LEGISLATIVE COUNCIL

Thursday 21 March 1985

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

WOODVILLE COMMUNITY WELFARE CENTRE

The PRESIDENT laid on the table the following report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Woodville Community Welfare Centre—Construction.

QUESTIONS

TAIWAN

The Hon. M.B. CAMERON: I seek leave to make an explanation before asking the Attorney-General a question about overseas visits by members of Parliament.

Leave granted.

The Hon. M.B. CAMERON: Most members would have read of the recent attempt by the Minister for Foreign Affairs (Mr Hayden) to veto MPs' visits to Taiwan. I gather that he has written to Federal members of Parliament indicating that members were not to travel to or schedule stopovers in Taiwan.

Members interjecting:

The Hon. B.A. Chatterton: When they are on official passports.

The Hon. M.B. CAMERON: Nevertheless, it is a veto. In a letter of 5 March Mr Hayden outlined Australia's relations with China, as follows:

> 'Australia recognises the People's Republic of China as the sole legal government of China and acknowledges the position of the PRC that Taiwan is a province of China,' he wrote. 'The Australian Government therefore accords no recognition to the authorities on Taiwan nor condones any action which can be construed as according recognition to those authorities.'

If Government members believe that that is a proper point of view, they should look at the expression of opinion in the *Australian's* editorial today because it is relevant. The *Australian* editorial states:

> Mr Hayden's attempt to prevent members of the Federal Parliament from visiting, or even stopping over, in Taiwan is questionable both for its timing and for its implicit denial of the right of senators and members of the House of Representatives to inform themselves.

It continues:

> One of the most striking characteristics of China's present rulers is their ability to distinguish the substance from the shadow. If it is Mr Hayden's aim to consolidate our relations with them, there are much more substantial issues to which he could direct his attention.

If, as the interjections from members opposite imply, it means that members of Parliament visiting from now on with official passports have to have two passports in order to visit Taiwan, that seems absurd. Mr Hayden's direction is unacceptable to me. It smacks of dictatorship, since it attempts to deprive elected members of Parliament of the opportunity to inform themselves on issues of importance anywhere in the world.

Does the Attorney-General agree with Mr Hayden's view that members of Parliament should not visit Taiwan, whether on official passports or otherwise? Will members of the South Australian Parliament intending to visit Taiwan be prevented from going on study tours if the tour includes a visit to Taiwan as a result of this direction by the Minister for Foreign Affairs? Does the Attorney General agree with the view that members of Parliament should be free to visit any place or region if it means improving their capacity to carry out their job as elected representatives and know what is happening in the rest of the world?

The Hon. C.J. SUMNER: As I understand the position, Mr Hayden said that people who visit Taiwan will not be issued with official passports. The honourable member obviously does not understand what an official passport is. An official passport is not quite as high in the pecking order as a diplomatic passport, but it is official; and below that there is the ordinary passport, so the order is diplomatic, official and ordinary. If someone is issued with a diplomatic passport presumably he is issued with it because he has some endorsement from the Australian Government. If a person is issued with an official passport, again the issuing of passports is a matter for the Australian Government.

The Australian Government is responsible for the conduct of foreign affairs under our Constitution. If the giving of an official passport has implications for diplomatic relations with other countries, surely a Federal Government, of whatever persuasion, is entitled to say that official passports will not be issued for visits to those countries with which Australia does not have diplomatic relations. As I understand it, it does not stop members from travelling to Taiwan by obtaining an ordinary passport which will enable them to travel to Taiwan. All it is saying is that in travelling to Taiwan the passport does not carry the official endorsement of the Australian Government. The issuing of a diplomatic or official passport, I would have thought, implies some kind of endorsement of the member's travel and the country to which that person is travelling. If Australia does not have diplomatic relations with Taiwan, with Mauritania—

The Hon. M.B. Cameron: Kampuchea?

The Hon. C.J. SUMNER: Or Kampuchea—

The Hon. R.C. DeGaris: New Zealand?

The Hon. C.J. SUMNER: Or wherever, and if in the opinion of the Federal Government it would not be correct to give those countries the impression that people travelling there had the official endorsement of the Australian Government, I imagine that the Australian Government would be justified in saying that the travellers—politicians or otherwise—would not be issued with an official passport. It may be interesting to look at the 1950s and discover whether or not the Federal Government was prepared to issue official passports to members of Parliament for travel to the People's Republic of China.

The Hon. M.B. Cameron: Russia.

The Hon. C.J. SUMNER: China, not Russia. We had diplomatic relations with the Soviet Union. We did not have diplomatic relations or recognise the People's Republic of China during the 1950s, the 1960s and until the Whitlam Government came to power in 1972. It might be worth while for the honourable member to ask himself whether or not an official passport was issued to those members travelling to the People's Republic of China during that period.

Let us not comment on the particular policy issue involved. However, if the policy of the duly elected national Government that has responsibility for foreign affairs matters under our Constitution is that we do not have diplomatic ties, or that we do not officially recognise another country, then it is consistent with that particular policy that official passports not be issued, because an official passport does provide some imprimatur to the traveller going to that country. That does not stop people travelling to countries with which Australia does not have diplomatic relations. It did not stop Australians travelling to the People's Republic of China in the 1950s and the 1960s.

I know Australians who travelled to the People's Republic of China during the 1950s and 1960s. All I am saying is

that the issuing of an official passport, with the implications that that has for the bearer of that passport, does have some relationship in terms of the recognition or otherwise of the country to which the person is travelling. That, I imagine, is the basis of Mr Hayden's decision, but that is not really a matter for me to get involved in. It does not impact in any way on what honourable members in this Council or this Parliament may wish to do about travelling to Taiwan except, of course, if Mr Hayden's position is upheld, that they would not be entitled to the issue of an official passport for a trip to that country. It obviously does not have any other implication than that.

ONCOLOGY UNIT

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question about the oncology unit at the Queen Elizabeth Hospital.

Leave granted.

The Hon. J.C. BURDETT: It is well known to members that the oncology unit at the Queen Elizabeth Hospital was closed earlier this year—

The Hon. J.R. Cornwall interjecting:

The Hon. J.C. BURDETT: It was never opened—that is a more correct statement. The unit is not in operation and, in the meantime, patients are being placed, according to my information, in wards and not in isolation, so there is a risk of cross infection that I understand has been acknowledged. My information is that the Minister has indicated that the unit may be opened later this year. I am asking my question to elicit this information: will the unit open later this year and, if so, when?

The Hon. J.R. CORNWALL: I presume that the shadow Minister is referring to the haematology oncology unit at the Queen Elizabeth Hospital. This is a very good unit, indeed, and has been at the Queen Elizabeth Hospital for many years. Dr Ed Sage is the doctor in charge of that unit and I publicly commend the excellent work that has been done there over the years. That unit has never been closed and there has never been any suggestion that it should be. If there were any such suggestion then I would intervene immediately and ensure by whatever means at my disposal that it was supported.

The matter to which the Hon. Mr Burdett referred, of course, is ward 8C. Ward 8C was refurbished within the hospital's budget in 1984-85. Incidentally, part of that refurbishment was paid for by fundraising among people in the community of the western suburbs. I visited that ward, as a matter of fact, about three weeks ago. There is special provision for barrier nursing and a very special area is set aside for the storage and handling of cytotoxic agents used in cancer therapy. In general, it is a very well equipped ward.

What happened, of course, was that the hospital had been able within its own resources to find the money for the capital works, especially to refurbish the ward. However, because of a modicum of financial mismanagement, when it came to opening the ward and fully staffing it, it was found that recurrent costs of possibly as much as $750 000 a year would be incurred. That was not in the hospital's budget for 1984-85. However, I am pleased to be able to say that, following a very significant upgrading in the financial management of the hospital and following the very real support that is being given by Mr John Blandford, the Administrator of Flinders Medical Centre, and Dr Brian Shea, a former Director-General of Medical Services and founding Chairman of the Health Commission in this State, levels of management at this stage are improving quite rapidly.

It was my personal intervention that was responsible for the part time appointments of both Mr Blandford and Dr Shea, two of the most experienced hospital and health administrators in this country. That is a matter of public record: it was announced publicly in excess of one month ago. Following further negotiations, a further look at the budget and some reorganisation, ward 8C is now open.

FRIENDLY TRANSPORT

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

Leave granted.

The Hon. K.T. GRIFFIN: It is common knowledge that a regulation was promulgated by the Government under section 47 of the Planning Act on 14 March 1985 purporting to take the proposed site for relocation of the Friendly Transport group out of the planning jurisdiction of the West Torrens council. This, it was said, was to be the magic answer to the Government's 2 1/2 year delay in persuading Friendly Transport to move from Black Forest in the vicinity of the new Emerson overpass, where its presence was a real danger to road users. The Government stated that this action was necessary to overcome the legal problems that it said had created the delay, but that is not so.

The regulation amended the seventh schedule to the development control regulations which identifies the applications for planning approval that are to be dealt with by the State Planning Commission rather than by the local council. The regulation removed the power under the Planning Act regarding approval or disapproval of the development of the proposed new site for Friendly Transport in the West Torrens council area from the West Torrens council to the Planning Commission. As I interpret the law, that does not mean that the Government can move Friendly Transport into the new site immediately, because approval still has to be given by the State Planning Commission. In addition, the West Torrens council has publicly indicated that it intends to challenge the Government's decision to promulgate this regulation by action in the courts.

In the light of that I ask the Attorney-General, first, does he agree that the Government's action does not mean immediate resolution of the Friendly Transport problem in the Black Forest area and, secondly, does the Attorney-General agree that, with the prospect of legal challenges to the Government's action, and the need for planning approval from the Planning Commission for the development and use of the new property, litigation may hold up the move of Friendly Transport from Black Forest for many more months?

The Hon. C.J. SUMNER: I know of the honourable member's and his colleague's interest in obstructing the removal of Friendly Transport from—

The Hon. C.M. Hill: Not at all.

The Hon. C.J. SUMNER: Well, the Opposition's attitude in relation to the Government's action certainly gives me the impression that it is doing what it can to obstruct the shifting of Friendly Transport from what is recognised on South Road as a very difficult and dangerous situation. Mr Olsen has visited the site and has made certain statements supporting West Torrens council. Everyone knows that the problem with the relocation of Friendly Transport into that area is the decision of the West Torrens council, despite the fact that the Highways Department spent money upgrading the area, and despite the fact that there is ingress and egress into and out of the property, and despite the fact that there is no interference with the rights of residents in the location to what used to be the position, as I understand

it, in relation to a previous trucking firm. It is interesting to note that the actions of Mr Olsen in support of the West Torrens council clearly imply that he does not mind if Friendly Transport remains on South Road where it is at the moment.

Members interjecting:

The Hon. C.J. SUMNER: Why is Mr Olsen supporting the West Torrens council's obstruction of the shift to the West Torrens council area?

Members interjecting:

The PRESIDENT: Order! I ask the Hon. Mr Lucas to stop interjecting, and that also applies to the Hon. Miss Laidlaw.

The Hon. C.J. SUMNER: Obviously, the position needs to be reiterated: Mr Olsen has supported the West Torrens council, knowing that it has obstructed the relocation of Friendly Transport to the area and despite all the action taken by the Government to accommodate that transfer. The Government felt that its action should at least provide greater capacity for the matter to be resolved—at least that one issue. However, that did not happen. I point out that the action of the Government was not taken on the one issue of Friendly Transport; other issues have been raised, including a matter relating to a child care centre for the Polish community raised by the Hon. Mr Feleppa (and I know the Hon. Mr Hill would be particularly interested in that). There are a number of issues. Certainly, the Friendly Transport issue is of major concern. If legal challenges are launched, there may be further delays and the Government would have to consider what more it might be able to do. If the Hon. Mr Griffin is genuine about wanting to see Friendly Transport shifted, I am sure the Government would be interested to hear his views as to how he believes the matter could be resolved.

The Hon. K.T. Griffin: We are interested in hearing your reply.

The Hon. C.J. SUMNER: The honourable member is hearing it. The action was taken under the planning legislation, as I understand it. The Planning Act that currently operates in this State was introduced by Mr Wotton and the Liberal Government. We are operating under that law. For the honourable member to say that there has been a delay of 2½ years caused by the current Government is a complete misrepresentation of the position verging on the dishonest.

He knows that one must act within the planning legislation introduced by the Liberal Government. So, to say that there has been a 2½ year delay caused by the Government is, as I said, a nonsense. The action of the Government in placing planning controls for West Torrens council under the Planning Commission means that the Planning Commission stands in the place of the West Torrens council with respect to planning matters in that area.

That being the case, it is for the Commission to determine or give approval for Friendly Transport to locate in the area originally designated and which the Planning Appeal Board decided was appropriate. That was also apparently overlooked by the honourable member. The Commission would then be in a position to make that decision and it would be the Commission that would have any rights of appeal should it be dissatisfied. Whether or not the council has any standing in those proceedings is a matter about which I am not willing to speculate.

It would have to be a matter for the council to seek legal advice on that. Certainly, the action taken by the Government does not automatically by a flick of the fingers resolve the issue. It places the Planning Commission in the position of the council with respect to planning decisions in its area. As I understand it, the Commission supports the West Torrens site for Friendly Transport and would make the necessary decisions and not challenge the matter in the courts. Whether the West Torrens council has any other legal option open to it is not a matter for me to speculate on.

