of meeting of the South Australian Planning Commission to be published in the *Gazette*. Paragraph *(b)* makes a consequential change. Clauses 8, 9 and 10 make consequential amendments.

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

## LONG SERVICE LEAVE (BUILDING INDUSTRY) ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

## POLICE (COMPLAINTS AND DISCIPLINARY PROCEEDINGS) BILL (1985)

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

## REMUNERATION BILL

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

**The Hon. J.R. CORNWALL (Minister of Health):** I move:

*That this Bill be now read a second time.*

In view of the fact that it is now 6.24 p.m., I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

### Explanation of Bill

This Bill gives effect to the recommendations of a working party set up by the Government to consider the establishment of an independent Tribunal for determining the remuneration payable to members of the Judiciary, members of Parliament, statutory office holders and heads of Government departments. The working party was chaired by a former Chairman of the Public Service Board and member of the Parliamentary Salaries Tribunal (Mr David Mercer).

The consequential Statutes Amendment (Remuneration) Bill, amongst other things, will repeal the Parliamentry Salaries and Allowances Act, 1965. As members would be aware, the power to determine judicial salaries was once vested in this Parliament. However, it was given to the Executive Government some years ago. Since 1982 judicial salaries have been based on a formula which was established following a report of a committee established by the previous Government.

The setting of these salaries has been a continual source of difficulty between the Judiciary and the Government: the judges have consistently urged the establishment of an independent tribunal to determine the remuneration payable to members of the Judiciary. The Tribunal, as recommended, will have general jurisdiction for the determination of salaries in the range of groups previously mentioned. The principal

advantage of this approach is that it will enable the Tribunal to co-ordinate salary relativities and the timing, basis and quantum of salary increases for these groups and hence to achieve equitable treatment for each group. The new Tribunal will also supersede the Parliamentary Salaries Tribunal.

The purpose of including the salaries of members of Parliament within the jurisdiction of the proposed Remuneration Tribunal is to avoid the proliferation of tribunals determining salaries for those groups which do not have access to the Industrial Commission. Similar tribunals exist in the Commonwealth and Western Australia. I also draw attention to the inclusion of heads of Government departments and other statutory office holders in the scope of the Tribunal's jurisdiction. They have been included because they are in fact the only persons in the service of the State not having a right of access to an independent tribunal in respect of their salaries. The new Tribunal will be guided by general industrial principles espoused by the South Australian Industrial Commission and relating to the review of salaries generally. In addition, the Tribunal, in the exercise and performance of its powers and functions, will have and may exercise all the powers and authority conferred by the Royal Commission Act, 1917, upon persons holding inquiries on commission, as presently provided in the Parliamentary Salaries and Allowances Act.

Clauses 1 and 2 are formal. Clause 3 contains definitions required for the purposes of the new measure. Clause 4 establishes the Remuneration Tribunal. Clause 5 provides that the Tribunal is to consist of three members and deals with the qualifications of members.

Clause 6 deals with the terms on which members hold office. Clause 7 provides that the remuneration of a member of the Tribunal is to be determined by the Governor. Clause 8 provides that there is to be a secretary to the Tribunal. Clause 9 deals with the manner in which sittings of the Tribunal are to be convened, and requires the Tribunal to sit at least once per year for the purpose of making, or reviewing, determinations.

Clause 10 provides that two members are to constitute a quorum and enables the Tribunal to reach a decision by majority. Clause 11 exempts the Tribunal from strict compliance with the rules of evidence. It also requires the Tribunal to allow a person whose remuneration is to be affected by a determination of the Tribunal to make submissions to the Tribunal. Before the Tribunal makes a determination affecting Ministerial or Parliamentary salaries, it must seek and consider written representations from interested members of the public. The Minister is empowered to intervene in any proceedings before the Tribunal in the public interest.

Clause 12 invests the Tribunal with the powers of a Royal Commission. Clause 13 empowers the Tribunal to determine its own procedure. Clause 14 requires the Tribunal to observe and apply the same general principles and guidelines in relation to the determination of remuneration as are observed and applied by the Industrial Commission. In determining judicial remuneration the Tribunal is required to have regard to the principle of judicial independence. In determining remuneration for members of Parliament, the Tribunal is required to have regard not only to their Parliamentary duties, but also their duty to be actively involved in community affairs and their duty to represent and assist their constituents in dealings with public agencies and authorities.