HOME AND COMMUNITY CARE PROGRAMME

The Hon. ANNE LEVY: I seek leave to make a brief statement before asking the Minister of Health a question about the Home and Community Care Programme.

Leave granted.

The Hon. ANNE LEVY: Recently the Commonwealth Government announced a very welcome initiative whereby it intends to provide money for a Home and Community Care Programme.

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: The amount allocated is $10 million for Australia for the first year but with increasing amounts from the Commonwealth in the second and third years of the triennium, an increasing amount in real terms—

The Hon. R.J. Ritson interjecting:

The Hon. ANNE LEVY: —coupled with an increasing amount of State money until in the third year it will be 50:50 State and Commonwealth, but with the 50 per cent from the Commonwealth being greatly in excess in real terms of the amount allocated in the first year. Of course, this is a welcome initiative that has raised much interest throughout the community, especially from many voluntary organisations involved with disabled people, the aged, the sick, and so forth.

Obviously, a large number of organisations will be interested in obtaining funding under the programme and there will be many diverse programmes made possible for expenditure under the programme. Can the Minister advise the Council whether any consideration has been given to the establishment of priorities that will be necessary for the expenditure of this money, and whether voluntary organisations will be able to take part in determining these priorities for the different programmes?

The Hon. J.R. CORNWALL: I thank the honourable member for her question. As she often does in these matters, the honourable member was courteous enough to give me some advance notice that she was seeking information. However, before dealing with the specific subject matter of her question, I did hear some quite derogatory interjections—and quite rude ones—while she was asking the question. There was a suggestion that the Home and Community Care Programme would provide only $10 million on a national basis.

The fact is, it will provide $10 million, virtually immediately, which will be available to the States roughly on a pro rata basis. I would not speculate at this stage as to exactly what amount might accrue to South Australia, but it will be approximately on a per capita basis. But that will move quite rapidly over the triennium to a period where in the last year—the third year of the programme—the States will be matching the Commonwealth allocation, which will mean for South Australia a programme in real terms in excess of $5 million. That is not an insignificant programme in anyone's language.

Returning specifically to the matter of the honourable member's question, she was concerned or expressed possible concern about the role of the voluntary sector. I am happy to take this opportunity to reassure this Chamber and the people of South Australia, and to reassure particularly the voluntary sector, about their involvement in home and community care planning.

State Cabinet has nominated me as the Minister responsible for Home and Community Care negotiations, and I

am making a special trip to Canberra next Thursday, subject to the granting of a pair from the Opposition (I am sure I will not have any difficulty in that), to have discussions with the Minister for Community Services (Senator Don Grimes) in regard to the programme. A top level negotiating team has been appointed by the State to liaise with the Commonwealth on the broad issues of the programme and to see how much money we can get, which is important, to maximise the amount that might be available for this State and to complete an agreement for the three-year period.

Indeed, it is a high-powered and high-level negotiating team, which comprises Mr Ian Cox, Commissioner, Public Service Board and Human Services Co-ordinator, as Chairman; Professor Gary Andrews, Chairman, South Australian Health Commission; Miss Sue Vardon, Director-General of Community Welfare; and Mr Richard Llewellyn, Disability Adviser to the Premier. That is the negotiating team.

In addition, to ensure that the programme is developed with the greatest possible co-operation, a Ministerial task force has been established, and I think it is worthwhile taking up a little time of the Council to read into *Hansard* the terms of reference and membership of that task force. The terms of reference are as follows:

To assemble information which relates to the service already provided in South Australia through departments, the South Australian Health Commission and voluntary agencies, which relate to the objectives of the Home and Community Care Programme.

To assess the diversity of needs and to establish a priority listing in relation to the Home and Community Care Programme. This should ensure the economic use of the financial resources now available, and suggest future priorities.

In co-operation with the Commonwealth, to consult with organisations, community groups and consumer groups to ensure that the plan is developed and takes into account these perspectives.

To consider what programmes could be recommended for one-off funding for one year, without a carry-over commitment which would allow some changes to the future direction of the programme.

To recommend to the Minister by 6 May 1985 a suggested membership of a project recommending team to ensure that, once the task force report has been received, action will take place.

The membership of the task force is as follows: the Chairperson is Mr David Filby, a senior South Australian Health Commission officer; one nominee from the Department for Community Welfare; one nominee from the South Australian Health Commission; one nominee from the disability adviser to the Premier's office; one nominee from the Commissioner for the Ageing's office; five nominees specifically from the voluntary sector, of whom two will be from agencies likely to be involved in the Home and Community Care Programme, one from the Disabled Persons International (South Australia Branch), one from the South Australian Council on the Ageing, and one from the parent group of the Intellectually Disabled Services Council (that is, the Parent Consultative Council); two nominees from the Minister of Local Government; and, two nominees from the Minister of Community Services.

I believe that the voluntary sector can be reassured that their interests will be represented in the Home and Community Care Programme planning. I also am able to assure the Council that the interests of local government will be well represented in the development of home and community care initiatives. The Government is extremely anxious to ensure that the programme starts from a well planned base and that it continues to be developed with the greatest co-operation.

TOW TRUCKS

The Hon. K.L. MILNE: I seek leave to make a brief statement before asking the Attorney-General, representing the Minister of Transport, a question concerning tow truck operators and regulations.

Leave granted.

The Hon. K.L. MILNE: From information supplied to me by a number of tow truck operators and others it would appear that even now the regulations in force are not working satisfactorily. Members will recall that my colleague, the Hon. Mr Gilfillan (who incidentally has done a great deal of constructive work on this problem over many months), fand I supported these regulations. However, our support did not indicate that we thought that the regulations were perfect, but that they should be constantly under review as new problems appeared. We are also not supporting the disallowance of these regulations at this time.

It seems that the effect of the regulations is not what Parliament intended and that the cost of towing is increasing. An article appearing in the *News* this afternoon gives emphasis to that point. The Council will recall that these regulations which were first introduced in January 1979, were reintroduced in March and September 1984. They have still not solved the problems of the industry. In fact, one very important intersted party went so far as to say that unless the errors and anomalies are corrected (and soon) the industry could well be destroyed and we would revert to the law of the jungle. General opinion is that these regulations went too far in controlling industry and to some extent have backfired. It would appear that the people who drew them up had little idea of how the tow truck industry really worked.

The PRESIDENT: Order! I ask the honourable member to explain his question and not to give a run down on the tow truck regulations. He asked leave to explain his question.

The Hon. K.L. MILNE: I hope I have done that. Now that the regulations have been in operation for several months, will the Minister initiate a thorough, wide ranging review of the regulations in full consultation with the South Australian police, the Royal Automobile Chamber of Commerce and the Tow Truck Owners and Operators Association?

The Hon. C.J. SUMNER: I will seek information on this matter and bring back a reply for the honourable member.

TOBACCO COMPANY ADVERTISING

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Health a question about tobacco company advertising.

Leave granted.

The Hon. R.I. LUCAS: Yesterday's Federal court decision upholding bans on certain forms of cigarette company advertising at sporting events has raised considerable doubt about the future of this form of sponsorship. Comments already made by a number of South Australian sporting organisations, including the Football League, Soccer Federation and Cricket Association, indicate that the matter might have a serious effect on their finances. Many people are also most concerned about the possible effect of that ruling on the Adelaide Grand Prix. It is clear that the Grand Prix organisers must also be concerned about yesterday's decision.

Members will recall that in 1983, when legislation was brought before this Parliament by the Hon. Mr Milne to ban all forms of tobacco product advertising, the Minister of Health and the Government voted for that legislation. Members might also recall that on 4 December last year, in reply to a question I asked the Premier about whether he would give an undertaking that he would not introduce or support such legislation during the period Adelaide would be hosting a Grand Prix event (and a period of seven years was being talked about), I was told that the Premier on

behalf of the Government was not prepared to give such an undertaking.

Members will be well aware that tobacco companies are very prominent in sponsorship of Formula 1 motor racing. I will not go through the matter in full detail, but will refer to one particular company's very prominent role in sport, that is, the Marlboro Company. This afternoon I spoke to a representative of that company, who provided me with the following details: first, they have two fully sponsored team cars currently driven by Nikki Lauda and Alain Prost. For those who are not familiar with Formula 1 motor racing, they are currently the world champion and runner-up in Formula 1 motor racing and any Grand Prix that might not have their presence would e seriously robbed of much interest.

The Marlboro Company sponsors, in addition to the leading drivers in the world, a significant number of drivers who carry the Marlboro logo on their helmets and uniforms. In addition, it is possible that the Marlboro Company may well be one of the major sponsors of the Adelaide Grand Prix. I recall asking a question of the Attorney during the debate on the Grand Prix Bill and he indicated that the Government would not place pressure on the Grand Prix Board to preclude a tobacco company from being a sponosr of the Grand Prix. He indicated that it ought to be a commercial decision. Clearly, just one company such as Marlboro is prominent in motor racing and will be playing an important part, possibly, in the Adelaide Grand Prix. My questions to the Minister are:

1. Is the Minister now prepared to give an assurance that he will not introduce or support any legislation such as the Tobacco Advertising Prohibition Bill introduced by the Hon. Mr Milne in 1983 during the period that Adelaide will be hosting a Grand Prix event?

2. Is the Minister, in the interests of South Australia and South Australian sports lovers, prepared to ask the Federal Government and the appropriate Ministers to review the current legislation and guidelines at the Federal level so that future sponsorship of sport by tobacco companies is not jeopardised, or does he still support his own position and his Party's policies and actions which seek the ultimate prohibition of this form of advertising?

The Hon. J.R. CORNWALL: First, my position as Minister of Health is very clear, and the Bannon Government's position is very clear, having been spelt out in this place on numerous occasions in 1983 and 1984. We cannot go alone as one State in the banning of advertising on hoardings and we most certainly have no jurisdiction over television broadcasts; that is quite clearly a matter for the Australian Broadcasting Tribunal. We cannot, and will not, go alone. I will not introduce or support a relevant Bill during 1985 for all the practical reasons that have been outlined on many occasions.

I believe that in the longer term there will, inevitably, be action taken by the national Government to extend some of the existing prohibitions on advertising by tobacco companies. The Hon. Mr Lucas asked whether I, in the interests of South Australians and South Australia, will urge the Federal Government to review the guidelines to make it easier for tobacco companies to advertise their products. That is a very strange question to ask a Health Minister. It is well known that tobacco smoking kills about 16 000 Australians a year (including about 1 400 South Australians every year) and is responsible for lung cancer, coronary heart disease, peripheral vascular disease and emphysema, to name but four major problems. I would be clearly in dereliction of my duty to protect South Australians if I were to take any action that would make it easier for tobacco companies to advertise on television, or anywhere else, and I have no intention of doing so.

YOUTH SERVICES

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

Leave granted.

The Hon. L.H. DAVIS: Members will recollect that last week I asked a question about The Door and the Minister in his reply somewhat incredibly attacked me for daring to raise the question while members of The Door were in the Chamber. However, I raised that question because it is a matter of public interest and I say straight away that it is commendable that the Government is taking an interest in young people in what is International Youth Year. However, the criticism voiced last week has also been voiced by many people in the youth field. I have a criticism which comes from the Youth Workers Networth Health Task Group, as follows:

> The Youth Worker's Network Health Task Group wishes to express its alarm at the apparent lack of methodology being applied toward the establishment of an adolescent health centre in Adelaide. From the little information available, it appears that the adolescent health issue is being tackled by starting with a solution, The Door proposal, and working backward to apply it to Adelaide's young people. Most efforts seem to be directed at how to implement the proposal and not whether to do so.
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> Had this proposal been submitted by a non-government body to Government for funding, it would have undergone a more thorough examination than this one is receiving. A number of questions would be asked:
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> - Who, specifically, is the service targetted for?
> - What, specifically, does the service aim to achieve or provide?
> - What process was used to determine that this proposal can meet specified needs or demands?
>
> The consultation with young women and men, workers with youth and the health field has been similarly lacking in method, focus and depth. What are the specific objectives of the consultation? How can the hand picked consultative group hope to represent their colleagues and clientele in one four hour meeting? Where are the written proposals, discussion papers or policy drafts for the field to respond to? Why are we already talking about where it is going to be located and who should staff it? What's the hurry?
>
> The Health Task Group strongly recommends that the working party study the feasibility of this proposal, give itself more time to have a thorough consultation and policy development phase before recommending the commitment of public funds for implementation. We further submit that the questions raised here will need to be answered in this process.

The Youth Workers Network offers a discussion paper as an initial step toward further collaboration. That letter is signed by the Convenor of the Youth Workers Network. It is a stinging attack on the Minister of Health and the officers of the Health Commission who have been rushing to judgment in this matter. Quite obviously, there is broad support among youth workers for the concept of The Door, but the concern that has been expressed by so many people, including Mr Mike Presdee (who has so much expertise)—

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

The Hon. L.H. DAVIS: —demands explanation. Will the Minister take note of the advice of the Youth Workers Network, Health Task Group, and slow down in his approach to implementing The Door?

The Hon. J.R. CORNWALL: We have been slowing down in the field of adolescent health for the past two decades. The result is that we do not have very much in the way of programmes. Of course, we share that with the other States in this country and it is a problem around the world. The Hon. Mr Davis, who seems determined to sabotage our very wide-ranging programmes for adolescent health in International Youth Year, 1985, has raised further matters today. He says that we need more papers, more research, more policy drafts, more feasibility studies, more

working papers and more discussion papers. We could go on for another two decades. The fact is that in the meantime, out there in the real world, there are some very real problems. In the field of adolescent mental health in particular, there are very real needs. The whole area of adolescent health is one that workers in a whole variety of disciplines now acknowledge is a specialist area. I am absolutely amazed, in those circumstances, that the determined programmes that I am trying to introduce with the assistance of many experts in the field (and just as importantly with the support of the kids for whom they are being designed) are the subject of denigration by the Hon. Mr Davis. He really ought to—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: The honourable member really ought to grow up and stop this schoolboy debating business. He referred again, as he did the other day, to the fact that there has been very little consultation. Of course, I first floated this idea in June on my return from the United States nine months ago and there has been consultation at various levels ever since. The honourable member alleged the other day that there had been no consultation with the people who came here, my friends from The Door programme in New York. They met more than 400 people in the nine days in which they were in Australia. What about my youth health adviser, Margie Harvie, who was appointed specifically to advise me on youth health programmes and to be the contact with the youth of South Australia during International Youth Year? As part of her duties as executive officer to the working party on The Door, she has talked to 150 young people in three high schools; she has been involved with young people's groups; and she has been on the consultative committee.

Of course, the consultative committee that works with the smaller working party on The Door comprises 15 different organisations, representing youth in the broadest possible spectrum: young people attended the public sessions and the seminars that were held during the visit of the New York people: so there has been very wide consultation. There is an urgent and a very real need. If the Hon. Mr Davis does not appreciate that, he has a far bigger problem than I am ever likely to have. I am very proud to be able to say that we have an urgent programme for adolescent health in South Australia, because the need is real and it is great.

ASSOCIATIONS INCORPORATION BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1. Clause 3, page 1, after line 25—Insert new paragraph as follows:

(ab) an account of income and expenditure;.

No. 2. Clause 11—page 7, line 35—Leave out 'Where' and insert 'Subject to this Division, where'.

No. 3. Page 8, after line 20—Insert new subclause as follows:

(la) Where an authorised person exercises a power under this Division to require another person to produce books that are recorded, kept and reproduced by electronic means, the other person may comply with the requirement to produce those books by providing a printed reproduction of the information contained in the books.

No. 4. Clause 15, page 10, line 3—Leave out 'this section' and insert 'section 14'.

No. 5. Clause 17, page 10, line 10—Leave out 'section' and insert 'Division'.

No. 6. Clause 18, page 11, after line 31—Insert new subparagraph as follows:

(ia) are intended to provide financial support to the association in a manner that is directly related to the objects of the association;.

No. 7. Clause 20, page 12, line 36—After 'may' insert—

—

(a).

No. 8. After line 38—Insert new paragraph as follows:

(b) with the consent of the Minister, decline to incorporate an association under this Act if, in its opinion, the incorporation of the association under this Act would not be in the public interest.

No. 9. Clause 22, page 14, line 36—After 'may' insert—

—

(a).

No. 10. After line 38—Insert new paragraph as follows:

(b) with the consent of the Minister, decline to incorporate an association under subsection (4) if, in its opinion, the incorporation of the association under this Act would not be in the public interest.

No. 11. Clause 34, page 19, lines 40 and 41—Leave out 'a gross income' and insert 'gross receipts'.

No. 12. Page 20, line 2—Leave out 'income' and insert 'receipts'.

No. 13. Clause 35, page 20, line 23—After 'Accounts' insert 'in Australia'.

No. 14. Clause 41, page 24, lines 10 to 12—Leave out subclause (7) and insert new subclauses as follow:

(6a) The Commission may, in relation to the voluntary winding up of an incorporated association under this section, approve the appointment of a person to act as liquidator who is not a registered company liquidator.

(7) The Commission may, in relation to a winding up of an incorporated association by the Commission under this section, appoint a person (who may but need not be a registered company liquidator) to act as liquidator.

No. 15. Clause 51, page, 28, lines 17 to 19—Leave out subclause (3) and insert new subclause as follows:

(3) An incorporated association that is required to lodge a periodic return in pursuance of section 36 may, at the end of a return period, comply with the requirements of this section by completing a return in accordance with this section and lodging that return as an annexure to the periodic return next lodged by that association.

No. 16. Clause 53, page 29, line 18—Leave out 'immediately before the first day of March, 1985,'.

No. 17. Line 19—After 'association' insert 'on the first day of March, 1985'.

No. 18. Clause 61, page 31, after line 46—Insert new subclause as follows:

(7) For the purposes of an application under this section, a breach of the rules of an incorporated association by the committee of the association may be regarded as constituting action that is unreasonable to members of the association.

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

That the House of Assembly's amendments be agreed to.

I will deal with the amendments *en bloc* because I understand that they have the agreement of the Opposition. In fact, since the Bill was last before the Committee there have been quite extensive consultations on the issues covered in the amendments. A number of the amendments are purely of a drafting nature, and I will not canvass them. The issues of substance, which I said at the conclusion of the debate in this Council on a previous occasion I would further consider, have in one form or another been incorporated into these amendments in the House of Assembly.

The first issue of substance relates to amendment No. 8, dealing with whether or not there could be a refusal to incorporate an association on the ground that it was not in the public interest. Concern was expressed by both the Hon. Mr Griffin and me about whether that should be included under the legislation, but in the end it meant that it has been incorporated to indicate that the Commission may refuse incorporation of an association on the ground that it would not be in the public interest, but that refusal must be made with the consent of the Minister. In those circumstances, there would still be a right of appeal to the Local Court or the District Court against the decision. The decision is actually made by the Corporate Affairs Commission, and that issue is canvassed under amendments 8 and 10. The next major issue involves amendment 15—the lodging of a return according to a suggestion of the Corporate Affairs Commission.

The reason for this is the need for a profile of all incorporated associations, not just in the private affairs of associations but in the larger financial area, to be obtained by the Corporate Affairs Commission. There is provision for the Corporate Affairs Commission to require the lodging of a periodic return. As the Bill left this Chamber previously, that did not apply to those associations that had to file details of their accounts as a matter of course. However, the information that is to be contained in a periodic return would be broader than the information that would be contained in the annual return of accounts. Accordingly, the amendment provides that the requirement for a periodic return will apply to all incorporated associations.

In respect to the so-called sunset clause on that, the end result of the negotiations is that the sunset clause will remain. Obviously that will have to be examined at some future time. If the Corporate Affairs Commission can justify the continual collection of the information at that stage, Parliament can give it further consideration. However, the Hon. Mr Griffin believed that that is not something that should go on without Parliamentary scrutiny of it at an appropriate time in the future and, of course, the appropriate time will be when the clause dealing with the collection of this information by way of periodic return expires.

The final matter of significance is one that I had some concerns about, that is, whether in an application to the court for remedial action against an association a member who is aggrieved by a breach of the rules may take action in the courts. The basis for an action is whether it was unreasonable. Amendment No. 18 makes it clear that a breach of the rules may constitute action that is unreasonable to members of the association. Not every breach of rule will enable an aggrieved member of an association to take action in the courts immediately. However, a breach of the rules of an association is not precluded as a ground of unreasonableness upon which court action may be based. The amendment does no more than provide guidance to a court to say, 'Yes, a breach of rules may be unreasonable, depending on the circumstances of the individual case.' Obviously there would be cases where a breach of rules of a minor kind or a non-continuous kind would not be deemed to be unreasonable to members of an association. On the other hand, if there are continual breaches of the rules, such as passing motions without giving proper notice, or without quorums, or whatever, that is action that could be considered to be unreasonable—of course, the ultimate decision being for the courts.

Amendment No. 3 is a point of clarification: it is designed to cover material kept by electronic means, presumably by computer and the like. If an association is required to produce documents, the amendment makes it clear that the documents to be produced are to be printed reproductions of the information contained in the books, which might be held in electronic form on a computer disc. I commend the amendments to the Committee, representing as they do the results of consultations and final compromises on the Bill.

The Hon. K.T. GRIFFIN: I am prepared to support the Attorney's motion to approve all the 18 amendments listed on the schedule. They result from further discussions between officers of the Commission, the Attorney-General and me since the matter was last before us. While there are one or two amendments that I am not 100 per cent convinced should be accepted, I am prepared to recognise that there is a reasonable argument in their favour. I will comment on each of the amendments on the schedule in order; that is probably the most effective way of identifying my views.

Amendment No. 1 is essentially a drafting matter to overcome a deficiency in the definition of 'books'. Amendments 2 and 3 are related: they arise from a concern expressed to me, after the Bill had been considered in this Chamber, that some associations keep all of their accounting and other records on computer. The concern was expressed that, if an inspector exercised the power proposed in the legislation to seize records and books of account, it could well mean that the computer and computer tapes would also have to be seized, rendering a great deal of inconvenience to the association. It is not likely to happen in many instances that there is an inspection under the provisions of the Bill. However, when it does happen it is appropriate to recognise that there could well be difficulties where books of account and other records are kept on computer. Where that is the case and an inspection is made and certain books are taken, it is sufficient compliance with the provisions of the Bill if there is a print-out of the relevant information from the computer which is made available to the inspector.

Amendments 4 and 5 are drafting matters. Amendment No. 6 is really included out of an excess of caution. I understand that the Corporate Affairs Commission received a late representation that, if there were an association which carried on a business to provide funds for charitable purposes or for another association, that association may be precluded from carrying on that business. I think the Goodwill type store was the illustration that was given. There are circumstances in which such an operation would be caught by the limitations imposed by the Bill. It was certainly never my intention that that should occur. Accordingly, amendment No. 6 will allow an association to be incorporated and to carry on business where it is intended to provide financial support to an association in a matter that is directly related to the objects of the association. It is a matter of clarification and I support it.

Amendments Nos 7 and 8 (which relate to the incorporation of an association) are related and are similar to amendments Nos 9 and 10, which relate to amalgamations. As the Attorney-General indicated, there were discussions in the Committee stage in this Chamber as to whether or not the Minister should have power to refuse to incorporate on the ground that such incorporation would be against the public interest. As it was framed in the legislation, there was no right of review of the decision of the Minister.

I thought that that was not appropriate. It was also, generally speaking, accepted by me that, where the Minister exercises discretion under corporate legislation such as the Associations Incorporation Act or the Companies Code, that discretion ought not to be subject to challenge. So, the formula that has been now adopted is to give the Commission the power to decline to incorporate with the consent of the Minister, so that, while the Minister has to give his approval, the decision is that of the Commission and under the general provisions of the Bill the decision of the Commission is subject to review. That is a satisfactory compromise in an area that is one of some difficulty.

Amendments 11 and 12 are essentially drafting matters, but relate to the criterion that will determine whether or not an incorporated association is required to have its books of account audited and to file those accounts at the Corporate Affairs Commission. There is a reference to the gross income being in excess of $100 000. Honourable members will remember that we did make a number of exceptions to that by way of amendment, but I did at that stage make the point that it was somewhat inconsistent to have a concept such as 'gross income' and, by definition, making it the same as 'gross receipts'. Anyone who has had some experience with accounting or even with the general law will recognise that receipts are not necessarily income. In those circumstances I did propose in the discussions that have taken place that it would be better to refer to the criterion in terms of gross receipts rather than gross income, and I am pleased that has now been accepted by the Government.

Amendment 13 is a matter of drafting in reference to the correct description of those accountants who are members of the Institute of Chartered Accountants in Australia. Amendment 14 is essentially a drafting amendment that picks up amendments that are made to another clause dealing with audit. It allows the Commission to approve the appointment of some person other than a registered company liquidator to be a liquidator in a voluntary winding up of an incorporated association and in other circumstances where there is a winding up. That is appropriate in the limited circumstances in which clause 41 will have some effect.

Amendment 15 deals with periodic returns, that is, the triennial return to be filed by associations. This amendment extends that requirement to those associations that are required to file their annual accounts only after having them audited. I did have some reservations about this, particularly as to why an association required to file annual accounts and an annual return should also be required to file this triennial periodic return. It was put to me that the information required in the periodic return was different from that in the annual return and that, therefore, there was a need for the sake of complete statistical and other information being available on associations, that all associations be required to lodge periodic returns.

I am not sure that that is quite so, but for the sake of building up a comprehensive picture of all incorporated associations I am willing to go along with this amendment, recognising also that the periodic return is required only up to 1 July 1990. If the Commission and the Government of the day desire to continue the requirement for associations to file periodic returns, an amending Bill will be required to be introduced into Parliament and debated by both Houses. The sunset clause is there. Those associations presently incorporated will not be burdened with a periodic return—a triennial return—after 1 July 1990, unless the Statute is amended.