Clause 15 invests the Tribunal with jurisdiction to determine judicial remuneration. Clause 16 invests this Tribunal with power to determine Parliamentary and Ministerial remuneration. Clause 17 empowers the Tribunal to determine remuneration in relation to any other office if the Act by or under which the office is established provides for determination of the relevant remuneration by the Tribunal, or if the regulations under the proposed new Act make provision for such a determination. Clause 18 requires a report on each determination of the Tribunal to be forwarded to the Minister for laying before both Houses of Parliament. A determination must also be published in the *Gazette*.

Clause 19 empowers the Tribunal to make a retroactive determination. Clause 20 provides that a determination of the Tribunal is not subject to appeal. Clause 21 provides that a determination of the Tribunal is binding on the Crown and sufficient authority for the payment of the remuneration to which it relates from the general revenue. Clause 22 provides that no determination is to be made reducing the salary of a member of the Judiciary.

Clause 23 corresponds to section 5aa of the Parliamentary Salaries and Allowances Act. It limits increases in Parliamentary salaries to those generally authorised by the Industrial Commission. Clause 24 provides that the Tribunal should seek to make initial determinations in relation to all clauses subject to the new Act within four months of the commencement of the new Act. Clause 25 provides that the new Act will prevail over inconsistent provisions of other Acts relating to the determination of remuneration. Clause 26 is a regulation making power. A power is included to exclude from determination by the Tribunal certain forms of Parliamentary remuneration.

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

## STATUTES AMENDMENT (REMUNERATION) BILL

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

**The Hon. J.R. CORNWALL (Minister of Health):** I move:

*That this Bill be now read a second time.*

In view of the lateness of the hour I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

### Explanation of Bill

This Bill contains the consequential amendments that are necessary in view of the proposed new Remuneration Act. Clauses 1 and 2 are formal. Clause 3 provides for the remuneration of the Agent-General to be fixed by the Remuneration Tribunal. Clause 4 provides for the remuneration of the Auditor-General to be fixed by the Remuneration Tribunal. Clause 5 provides for the remuneration of the State Coroner and Deputy State Coroner to be fixed by the Remuneration Tribunal.

Clause 6 provides for the remuneration of the Electoral Commissioner and Deputy Electoral Commissioner to be fixed by the Remuneration Tribunal. Clause 7 provides for the remuneration of the Commissioner of Highways to be fixed by the Remuneration Tribunal. Clause 8 provides for the remuneration of the Chairman of the Industrial and Commercial Training Commission to be fixed by the Remuneration Tribunal. Clause 9 provides for the remuneration of the President, judges and Commissioners of the Industrial Commission, and of the industrial magistrates to be fixed by the Remuneration Tribunal. The amendment also provides that the Remuneration Tribunal is an industrial authority for the purposes of section 146a of the Industrial Conciliation and Arbitration Act.

Clause 10 provides for the remuneration of the District Court judges to be fixed by the Remuneration Tribunal. Clause 11 provides for the remuneration of the magistrates

to be fixed by the Remuneration Tribunal. Clause 12 provides for the remuneration of the Chairman of the Metropolitan Milk Supply Board to be fixed by the Remuneration Tribunal. Clause 13 provides for the remuneration of the Ombudsman to be fixed by the Remuneration Tribunal. Clause 14 repeals the Parliamentary Salaries and Allowances Act. Clause 15 provides for the remuneration of the full-time Commissioners of the Planning Appeal Board to be fixed by the Remuneration Tribunal.

Clause 16 provides for the remuneration of the Commissioner and Deputy Commissioner of Police to be fixed by the Remuneration Tribunal. Clause 17 provides for the remuneration of the Commissioners of the Public Service Board and the permanent heads of the Public Service to be fixed by the Remuneration Tribunal. Clause 18 provides for the remuneration of the Solicitor-General to be fixed by the Remuneration Tribunal. Clause 19 provides for the remuneration of a full-time member of the Ethnic Affairs Commission to be fixed by the Remuneration Tribunal.

Clause 20 provides for the remuneration of the Chairman of the South Australian Health Commission to be fixed by the Remuneration Tribunal. Clause 21 provides for the remuneration of the judges and Masters of the Supreme Court to be fixed by the Remuneration Tribunal. Clause 22 provides for the remuneration of the Chairman of the Tertiary Education Authority to be fixed by the Remuneration Tribunal. Clause 23 provides for the remuneration of the Valuer-General to be fixed by the Remuneration Tribunal.

**The Hon. M.B. CAMERON** secured the adjournment of the debate.

## ADJOURNMENT

At 6.28 p.m. the Council adjourned until Thursday 21 March at 2.15 p.m.