Amendments 16 and 17 are drafting matters. Amendment 18, as the Attorney indicated, is a means by which a breach of the rules of an incorporated association by the committee may be regarded as constituting action that is unreasonable to members of the association and thus form the basis for taking action in the Supreme Court for a remedy against such a committee. At law a breach of the rules of the association by the committee may already be regarded as constituting action that is unreasonable to members of the association, but I am happy to have it included in the Bill. What I was anxious to achieve was that, if a breach of the rules by the committee was to be regarded as action that is unreasonable to other members of the association, the breach be taken in its proper context and not be regarded in isolation as unreasonable conduct because, to deal with it in isolation, would give to troublemakers in associations a ready-made remedy to frustrate the activities of an association when in fact it might be unreasonable for that action to be taken.

So, there is a safeguard here that the breach of the rules is only likely to constitute action that is unreasonable if the breach of the rules is serious and, in the context in which it occurs, is regarded as unreasonable. There are safeguards there against the frivolous, vexatious or unnecessary challenge to any breach of the rules by the committee of an incorporated association.

I am pleased that this represents the last hurdle to enactment of the legislation. It has been a long time in being developed, but I am pleased that now we shall have a reasonable piece of legislation to deal with incorporated associations in the late 1980s without it being unnecessarily intrusive, over-regulatory or imposing burdens which to some small associations will become difficult if not impossible to bear. I support the motion.

Motion carried.

STATUTES AMENDMENT AND REPEAL (CROWN LANDS) BILL

In Committee.

(Continued from 19 March. Page 3314.)

Clauses 3 to 9 passed.

Clause 10—'Minister's powers to deal with Crown lands.'

The Hon. PETER DUNN: I move:

Page 5, line 42—After '*Gazette*' insert ', provided that the Minister has had prior consultation with the person (if any) who has the care, control and management of the land the subject of the proposed resumption'.

This amendment ensures that the person or persons who have control of dedicated lands are made aware of any decision of the Minister, who can change lands now belonging to an aged homes complex, local government or a football club. It is a fairly simple amendment and I do not see any problem with it as it will only mean one letter sent to a person in control of such land, who would then be made aware that the Minister is making that decision.

The Hon. J.R. CORNWALL: It is not only a simple amendment, but a sensible one. In practice, it already happens. It would be a very extraordinary and strange Minister who did not notify people in the manner suggested by the Hon. Mr Dunn. The Government has no difficulty with the amendment.

Amendment carried; clause as amended passed.

Clauses 11 to 19 passed.

New clause 19a—'Repeal of section 22a.'

The Hon. PETER DUNN:

Page 8—After clause 19 insert new clause as follows:

19a. Section 22a of the principal Act is repealed.

The effect of this new clause is to repeal the Marginal Lands Act. It is a pity that this was not done in the Bill and I can see no reason why it should not come out. The Marginal Lands Act has applied since the 1940s and has served its purpose. It was first provided because it was considered that, because of the rainfall and some of the soils involved, farming methods and techniques were injurious to marginal lands which bordered on what are now known as perpetual lease lands. Those marginal lands were deemed to be requiring restrictions particularly in relation to wheat growing, and these provisions are contained in the Marginal Lands Act.

It is some time since those restrictions have been applied. No-one has told me that at any stage they have been asked to restrict their farming methods to comply with the Marginal Lands Act. In fact, Mr Chairman, as you well know, these marginal lands, particularly on the Northern Eyre Peninsula but not so much on the Murray Mallee or Murray Valley—the lands north of what are now perpetual lease lands—often have better soil than the lands to the south of them. Lands bordering the Pinkawillinie and Buckleboo areas have very red soils compared to soils farther south which are so poor that some of the areas have been made into reserves and were deemed to be unsuitable for agriculture somewhere around the turn of the century. The reserves of Hambidge and Hinks have very poor soils although they have higher rainfall than these marginal lands. Only 15 per cent of the original marginal lands deemed to be marginal when the Act came into being are affected by the legislation. They are now producing per square acre more than areas attached to them. We should not differentiate between them, considering such a small area is left. Most marginal perpetual lease lands are attached to perpetual lease properties. This effectively means that different rules relate to the two pieces of land.

Although they comprise one parcel of land there may be a marginal lease that cannot be freeholded attached to a

perpetual lease that can be freeholded, so that a silly situation exists whereby a farmer wants to freehold his property but cannot do so because part of it is attached to a marginal lease. There is no earthly reason why this Act should remain in force. Furthermore, in the eyes of some people such as bank managers, this creates a further restriction on the land that can result in a bank not being prepared to lend money to the same extent on the marginal lands as it will on perpetual lease lands.

Those are two or three cases that I can see where common sense should prevail. It appears to me that a minority of people have the ear of the Government about this matter. I have read what the Minister in the other House has said about this matter, that a committee was set up to peruse the Marginal Lands Act. It recommended these lands be turned into perpetual lease lands. I cannot see why the Government persists in maintaining marginal lease lands, because they will be bordering the more arid areas and pastoral areas. The line is distinct, and rules and regulations for that land are far different from those for perpetual lease land. The fact that the committee set up to review the marginal lease lands made that recommendation indicates to me that this should be done.

However, I believe that some people who probably have little knowledge of farming or living in these areas believe that we need a graded land system to come from pastoral land to agricultural land, and they are pushing to retain this 15 per cent of marginal lands so that they can have some control over those lands, even though they do not sweat on that land, earn their living from it or have to look after it. They still appear to want control of that land so that they can say to somebody that they can or cannot crop that land. I urge the Minister to carefully consider this matter because I think that this legislation will be back in this place in a short time to be repealed because it is of no further use. It is not being applied and is a law that is of no value at the moment, because it is sitting there and not being administered. Therefore, why have it on the Statute Book and why not remove it? I ask the Minister to agree to this amendment.

The Hon. K.L. MILNE: We will not support this amendment. A number of people have said that these days market forces control these kinds of lands and other properties. They do to some extent, but there have been one or two instances that I need not go into here where provisions of the existing Act have not been followed. They are unlikely to be followed when people are having a hard time on this land, which is hard land to cope would. I have every sympathy for those people, but I think that we must realise that these are marginal lands and still need special treatment. It is the view of the Conservation Council of South Australia that this legislation should be retained for the time being. Its view is that all land legislation and control is under review and will probably be consolidated soon with up to date controls, not controls of 100 years ago. That is the time to repeal this Act.

What the Hon. Mr Dunn is saying is substantially true, and I can see his point of view. I can also see the point of view of people owning marginal lands, but I do not think that the repeal of this Act is an urgent matter, provided that the Lands Department is given clear signals to continue to administer the Act with understanding and sympathy, particularly in relation to conditions in leases. I think that the administrators of the Act in the Lands Department could be asked to look favourably on people on marginal lands, taking into account what the Hon. Mr Dunn has in mind. I am not suggesting that they have not been doing their job properly, because I believe that they have been. In discussions with these people I found them to be very fair in their approach to both points of view. There are two points of view, but on balance at the moment I think that there is no need to repeal the Marginal Lands Act.

The Hon. J.R. CORNWALL: The Hon. Mr Dunn makes out a fairly good case in other circumstances. I believe he is right that come 1986 we will see a Bill in this place to deal with the Marginal Lands Act. The Government believes that land management controls, where they are required, should apply to all land irrespective of tenure. In other words, they should apply equally to Crown leasehold as well as freehold land. I should have clarified at the outset that this is the first of a number of amendments relating to the repeal of the Marginal Lands Act, and I suppose it is logical that we will take this amendment as a test case, and if there is to be a division hopefully we will only have to divide once.

It follows, as I was saying, that these controls should be exercised through the general laws of the State. In the past, and indeed at present, when they have applied only under lease conditions, checkerboard control, particularly in the marginal areas of the State, has resulted owing to a lack of uniformity of conditions. One does tend to get this checkerboard pattern and I am among the first to admit that that is undesirable.

This inconsistency has come about because of the time frame over which leases have been issued, the first perpetual leases having been issued nearly 100 years ago, and because of the various pieces of legislation under which they have been issued. Consideration is therefore being given to the matter of the need for further and more specific controls, particularly in the marginal areas. The whole business needs to be cleaned up; we have no argument with that. It is evident that some additional powers are necessary, and when they have been thoroughly investigated and identified it is expected that they will be effected through the introduction of a revised and updated Soil Conservation Act. Consideration may also be given to the establishment of local land management boards. I know that the Minister of Lands is giving that matter particular consideration at this moment.

However, until these initiatives have been finalised—and that will only occur after there has been extensive consultation with all interested parties over the next 12 months or so—it is expected that a new Soil Conservation Act will be introduced by the Minister of Agriculture. In other words, I repeat what I said earlier, that there is no question at all that there will be amending legislation introduced some time during 1986. Until that time it is considered that any existing land management controls in the form of lease conditions should remain intact.

When considering transactions, the effect of which if implemented would fragment current farming units, the existing controls on farm size can and have been waived where appropriate. So in the meantime it need not have a markedly deleterious effect on transactions. The relevant departments, including the Department of Agriculture and the Department of Environment and Planning, will monitor the situation on a continuing basis.

The Government therefore at this time for purely practical reasons (that is, for reasons of time) opposes the repeal of the Marginal Lands Act; it also opposes, for the time being (and I emphasise 'for the time being'), the freeholding of any land used for broadacre primary production in the marginal areas of the State. However, I want to make quite clear to the Committee that, when new land management controls have been identified and new legislation enacted and tested, the questions of repealing the Marginal Lands Act and statutorily waiving the conditions currently included in these leases will be further considered. The question of allowing the freehold of agricultural lands in these areas will also be examined, so hopefully the philosophy of apply-

ing controls to all lands irrespective of tenure will become a reality and all land owners and occupiers will be dealt with uniformly. In the meantime, for the practical reasons I have outlined, the Government is not able to support the amendment.

The Hon. PETER DUNN: As we do not have the support of the Democrats in this matter, there is no reason to go to the wall about it, but I am disappointed, because I believe that the responsible people who own those areas of marginal lands use techniques (for example, chemical cultivation), machinery and equipment, and do everything in their power to look after that land. They are as well aware of the fact that they get their living from the land as are those who live in the cities and who say 'You shall not cultivate.' However, I will not call for a division on this issue, although I am disappointed that this action is not being taken now instead of some time down the track. I will not proceed with my other amendments if this amendment is not carried.

Amendment negatived; clause passed.

Clauses 20 to 53 passed.

Clause 54—'Insertion of new sections 249d and 249e.'

The Hon. PETER DUNN: I have altered the amendment I had on file; a new amendment is being drafted.

The Hon. J.R. CORNWALL: In view of the fact that the Hon. Mr Dunn requires more time to draft an amendment, I suggest that we report progress.

Progress reported; Committee to sit again.

REAL PROPERTY ACT AMENDMENT BILL (No. 2)

In Committee.

(Continued from 19 March. Page 3316.)

Clauses 2 to 5 passed.

Clause 6—'Interpretation.'

The Hon. K.T. GRIFFIN: Service easement is defined under paragraph *(d)* as an easement in favour of the Minister of Water Resources for sewerage or water supply purposes, a council or the Crown for drainage purposes, or the Electricity Trust of South Australia or other authority for electricity supply purposes. I presume that the reference to 'or other authority' refers to those country generating authorities that are not part of ETSA. Secondly, is there likely to be difficulty regarding easements to the South Australian Gas Company, which is a private entity but which nevertheless is a public utility for all practical purposes, in respect of the supply of gas?

The Hon. J.R. CORNWALL: The answer to the first question is 'Yes'. There has been no difficulty in this respect in the past regarding SAGASCO, a private company or a quasi public utility, and my advice is that difficulty is not anticipated.

Clause passed.

Clause 7—'Unlawful division of land.'

The Hon. K.T. GRIFFIN: I indicated in the second reading stage that I had received a submission from a prominent Adelaide legal practitioner about legal and practical problems in relation to section 223*l*b of the principal Act. As this clause amends section 223*l*b, this is an appropriate time to endeavour to resolve the matter. I have appreciated the opportunity for the legal practitioner to consult with officers of the Lands Titles Office in respect of this Bill and with officers of the Planning Commission or the Department of Environment and Planning (I am not sure which) in respect of the Planning Act Amendment Bill (No. 2).

The problem that I have raised has been recognised as being real. My agreed amendment results from discussions that have occurred since I raised the question on Tuesday. Essentially, the problem is that section 223*l*b of the Real Property Act relates to unlawful division of land and appears to be somewhat inflexible in relation to those specific divisions that are caught by the section. I indicated that, under the old Planning and Development Act, there was a more flexible basis upon which divisions of allotments could be accommodated where those divisions were not a separation into separate titles but related to a dealing with only portion of an allotment. I particularly referred to leases and licences and also agreements to grant a lease or licence.

The regulation 48 procedure, which exempts certain classes of dealing from the provisions of section 223*l*b will remain, but the added flexibility of a lease, licence or agreement to grant a lease or licence not covered by regulation 48 can still be valid under the provisions of the Planning Act with the written approval of the South Australian Planning Commission. That achieves the objective that I raised in consequence of the submission by the legal practitioner. I believe that the amendment will provide the flexibility which existed previously under the old Planning and Development Act but which under the new legislation and regulation 48 was not available to those who wished to deal in this way with portions of an allotment. There are complementary amendments which I will propose to the Planning Act Amendment Bill, which will maintain that regime of greater flexibility.

The Hon. J.R. CORNWALL: This could almost be called the 'Griffin/Cornwall amendment'. I am very pleased that the Hon. Mr Griffin raised this matter with me, as the Minister in charge of the Bill in this Chamber. As he said, the matter was drawn to the Hon. Mr Griffin's attention by a senior legal practitioner in Adelaide. It has been the subject of some discussion between the profession, Parliamentary Counsel, the Hon. Mr Griffin and senior officers of the Department. It appears to us to be a very sensible amendment and the Government has no difficulty in accepting it.

Amendment carried; clause as amended passed.

Clauses 8 to 19 passed.

Clause 20—'Plans and maps.'

The Hon. K.T. GRIFFIN: This clause inserts a new section 241 in place of the more specific section 241 which is presently in the Act. The present Act provides specific dimensions and scales for maps and plans which are required to be lodged with the Registrar-General of Deeds. This new section gives the Registrar-General greater flexibility to determine the dimensions of any plan or map required, the scale to which the plan or map is drawn and the information to be included on the plan or map. I have no difficulty with that, provided that the requirements of the Registrar-General are promulgated in some public manner which provides specific guidelines. Is any immediate change envisaged to the requirements for plans and maps and, if so, what changes? In the future, how is it proposed to promulgate the requirements of the Registrar-General, if they are to change from time to time?

The Hon. J.R. CORNWALL: There is no immediate plan, to answer the honourable member's first question. With regard to the second question, it has been suggested to me that a suitable means of doing that would be to perhaps incorporate it in the Land Division Procedures Manual so that it can be updated and distributed from time to time. It is my advice that that is probably the most practical way of doing it for people who have a particular interest. They would then have no difficulty in picking it up as it is promulgated.

Clause passed.

Remaining clauses (21 and 22) and title passed.

Bill read a third time and passed.

ROADS (OPENING AND CLOSING) ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 20 March. Page 3380.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition supports the Bill, which is a straightforward measure enabling the South Australian Planning Commission to initiate moves in relation to the opening and closing of roads. The Minister indicated in his second reading explanation that a problem has arisen in relation to the Planning Commission's being able to take this action where it is operating within an authorised area of planning.

Judges of the Supreme Court have in recent judgments recommended that amendments along these lines should be supported. Whilst supporting the Government's intention the Opposition has some concern regarding the overall operation of the Roads (Opening and Closing) Act with regard to the time involved.

Delays could occur in two areas. Not only is there the eight-week period during which the public must be notified of such action pending, to give people ample opportunity to object, as they see fit, but it can take another six months to resolve the matter. There will be occasions when, for example, a road closure may be affecting people's business. It would be desirable to get the proposal finalised as quickly as practicable, whether it affects the construction of a house or the activities of a business.

The Government should look at the problems of delays and take any action possible to speed up the process. Whilst I understand the need for the eight weeks, so that the public can object to any proposal that is being put forward, I do not believe there is an excuse for delays of up to nine months within the Department itself. This Bill relates specifically to a decision in the Supreme Court and, therefore, we accept the need for quick action. However, the wider issue of delays needs to be looked at.

The Hon. J.R. CORNWALL (Minister of Health): I thank the honourable member for his succinct contribution. He is absolutely right: there is no excuse for these matters to take six to eight months. That is not a matter for legislation but for sound administration. I might say that this Government is all about sound, practical administration, and I will take those comments on board and refer them to my colleague.

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

STATUTES AMENDMENT AND REPEAL (CROWN LANDS) BILL

Adjourned debate in Committee (resumed on motion).
(Continued from page 3434.)

Clause 54—'Consent of Minister not required to encumbering or mortgaging of leases and agreements.'

The Hon. PETER DUNN: I did have some queries about this clause but I sought advice and am now happy about it. New section 249e is inserted and deals with the incoming lessee being liable for outstanding amounts upon the transfer of the lease. That has the effect of making the debt follow the land: the debt always stays with whoever has the land. I was perturbed that there was no mechanism whereby the purchaser would be notified of that debt. It may be a rental debt or some other small debt owing to the Crown, but no notification mechanism applied. It had been brought to my attention of cases now pending where this problem has arisen. However, advice from the Parliamentary Counsel is that section 90 of the principal Act covers the case where the vendor must advise the purchaser of any prescribed encumbrances. Parliamentary Counsel cannot tell me whether 'prescribed encumbrances' includes rent, and perhaps the Minister can give me the assurance that rent is included and, if that is so, it will be upon the shoulders of the vendor to ensure that the purchaser has full knowledge of any debts owing on that land before making settlement.

The Hon. K.T. Griffin: It is section 90 of the Land and Business Agents Act.

The Hon. PETER DUNN: I hope this cures the problem—

The Hon. J.R. Cornwall: It is section 90 of the Land and Business Agents Act, not the Crown Lands Act.

The Hon. PETER DUNN: I refer to the position applying in a private sale where the seller becomes the vendor—that is the advice I have received. If that is the case, we are covered, provided that the words 'prescribed encumbrance' include rental to the Crown. Will the Minister comment?

The Hon. J.R. CORNWALL: There is a difficulty here. I am sure that the honourable member would be aware that the tenure of much of the land in the Riverland has been changed in recent years and there is no requirement on the vendor in those areas, for example, to meet that requirement under the law. So, we are not able to give an absolute cast iron guarantee. What is presently proposed is that the forms used, where there is a declaration administratively made by both the vendor and the purchaser, be very substantially streamlined—they used to be double sided rather complex things with a whole set of questions, many of which were irrelevant—to a very simple one-side sheet on which both the vendor and the purchaser make a statement. To a significant extent that will overcome the difficulties raised by the Hon. Mr Dunn.

The Hon. M.B. CAMERON: I am now confused. I understood that the matter had been resolved. I understand that the Hon. Mr Dunn has been saying that presently there are two individual cases where people are being asked to pay rental owing on the land when they purchased it and of which they were unaware at the time of purchase. The Hon. Peter Dunn is trying to achieve a situation where either that is cured for those people, or the situation does not arise again. It would be fair to have an absolute guarantee. Every other charge, encumbrance or possible effect on the purchaser has to be determined by the vendor prior to the final transaction. I understand that there is a right of recovery under the Land and Business Agents Act for that to occur.

Will the Minister give an absolute assurance that the rental owed on the land, of which the purchaser was unaware and which the vendor hopefully was aware of and was receiving accounts for before the transaction, will be recovered from the vendor and not the purchaser. This is unfair to the purchaser, if he is not aware of any amount owing. Certainly, there is a lot of concern about this matter. I understand that one of the amounts involved is very substantial and has caused some trouble to the person concerned.

The Hon. J.R. CORNWALL: The simple answer is that I cannot give an assurance at the moment. Senior officers from the Lands Department and Parliamentary Counsel are unable to tell me at the moment. Until such time as the regulations under the Land and Business Agents Act have been checked I will be unable to give any cast iron assurances on that. That means that there are two options available: first, report progress and consider the Bill on the next day of sitting because quite frankly I cannot answer now; or, secondly, I am happy to reply in writing to the Hon. Mr Cameron. What clause 54 does is ensure that the responsibility for making the position clear (section 249e (1) *(a)*) rests on the agent.

The Hon. M.B. CAMERON: It is a good idea for these things to be cleared up so that we are all satisfied. I would prefer the Minister to report progress. I would like to examine the situation again. I had some discussions with the Hon. Mr Dunn this morning on the matter and at the end of that conversation I thought that we had established a cure, but it did not turn out to be the case. I would like to have the opportunity to obtain further advice on the matter before it proceeds.

The Hon. PETER DUNN: The advice I have is that every land transaction must come under the Land and Business Agents Act. Therefore, section 90 must apply to it. If that is the case the assurance we need is that the Minister will include in the regulations of the Land and Business Agents Act the fact that the rental the Crown is requiring is included in that regulation.

The Hon. J.R. CORNWALL: It may be that those provisions are already in the regulations under the Land and Business Agents Act. If I am able to come in and say that there is no problem, the regulations are there; if they are not I will give appropriate assurances one way or the other. We need more time to allow senior officers and the learned Parliamentary Counsel—

The Hon. M.B. Cameron: We will be briefing senior counsel.

The Hon. J.R. CORNWALL: That will not be necessary. I assure the honourable member that come Tuesday all will be under control. In the meantime, it is highly desirable that we report progress and seek leave to sit again.

Progress reported; Committee to sit again.

PLANNING ACT AMENDMENT BILL (No. 2) (1985)

Adjourned debate on second reading.

(Continued from 14 March. Page 3251.)

The Hon. K.T. GRIFFIN: I support the second reading of this Bill to enable me to move some amendments and debate the clauses of the Bill in more detail. It is essentially a Committee Bill dealing with what generally is regarded as the complex area of planning. When the Liberal Government enacted its planning legislation in 1982 and brought it into effect in November 1982 the object was to simplify the planning process. We indicated at the time that we were removing a number of constraints imposed by the Planning and Development Act and that we would keep the operation of the new Planning Act under review.

The present Government has undertaken a review of the operation of the Planning Act and it is clear that a number of matters require legislative amendment. The review that was undertaken had the same object as the review we proposed at the time of the last State election. During the course of the review there has been consultation with a variety of people in the community who have been directly or indirectly affected by the operation of the Planning Act. It has obviously been difficult to achieve a balance between all those competing interests that are reflected in the planning process.

I do not deny that achievement of a proper balance is a most difficult thing where there are diverging views on the best way in which planning and then development can occur. In many instances there is a polarisation of views between, on the one hand, those who are anxious to proceed with the developments, many of which are vital for the development and progress of South Australia and, on the other hand, those who wish to place a more significant emphasis on environmental and heritage matters. Undoubtedly, on occasions the two are largely in conflict, but likewise in many instances suitable compromises can be made, on the one hand, to allow development to proceed and, on the other hand, to ensure that our heritage is properly preserved and that the environment is protected. But nothing is absolute. There always have to be compromises and I think the emphasis of the planning legislation has got to be on the way in which those compromises can best be achieved and the extent to which the margins between black and white are blurred.

There have been some criticisms of the present Planning Act and its operation, and some of those are justified. This Bill seeks to deal with some of those criticisms. We will support a number of the provisions of the Bill because of the emphasis that they take and the desirability of those amendments. On the other hand, there are amendments that we will oppose. There are also, I might say, amendments which we will question and which do not, in our view, appear to be necessary in terms of the operation and administration of the Planning Act.

Those that we will oppose include clause 8, which deals with the membership of the Commission where there is a most significant extension of the range of interests that may be represented on the Planning Commission to include a person with practical knowledge of, and experience in, environmental management, management of natural resources, housing, welfare services, administration, commerce or industry. It is the inclusion of welfare services that I think is quite inappropriate. I see no reason at all why in the planning process a person ought to be involved with some experience in or practical knowledge of that area of interest.

That is also reflected in clause 11 dealing with the Commissioners who sit on the Planning Tribunal provided that their qualifications include environmental management, housing or welfare services. I do not see any need to include those provisions in the planning legislation. In two years the criteria that exists for selection of members of the Planning Commission and the Commissioners who will sit on the Tribunal have proved to be adequate and satisfactory and no general criticism has been made of the background, experience and knowledge of those members of the Commission.

Clause 17 is one of those on which I will want clarification. It deals with section 35 of the principal Act and in fact replaces that section, again, in terminology which appears to be similar to, but not identical with, that which is in the present section 35. I remain to be convinced that there is a need to fiddle with the drafting of that section.

Clause 21 deals with the amendment to the Development Plan. The present section 48, to which this clause relates, deals with heritage items, and specifically places emphasis upon the need to protect an item of the State heritage that is likely to be affected by a development. Clause 21 introduces a concept with which, again, I have some difficulty. I will pursue that matter during the Committee stage of the Bill.

The other amendment in clause 21 relates to the approval of supplementary development plans. Presently they are all required to go before the Advisory Committee on Planning. The committee must report to the Minister, but the Bill limits the opportunity for the Committee to comment and that will quite obviously enable the Department of Environment and Planning to play a much stronger role in the drafting and approval of a supplementary development plan. Again, it seems to me that the *status quo* could appropriately be retained without prejudicing the planning process because section 41 presently provides a mechanism for greater involvement by the Advisory Committee on Planning in the development of supplementary development plans than is proposed under the amendment.

Clause 24 seeks to place upon local councils the burden of meeting the cost of a supplementary development plan

that is prepared by a council. If the costs are in fact incurred by the Minister, clause 24 gives the Minister the right to recover the costs of that plan. It seems to me that that will be prejudicial to the planning process and that local councils may, in fact, be discouraged from the preparation of supplementary development plans if they know that the risk is that they will pay a substantial part, if not all, of the cost of undertaking the work involved in the supplementary development plan. I will also focus on clause 27, which gives the planning authority wider powers.

In that clause the planning authority is able to stipulate continuing conditions in those developments where an environmental impact statement has been prepared. Again, I do not see that there is any problem with the present section, but the amendment may well have the effect of prejudicing developments without achieving any useful end. I will raise other matters in Committee. Suffice to say that we will support the second reading for the purpose of considering amendments and supporting those parts of the Bill which we believe are reasonable and which will facilitate the planning process rather than hinder it.

The Hon. K.L. MILNE: I support the second reading and I foreshadow amendments. The first will include in the powers and duties of the Commission the right to make recommendations to the Governor as to regulations. That is consequential on the Government's intention under clause 37 to amend section 74 by striking out the passage 'on the recommendation of the Commission'. I quite agree that the Government should not be beholden entirely to the Commission regarding the making of regulations: it should be free to make recommendations if it wants to. I agree with the Government's suggestion, but I would not like to see the Commission weakened, and I suggest that the power to recommend regulations be added to the powers under section 12.

There is a problem in the wording of clause 22, which amends the principal Act by giving the Governor power by regulation to define terms used in the Development Plan. I cannot see why the provision is to be inserted into section 42 and not into section 34, which deals with the power to make regulations. What concerns me (and I will deal with this more fully in Committee) is that it is very dangerous for the Governor in Council to have the right to change definitions, because the whole thrust of an Act or part of an Act could be changed. I do not suggest that this Government would do that, and the Opposition in government would perhaps not do it either, but we never know what will happen these days. I think it is worth taking precautions. In my view, it is dangerous to provide power to change what has already been considered by Parliament, so that clause should be deleted.

The Opposition seeks to delete clause 24 *(b)*, and I agree with that. The question of who should pay for the printing has become very muddled, but it does not matter one way or the other, because the Government is helping to finance local government. It will go around and around. The wording is complicated, and the clause has no great value. I hope it will be deleted. Some of the provisions of the Bill are sensible and progressive. I support the second reading.

The Hon. J.R. CORNWALL (Minister of Health): I thank the Hon. Mr Griffin and the Hon. Mr Milne for their contributions, although, not surprisingly, I do not agree with everything they said. The matters they have raised are substantial and there are a number of them, so I believe we should handle them as they arise in Committee.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Interpretation.'

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

Page 2—

After line 4—Insert new paragraph as follows:

(ba) by striking out from subparagraph (i) of paragraph *(b)* of the definition of 'division' in subsection (1) the passage 'five years' where twice occurring and substituting, in each case, the passage 'six years'.

(bb) by inserting after subparagraph (i) of paragraph *(b)* of the definition of 'division' in subsection (1) the following subparagraphs:

(ia) the granting of a lease or licence or any dealing with a lease or licence or an agreement to grant a lease or licence if the lease, licence, dealing or agreement is subject to the written approval of the South Australian Planning Commission;

(ib) a contract for the sale and purchase of part of an allotment if the contract is subject to the granting of planning authorisation required by this Act in relation to the division of the allotment contemplated by the contract;

After line 14—Insert new paragraph as follows:

'*(e)* by inserting after subsection (1) the following subsection:

(1a) The South Australian Planning Commission may attach such conditions as it thinks fit to its approval of a lease, licence, dealing or agreement referred to in paragraph *(b) (ia)* of the definition of 'division' in subsection (1).'

The series of amendments to this clause picks up the points I made in relation to the Real Property Act about land division and the inflexibility in the present legislative scheme dealing with the granting of a lease or licence or an agreement to grant a lease or licence, or any dealing with a lease or licence. I made the point that under the Real Property Act regulation 48 prescribed certain exceptions to transactions which reflect a dealing with an estate or interest in land but which are not sufficient to give the sort of flexibility provided under old section 44 of the Planning and Development Act.

Consequently, after discussion between the Minister's officers and a prominent Adelaide legal practitioner, the difficulties raised by that legal practitioner about inflexibility have, I think, been accommodated in my amendments. The amendments also pick up the point that I made in respect of the Real Property Act—that five years appears to be the period beyond which leases and licences on portion of allotment will not be allowed. I said that most leases are for something like three years with a right of renewal for a further three years. There is no right of renewal for two years where the initial term is three years.

I am pleased that my amendment extends it to six years to deal with that practical problem. My next amendment inserts new paragraph *(bb)* and does two things. It deals with the question of—

the granting of a lease or licence or any dealing with a lease or licence or an agreement to grant a lease or licence if the lease, licence, dealing or agreement is subject to the written approval of the South Australian Planning Commission.

In those circumstances, for the purposes of that Act, it is not a division. Subparagraph *(ib)* recognises that, if a contract is entered into for the sale and purchase of part of an allotment, the contract in itself is not a division within the definition, if the contract is subject to the granting of planning authorisation required by the principal Act in relation to the division of the allotment contemplated by the contract. There is an additional subsection which will allow the South Australian Planning Commission, in granting approval of a lease, licence or dealing or agreement relating to such interests to attach conditions. I think that is also appropriate. As I said earlier, this is complementary to the amendments made to the Real Property Act and will give greater flexibility in dealing with portions of allotments in certain circumstances which are not circumstances designed to thwart the principal objectives of the legislation.

The Hon. J.R. CORNWALL: The Government is prepared to accept the amendments moved by the Hon. Mr Griffin.

Amendments carried.

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

Page 2, after line 14—Insert new paragraph as follows:

(e) by inserting after subsection (1) the following subsection:

(1a) The South Australian Planning Commission may attach such conditions as it thinks fit to its approval of a lease, licence, dealing or agreement referred to in paragraph *(b) (ia)* of the definition of 'division' in subsection (1).

Amendment carried; clause as amended passed.

Clause 5 passed.

Clause 6—'Application of Act'.

The Hon. K.T. GRIFFIN: It repeals subsections (2) and (3) of present section 6. In another place, as I understand it, the Minister for Environment and Planning indicated that the section was operative in relation to at least one development. Can the Minister identify which development that is and what will happen with it following the repeal of the two subsections?

The Hon. J.R. CORNWALL: The honourable member refers to the demolition of A block at Yatala. I am instructed that that area will be brought back in before the two subsections are repealed.

Clause passed.

Clause 7 passed.

Clause 8—'Membership of the Commission.'

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

Page 3, lines 5 to 10—Leave out paragraph (a).

I have indicated that the Opposition is not prepared to support paragraph *(a)*. Clause 8 amends section 10 of the principal Act. Subsection (5) *(b)* deals with the appointment of two part-time members, one of whom must be a person with practical knowledge of and experience in local government (that is accepted and is not affected by the amendment), and the other must be a person with practical knowledge of and experience in administration, commerce, or industry or the management of natural resources.

The amendment seeks to extend paragraph *(b)* to include practical knowledge of, and experience in, housing, welfare services and environmental management. The Commission comprises only three members. I do not know of any criticism of the present membership or of their qualifications. It seems appropriate to me that the *status quo* should remain. It also seems that the inclusion of welfare services as a planning matter or as experience which one of the part-time members must have is irrelevant to planning matters.

The Hon. J.R. CORNWALL: As a Minister who is in charge of a very large human services area it is my view, on the other hand, that the clause does not go far enough. I am surprised that the Opposition is trying to delete welfare services. I would have thought that not only welfare services but community services and a whole range of human services are absolutely essential in an urban planning process. One has only to look at some practical examples, for example, Parafield Gardens—not well planned—where thousands of houses are going to appear over the next decade. Had there been some consideration in advance concerning schools, health services, community health services and the sorts of welfare services and other community services generally that are needed, then Parafield Gardens would be a better place.

It will be necessary for us now as a Government to turn considerable attention to the whole range of human services in that area and hope that we can retrieve something so that the many thousands of families who settle there over the next decade will not be disadvantaged. Golden Grove is a classical case in point. There will be a tremendous need for sensible planning of the human services. Clearly, there is going to be a need to commission more beds at Modbury Hospital. Already in train is the planning necessary for community health services, for community welfare services, for education and education facilities to be planned in the optimum manner.

It seems in those circumstances that to add welfare services is really a minimum position. I am sure the Democrats would be attracted to that argument. Certainly, it is part of sound forward planning processes. I could go on at great length. Morphett Vale East is an area where earlier input would have meant that we would not at this time have to work so strenuously to ensure that as the area develops the human services will be adequately provided. Therefore, we reject the Opposition's amendment.

The Hon. K.L. MILNE: I cannot see any great benefit in opposing the Government in this matter. I have a sneaking feeling that it is getting many conflicting views on the Commission. If the Government had asked me, I would have advised it to keep the Commission small. If it gets bigger it will have more difficulty, but I do not intend to support the amendment. The Government should watch carefully to see the result and, if it is necessary, make changes.

The Hon. J.R. Cornwall: The amendment deals with the range of qualifications.

The Hon. K.L. MILNE: Yes.

The Hon. R.C. DeGARIS: Where will the Minister find a person with a practical knowledge of environmental management, management of natural resources, housing, welfare services, administration, commerce or industry? I agree that one does require a person with some knowledge of human services, but it would appear to be difficult to find a person with such qualifications.

The Hon. J.R. CORNWALL: I could be flippant and say that I am not contemplating retirement from Parliament in the near future! It would be difficult to find someone with all those qualifications, but it is an and/or situation. We are not really looking for superman or superwoman.

The Hon. R.C. DeGARIS: The Minister said that he was not retiring from Parliament but, as administration skill is required, there is still some difficulty in his being appointed.

The Hon. K.T. GRIFFIN: I am disappointed by the response from the other side of the Committee. I do not see any need to change the *status quo* unless the Government has in mind some new appointments that might be more socially orientated rather than being planning orientated. In the light of the indication of the Hon. Mr Milne, if I lose the amendment on the voices I will not call for a division, in view of the time.

Amendment negatived.

The Hon. K.T. GRIFFIN: I refer to paragraph *(b)*. The introduction of personal interest may create some concern. This is probably one of the first pieces of legislation where this concept of personal interest has been introduced. Statutes generally deal with pecuniary interest and conflicts of interest. I am not sure that anyone would know what a personal interest would be. Can the Minister say what it means?

The Hon. J.R. CORNWALL: I am informed that it was suggested by one of the judges of the Planning Appeal Tribunal. The interpretation rests to a large extent on the application of common sense: for example, if a relative or a relative by marriage had an application before the Tribunal, the member of the Tribunal would not have a financial or pecuniary interest but would clearly have a personal interest. If a brother, a sister-in-law or a friend had a matter before the Tribunal, then the application of common sense to the average reasonable person would dictate that they should not participate in the decision making process.

The Hon. K.T. GRIFFIN: Common sense usually prevails in those sorts of situations anyway. If a member of the

Commission lives in a certain locality and is anxious that a building which is not on the heritage list but which may have significant heritage interest should not be bulldozed and the site redeveloped, that would seem to be personal interest to me. Is that what is intended?

The Hon. J.R. CORNWALL: Apparently that is not the spirit of intent of the amendment. It is more as I described it: personal in the sense of relative and friend. I would imagine that in the case described by the Hon. Mr Griffin it would be more an indirect pecuniary interest. If I had an interest—and I do not want to get locked into legal combat with the former distinguished Attorney-General—and lived as I do in a particular circuit in West Lakes Shore and development or demolition was proposed in the area which was likely to affect property values, obviously I have an indirect, if not a direct, pecuniary interest. On the other hand, if my brother-in-law came before the Commission with a matter that would have no direct financial benefit or interest to me, it would, nevertheless, constitute a personal interest which could well affect my impartiality. That would be the position, as I understand it, on the instruction that I have taken.

The Hon. K.T. GRIFFIN: I do not want to take a lot of the time of the Committee on this point. The example I gave may not necessarily prejudice property value, but may, in fact, enhance it. Yet, the member of the Commission may have a personal interest in the sense of a personal desire to have the property retained because he likes the building and believes that it should be retained for posterity. If personal interest is included to deal with the family relationship between a member of the Commission and a party who is interested in a proposal before the Commission, I suggest to the Minister that the amendment should spell it out. If the Minister will consider it between now and when the Bill gets to the House of Assembly, it may be that that can be clarified to limit it to the areas of concern that he has expressed. The Bill has to go back to the House of Assembly, in view of the amendments which the Minister is moving, anyway. It would be appropriate to clarify it once and for all.

The Hon. J.R. CORNWALL: There is a practical solution to this. I have already spoken to the Minister for Environment and Planning and asked, particularly with the Real Property Act and the Planning Act as well, that since there are a couple of matters that need verification so that we can be quite sure that the amendment, for example, moved by the Hon. Mr Griffin to the Real Property Act does as precisely as possible what the legal fraternity is looking for, that any messages received from this Chamber today not be taken into consideration until Tuesday. Therefore, the opportunity is there for the Hon. Mr Griffin to confer with the Minister or anyone else who is appropriate.

If the Hon. Mr Griffin believes that needs further clarification, then we can seek that. It would be presumptuous of me to contest matters that have been raised by the former Attorney-General. I am perfectly happy to take advice on it over the weekend and to take action if the advice is that it is warranted. On the advice that I have received from both Parliamentary Counsel and senior officers to this moment, that action probably is not necessary.

The CHAIRMAN: Order! I point out for clarification that the House of Assembly can only deal with the amendments moved in this Council. Since the Bill came from the House of Assembly to this Chamber, the House of Assembly cannot introduce new matters to the Bill when it receives it.

The Hon. J.R. CORNWALL: I want to accommodate the honourable member as much as possible, but I do not believe that the point is valid enough to hold up the passage of the Bill. In those circumstances, I believe that we should press on. All my advice is that it is a point that can be resolved by common sense.

Clause passed.

New clause 8a—'Advisory functions of the Commission.'

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

Page 3, after line 13—Insert new clause as follows:

8a. Section 12 of the principal Act is amended by inserting after paragraph *(a)* the following paragraph:

(ab) may, of its own motion or at the request of the Minister, make recommendations to the Governor as to regulations that should be made under this Act;

In clause 37 the Government is suggesting that the words 'on the recommendation of the Commission' be deleted. That means that the Governor in Council can make regulations without recommendations from the Commission. I think that that is perfectly reasonable. However, one or two points in the Bill have given the impression to people in local government that the Government is weakening the powers of the Commission and is perhaps endangering its independence. I am inclined to agree. I do not think that this is being done on purpose, but that is what it adds up to in some people's minds. I will support clause 37, but I am asking the Government to agree to put a distinct suggestion in section 12 of the principal Act that the Commission may, of its own motion or at the request of the Minister, make recommendations to the Governor as to regulations that should be made under this Act: in other words, make clear that the Commissioner is expected to recommend regulations. That would have the same effect in clause 37 as the Government intends, yet it would retain the powers, independence and full duties of the Commission.

The Hon. J.R. CORNWALL: The Government cannot accept the amendment. We should be very clear that policy rests with the Government of the day, and implementation of that policy rests with the Commission. If one were to extend this amendment of the Hon. Mr Milne's into a number of other areas we would virtually have a situation in which the Government, and indeed the Parliament, would become redundant. Heaven save us from the day when the Health Commission is the sole repository of policy.

The Hon. K.L. Milne: No—

The Hon. J.R. CORNWALL: That is the net effect. Under the Hon. Mr Milne's amendment the Commission can simply go to the Governor and that would be the end of the penny section. The Minister would be totally irrelevant. That is quite untenable and is even a smidgeon foolish. The Government cannot accept it. I would be amazed if the Hon. Mr Griffin and the Opposition, as an alternative Government, will accept it either, because at some stage—one would hope in the far distant future—in the democratic process inevitably it will be back in Government. Quite frankly, I do not think that any Government can live with the amendment.

The Hon. K.T. GRIFFIN: The Hon. Mr Milne is compensating for a later amendment to section 74 which, by clause 37, removes from the regulation making power the reference to regulations being made on the recommendation of the Commission. What he seeks to do is provide that the Commission can still institute regulations. I understand what the Minister is saying but the clause does not exactly do that. It does not say that the regulations have to be promulgated. Under present section 74, the regulations can be made only on the recommendation of the Commission. This means that the Commission determines the policy and the Government then determines whether or not those regulations will be put to the Governor. It is a rather curious procedure that the Commission should make recommendations to the Governor.

The Hon. B.A. Chatterton interjecting:

The Hon. K.T. GRIFFIN: Under the Acts Interpretation Act that is the Governor in Council, so it is saying, in effect, 'make recommendations to the Governor in Council'. I wonder whether the more appropriate course is merely to delete the words 'to the Governor' so that the Commission has a right at least to make recommendations as to regulations that should be made under this Act. Then the Government of the day makes the decision whether or not they should be promulgated. That overcomes the curious constitutional situation that the Hon. Lance Milne has reflected in his amendment (maybe not intentionally). If he were to empower the Commission to make recommendations as to regulations, while it would not go so far as present section 74, which allows regulations only on the recommendation of the Commission, at least it makes clear that the Commission has a right to make recommendations, which would be to the Government, as to regulations, and that may well overcome his problem.

The Hon. K.L. MILNE: Given the Minister's fears, would it be better to say 'may of its own motion or at the request of the Minister make recommendations to the Minister'?

The Hon. K.T. GRIFFIN: It is not for me to make a decision for the Hon. Lance Milne. If it is merely to make recommendations as to regulations, I think, by virtue of the structure of the Act, those recommendations will be made to the Minister, anyway. All I am suggesting is that he might consider deleting the words 'to the Governor', and then I will support the amendment.

The Hon. J.R. CORNWALL: The Government cannot support this amendment. It becomes terribly convoluted and severely compromises the power of the Minister to make regulations. As I have said before, the policy clearly rests with the Government of the day. There has to be some central co-ordination in planning policy. One does not suggest for one minute that there should not be local input and expertise, but overall, if one has a stage planning policy, ultimately the buck rests on the desk of the Minister. To put a Minister in a position where he collects the odium for bad decisons but does not initiate them is, quite frankly, unacceptable, and the Government opposes the amendment. I am amazed that the Hon. Mr Griffin is making legislation on his feet, he and the white swan.

The Hon. K.T. GRIFFIN: There is no reason for the Minister getting uptight about this.

The Hon. J.R. Cornwall: I am not, but we may as well save time and put the matter to a division. We won't accept it.

The Hon. K.T. GRIFFIN: All right. I just want put on the record that the Minister misunderstands the import of this amendment. If the Hon. Mr Milne seeks leave to delete the words 'to the Governor' from his amendment there is no compromise of the Government's position in respect of policy. It is a matter of recommendation by the Planning Commission, and that will obviously be a recommendation as to regulations to the Minister, so the Government retains ultimate control. If the Hon. Lance Milne deletes those words, I will support his amendments.

The Hon. K.L. MILNE: With the utmost respect, the Minister has misunderstood what we are trying to do. We are tyring to keep power with the Government and the Minister, as section 74 as it stands does not do. The only thing that the Government has done is remove the words 'on the recommendation of the Commission', so the Government is free to make its own regulations if it wants to. That is right and proper, and I support that. At the same time, I do not want to see the Commission weakened in any way and I am simply suggesting that, if we pass the amendment before us, we are giving the Commission a clear indication that it is expected to make recommendations to the Minister for regulations it would like to see come into force. There is no intention whatever of reducing the powers of the Minister or the Government in this matter. I seek leave to delete the words 'to the Governor' from my amendment.

Leave granted.

The Hon. J.R. CORNWALL: I would like some clarification on this matter. If it is the intention of the Committee to leave proposed clause 37, which amends section 74 of the principal Act, intact then the amendment moved by the Hon. Mr Milne and amended on his feet by the Hon. Mr Griffin, becomes a typical Democrat amendment and does not do very much. In those circumstances, and provided there is no intention to interfere with clause 37, we can accept the amendment. If it is a precursor to clause 37 being opposed, that is an entirely different thing.

The Hon. K.L. Milne: I give an undertaking right now to support clause 37.

The Hon. J.R. CORNWALL: As a gentleman's word is his bond, I accept that.

New clause as amended inserted.

Clauses 9 and 10 passed.

Clause 11—'The Commissioners.'

The Hon. K.T. GRIFFIN: I oppose this clause, which relates to section 20 of the Act and the qualifications of Commissioners who sit on the Tribunal. I see no need for this clause and have already dealt with this matter in relation to members of the Commission. I will oppose the clause.

The Hon. J.R. CORNWALL: Clause 11, as I understand it, is in the same vein as the honourable member's amendment to clause 8 regarding composition.

The Hon. K.T. Griffin: It involves the Commissioners.

The Hon. J.R. CORNWALL: It is the Commissioners, but nevertheless is a part of a series of amendments which refer to the composition, and the Government cannot accept it.

The Hon. K.T. GRIFFIN: I will not call for a division as the Hon. Mr Milne indicated that he supports the Government on this.

Clause passed.

Clauses 12 and 13 passed.

Clause 14—'How decisions of the Tribunal to be arrived at.'

The Hon. K.T. GRIFFIN: I do not intend to proceed with my opposition to this clause. It is a drafting matter. An amendment was moved in the House of Assembly, but in the light of the amendment to section 25 under clause 13 there is no need to oppose this clause.

Clause passed.

Clauses 15 and 16 passed.

Clause 17—'General powers of the Tribunal and Land and Valuation Court with respect to appeals.'

The Hon. K.T. GRIFFIN: I am not sure that I oppose this clause, either. It was opposed in the House of Assembly on the basis of concern that it would give a Tribunal the right to correct its own mistakes, but I am not sure that that is right. Will the Minister clarify the matter?

The Hon. J.R. CORNWALL: It simply takes account of the situation where the planning authority may make a mistake or a technical omission in processing a development application. I believe that former opposition was probably ill-founded. I do not think there is anything to be concerned about.

The Hon. K.T. GRIFFIN: I understand that the court can correct a decision of the Tribunal; the Tribunal cannot correct one of its own errors, so on that basis, in the light of the Minister's response, I do not oppose the clause.

Clause passed.

Clauses 18 to 20 passed.

Clause 21—'Amendment to the Development Plan.'

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

Page 6—lines 7 to 46, and page 7—lines 1 to 4—Leave out paragraphs *(f)* and *(g)*.

Section 41 of the principal Act deals with amendments to the development plan. This amendment is a matter of some substance, and accordingly, depending on indications about which way the Democrats will go, I may well call for a division. This provision gives to the Government and the Minister greater authority for amendment of the development plan, to remove some of the involvement of the Advisory Committee. I am not persuaded that there is any merit in removing involvement of the Advisory Committee in regard to supplementary development plans.

The Hon. R.C. DeGARIS: The second reading explanation states that this provision is a procedural matter, but it is much wider than that. I support what the Hon. Trevor Griffin said: on my reading, this clause transfers powers from the Advisory Committee to the Minister in relation to these matters. I do not object to excluding '14 days' and substituting '28 days': that is quite reasonable. However, I am concerned that the transfer of power appears to be much more than a question of procedure. The Committee should examine this matter. I suggest that the Hon. Mr Milne look at this closely, because the clause does more than the second reading explanation says it does.

The Hon. J.R. CORNWALL: I think I should get my bite of the cherry in in respect of the Hon. Mr Milne at this stage. There is nothing sinister in this clause. It does two things: at present the Act provides that council initiated amendments to the development plan in respect of zoning provisions go before the Minister's Advisory Committee before and after public exhibition and comment. That is the existing situation under the Act: it was developed and introduced into this Parliament by the previous Liberal Government. The amendment speeds up the process by removing the need for second consideration, that is, after consideration by the committee if there is no substantial public opposition or if no amendment is proposed to the supplementary development plan as a result of exhibition. So in that sense the provision is administrative.

If there is substantial objection or if an amendment is proposed, the matter must go back to the Advisory Committee. The committee will still see all supplementary development plans prior to public exhibition and any controversial plans both before and after public exhibition, so the provision is simple in that sense. If after public exhibition there is no substantial public objection or amendment to a supplementary development plan, it does not have to go back to the committee. If you like, this is deregulation.

Secondly, the amendment allows the Minister to decline to proceed to authorise an amendment to the development plan if he is dissatisfied with it. At present, the Minister cannot reject a plan directly but he can go through the device of advising the Governor to do so. In other words, it is technical in that sense, but again it is rather more cumbersome. The amendment is simply deregulation: it saves time and effort by allowing the Minister to reject unsatisfactory plans at an early stage of the process, so people can take them away, redevelop them and take them back.

The Hon. K.T. GRIFFIN: It is a bit more serious than that, with respect to the Minister. Proposed new subsection (11a) provides:

> If, in the opinion of the Minister, there is substantial public opposition to the whole or part of a supplementary development plan prepared by a council or following a public hearing and council has recommended that substantial alteration be made to a supplementary development plan prepared by the council, the Minister shall request the Advisory Committee to report to him.

The opinion of the Minister determines whether or not there is substantial public opposition or whether a council has recommended that substantial alterations be made. Proposed new subsection (11b) provides that, after considering the supplementary development plan, any submissions or recommendations forwarded to the Minister under this section and the report, if any, of the Advisory Committee, the Minister may approve the supplementary development plan. More particularly, he may amend the supplementary development plan having regard to the recommendations of the Advisory Committee or council, or as the Minister thinks fit in order to bring the supplementary development plan into consistency with this Bill to remove obsolete matter, to achieve uniformity of expression or to correct any error and approve the plan as amended.

So, the Minister is being given fairly wide powers. It seems to me that it is appropriate that the Advisory Committee remain involved prior to the exercise by the Minister of his discretion under these two new subsections. I believe it is a matter of some substance rather than being of a drafting or procedural nature, as the Hon. Mr DeGaris indicated.

The Hon. J.R. CORNWALL: I assure the Committee again that there is no sinister intent behind it. I have explained the spirit and intent, and I commend it to the Committee. I assure the Committee that I have conferred with the best legal advice that is available to Parliamentary Counsel, and that was certainly the drafting instruction. That is the spirit and intent of the legislation before the Chamber. It contains nothing sinister whatsoever. It is a serious and sensible attempt at deregulation, about which the Opposition normally has so much to say and normally supports so enthusiastically (at least in theory).

The Hon. K.L. MILNE: I understand that the Bill was submitted to the Local Government Association, or at least that it had an opportunity to discuss it. The Association has not said anything to me about this. It does not seem to be concerned about this matter.

The Hon. J.R. CORNWALL: No, there is no apparent objection from the Local Government Association. In fact, the Secretary-General of the Association was on the committee that recommended the provision, among others.

The Committee divided on the amendment:

Ayes (8)—The Hons J.C. Burdett, M.B. Cameron, R.C. DeGaris, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, R. I. Lucas, and R.J. Ritson.

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

Pairs—Ayes—The Hons L.H. Davis and Peter Dunn. Noes—The Hons Frank Blevins and C.W. Creedon.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 22—'Certain amendments may be made without preparation of supplementary development plan.'

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

Page 7, lines 29 to 31—Leave out paragraph *(b)*.

Paragraph *(b)* inserts new subsection (2a), which provides:

> The Governor may, by regulation, define terms used in the development plan.

I cannot see why this provision is inserted in section 42 of the principal Act and not in section 74, which deals with the power to make regulations. I am not sure I understand why the provision is included at all. I am very concerned with this amendment to the principal Act. The Act provides great detail as to how supplementary development plans are to be prepared. There are procedures for public consultation together with the preparation of reports from the advisory committee. However, changing the definition of a term in the development plan can greatly vary the effect of the plan. This would provide an effective means of varying the development plan and bypassing the provisions of section 41.

These regulations would also be by way of recommendation from the Government and not the Commission. I am not so concerned with that, but I am concerned that the Government can vary terms or definitions without coming back to Parliament. The change of a definition can make a difference not only to the Act or any part of it but to the intention of plans which are prepared in accordance with the Act and regulations. I know that the Local Government Association is very concerned about this part of the clause. I think it is dangerous, and I support the Association's view. I think we should be very careful, especially given the problem in relation to the decision of the West Torrens council. I am very disappointed in the Government's decision. We should be careful to preserve the powers and dignity of local government.

Unfortunately, the Government has made the worst choice possible in relation to the problem with the West Torrens council. A number of alternatives were available to the Government. In fact, one alternative was for the Government to become the developer. It already has a lot of power. Instead, the Government chose to withdraw planning powers and grant them to the Commission. That is very serious, and it is resented very deeply.

The Hon. J.R. Cornwall interjecting:

The Hon. K.L. MILNE: That did not mean that the Government should make this decision. I am trying to help; I am not trying to criticise the Government, which had a very difficult decision to make. Unfortunately, through lack of consultation or whatever, the Government made a decision which was the worst alternative out of the six or seven available to it. I do not intend to use this matter in the press: I have not attempted to do that. I just wish that the Government would not interfere with the powers it has given to local government, unless it has a serious reason for doing so. Exceptions make bad laws and we must be careful that we are not doing something now because of the situation in West Torrens. I think it will be found that it is largely a misunderstanding. There are many things that can be done to protect the West Torrens council if the movement of the Friendly Transport Company has gone so far that the project cannot be withdrawn.

Everyone, including the Government, involved in that case wishes that it was not in the city at all and was out at Wingfield. The company has certain rights and the work it does assists big companies in the State. It is a complicated matter. It is an instance where the Government made a decision that perhaps it would not have made had there been greater necessity for consultation. It is not wise, particularly at present, for the Government to seek power to alter definitions. It would be resented by the Local Government Association, and I intend to move that the clause be deleted.

The Hon. J.R. CORNWALL: The Hon. Mr Milne did not link up his remarks to this clause. There was not even a tenuous link. He asked why, if the provision was to be amended at all, it was done under section 74 and not section 42. The review committee of which the Secretary-General of the Local Government Association was a member recommended that there should be an amendment to section 74. Instead, the amendment is made to section 42 as a result of Parliamentary Counsel's advice. It is as simple as that. The review committee, of which Mr Hullick, Secretary-General, Local Government Association, was a member, recommended that we needed to overcome doubts expressed by the courts about the validity of existing definitions concerning interpretation of the development plan. There is nothing sinister about that. This new Act is proving to be very defective in many ways, and I am sure that the Committee has noticed that there seems to be a Planning Act Amendment Bill before Parliament almost every three weeks. It is now a patch and stitch job, but we are learning as it operates through the planning appeal mechanisms, where amendments are needed. This provision exists not because of some dark sinister plot against Mayor Hamra—it has nothing to do with that—nor some dark plot against local government generally. No State Government worth its salt would be that foolish.

The Hon. R.C. DeGaris: Apart from the voting system!

The Hon. J.R. CORNWALL: Local government has a good voting system now: bottoms up and PR. This clause is needed simply to overcome doubts that have been expressed by the courts over the validity of existing definitions in regard to the interpretation of the development plan—nothing more, nothing less. The Government cannot accept the Hon. Mr Milne's amendment.

The Hon. K.T. GRIFFIN: I do not want to be diverted and comment on why there have been so many Planning Bills before Parliament. At least four of them have related to the question of consent use arising out of the Dorrestjin case and vegetation clearance controls—nothing about the way in which the legislation is drafted.

There is some merit in the Hon. Mr Milne's amendment to remove the power to define terms, which can have extensive implications in a development plan. I will give further consideration to it but, in view of the hour, I will support the amendment.

The Committee divided on the amendment:

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

Noes (6)—The Hons G.L. Bruce, J.R. Cornwall (teller), M.S. Feleppa, Anne Levy, C.J. Sumner, and Barbara Wiese.

Majority of 3 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 23 passed.

Clause 24—'Copies of development plan to be available to councils and members of the public.'

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

Page 8, lines 32 to 37—Leave out paragraph *(b)*.

I cannot understand why it has been included. It is not an important matter. The first issue that arises from this provision is what is its purpose. The proposed provision will require the Minister to provide every council with a copy of an authorised supplementary development plan that affects the area of that council. That is the first point.

Proposed subsection (2) requires the Commission to have copies of every authorised supplementary development plan, so that is another purpose. Existing subsection (3), which is not amended requires a Minister to make copies of any authorised supplementary development plan available for purchase by the public. This is another purpose of this section and in particular gives local government a reason for concern. From the way it is worded it appears that for every copy of a supplementary development plan prepared by a council and printed by the Minister, for the purposes of subsection (3), the council will be obliged to pay the cost of printing. I am not sure what is meant there. It could be taken to mean that the Minister will sell the supplementary development plans to the public and the council will be required to pay the cost as well. I am sure that that is not intended, and we may get an assurance to the contrary about that.

The second issue that arises from the Government's amendment is the determining of when a supplementary development plan is prepared by a council. A council may initiate a supplementary development plan but the final product may not be what the council initiated. The procedure for the preparation of a supplementary development plan is set out in section 41. Under subsection (5) *(b)* of section 41, the Minister may amend the plan prepared by a council

as he thinks fit, prior to seeking public submissions. Under present subsection (11) and proposed subsection (11) *(b)* the Minister may further amend the plan. The result could be that the final supplementary development plan approved by the Minister might be quite different from the one that initiated by the council. In those circumstances, the council will still be expected to pay for the plan. If there is a better way of putting this, I am prepared to reconsider it at another time. As it stands it is confusing and I think the clause should be deleted to leave the Act as it is at present because it is working satisfactorily.

The CHAIRMAN: The Hon. Mr Griffin has an identical amendment on file.

The Hon. K.T. GRIFFIN: I have deferred to the Hon. Lance Milne and support his amendment.

The Hon. J.R. CORNWALL: This is probably not a very good clause to go to the barricades on in view of the fact that I do not appear to have the numbers and am not sure that I have popular support, which is a new experience. What was intended, and I do not think that it has been done terribly well, was to make councils responsible for the cost of printing a supplementary development plan in an attempt to ensure that they were rather more succinct than they have been in the past. They really do cut down whole plantations in the South-East to make paper for councils to produce these huge supplementary development plans. They are extremely verbose and in practical terms achieve very little. This was not the most adroit attempt I have seen to try to make councils rather more responsible in the use of taxpayers' money. One can always afford to be generous when spending other people's money. As it stands at the moment, they are spending taxpayers', and not ratepayers', money because the Government puts up the money. I find that deplorable.

I have heard people say in my area of health, 'You don't have to worry about the cost of that because it is Federal funding' or 'You don't have to worry about the cost of that because local government picks up the tab.' However, it is all public money for which people ought to be made as accountable as possible. So it was not some hamfisted attempt to simply transfer costs from State Government to local government, it was an attempt, although as I have said not a very adroit one in the circumstances, to try to make local councils feel more responsible for the costs generated by some of these voluminous supplementary development plans. The fact is that many of those plans are unnecessarily voluminous.

Amendment carried; clause as amended passed.

Clause 25 passed.

Clause 26—'Heritage items.'

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

Page 10, line 9—Leave out 'one month' and insert 'two months'.

This question of the period of time was canvassed in the Lower House. I believe that the Minister in an excess of concordiality and consensus agreed to one month. On mature reflection, that is in the practical sense extremely difficult when one considers the processes that officers have to go through to complete what is required. Therefore, I seek the indulgence of the Committee to change that period to two months, which is reasonable, which is by no means too long, and which is a period within which the necessary procedures can be achieved.

Amendment carried; clause as amended passed.

Clause 27—'Preparation of environmental impact statement.'

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

Page 10, lines 45 and 46, and page 11, lines 1 to 6—Leave out paragraph *(b)*.

This amendment moves to delete paragraph *(b)* from proposed new subsection (8), which appears in paragraph *(f)* of this clause. This provision enables a planning authority at intervals stipulated by it when granting consent to a development in relation to which an environmental impact statement has been prepared to vary or revoke conditions to which the consent is subject or attach new conditions to the consent, and the consent shall operate subject to any variation or new condition imposed under this paragraph.

I find this objectionable. It means a continuing review of planning approval and the conditions attaching to it. Where there is a development which has been the subject of an environmental impact statement, there is no certainty in it at all, and it will undoubtedly lead to a greater level of uncertainty with planning legislation than exists at present and will create such a climate of uncertainty that major development projects will be seriously prejudiced because, although no conditions may be attached at the time of approval, this clause will allow continuing review and the attachment of conditions subsequently. There is no power at all to put an end to the continuing review process envisaged by this clause and I strenuously oppose the provision, move for its deletion, and will take it to the barricades.

The Hon. J.R. CORNWALL: I make two points. First, the conditions are appealable; it is not a unilateral decision. If anyone feels aggrieved, they can appeal. Secondly, the conditions work both ways. If in fact a particular discharge has been limited to a particular quantity and if it is found that that is well tolerated, it may be that the amount could be increased by a further 50 per cent or whatever, which would help the developer or the operator. On the other hand, if there is clear evidence that, notwithstanding the best will in the world, mistakes are made in the planning process and that the discharges or pollutants or whatever are quite clearly damaging the environment well beyond the point that was originally envisaged, it seems reasonable, subject to appeal, that additional conditions might be applied. I commend the clause to the Committee.

The Hon. K.T. GRIFFIN: Although the conditions that are attached are appealable, the fact is that that is not the end of the matter, because the clause provides particularly for review at intervals stipulated by the planning authority. There is an ongoing process of review and perhaps even appeal. Although, as the Minister says, it cuts both ways in terms of removal of conditions or more generous conditions being attached, the fact is that in the current climate it is more likely to be constraint rather than expansion that is allowed.

The Hon. J.R. CORNWALL: I must take some exception to that last remark regarding the current climate. In the present boom in South Australia quite an amount of expansion is occurring. One only has to consider the housing sector, and there are many other examples. If it was a little earlier in the day I could go through them. People are not abandoning their houses in the middle of the night, as they were doing three years ago, because they have no equity in them: they are now far more concerned about capital gains taxes. Let me return to the substance of the Bill. The varied conditions would also be appealable under the additional amendments that I have on file, so I would really like the Hon. Mr Milne in particular to consider the proposed further amendments that are on file in my name when deciding how he might cast his conservation oriented vote on this clause.

The CHAIRMAN: The Minister may wish to proceed further. First, we will consider the Hon. Mr Griffin's amendment to page 10, lines 45 and 46, and page 11, lines 1 to 3. If those words stand, the Hon. Mr Griffin can proceed to delete the remainder of the clause. The Minister proposes to delete lines 4 to 6. If the words proposed to be struck

out by the Hon. Mr Griffin stand, the Minister can proceed to delete those words.

The Committee divided on the amendment:

Ayes (7)—The Hons J.C. Burdett, M.B. Cameron, R.C. DeGaris, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, and R.J. Ritson.

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

Pairs—Ayes—The Hons L.H. Davis, Peter Dunn, and R.I. Lucas. Noes—The Hons Frank Blevins, C.W. Creedon, and I. Gilfillan.

Majority of 2 for the Noes.

Amendment thus negatived.

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

That Standing Orders be so far suspended as to permit the Council to sit beyond 6.30 p.m.

Motion carried.

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

Page 11—

Lines 4 to 6—Leave out 'and the consent shall operate subject to any variation or new condition imposed under this paragraph'.

After line 6—Insert new subsection as follows:

(9) The variation of a condition, or a new condition attached to a consent, pursuant to subsection (8) *(b)* shall not operate—

(a) until the expiration of two months after the day on which a person who is entitled to appeal against the decision has received notice of it;

or

(b) where an appeal is instituted within that time—

(i) until the appeal is dismissed, struck out or withdrawn;

or

(ii) until the questions raised by the appeal have been finally determined.

I will speak to all my remaining amendments in view of the fact that the Hon. Mr Griffin's amendment has been defeated. I will show that I am magnanimous in victory and certainly gracious in the sense that the Government believes that it is desirable that there should be some tightening of the appeal conditions.

The Hon. K.T. GRIFFIN: I do not oppose the amendments. I think they certainly give more rights to those affected by the variation of conditions. I think that is good. It is just unfortunate that we are now in a position where this may be a continuing process in the course of a particular development and subsequent to a development. The appeal does not put an end to the review at intervals specified by a planning authority. That was the area of concern that I expressed in my previous amendment, which was defeated by the Government and the Australian Democrats.

Amendments carried; clause as amended passed.

Clause 28 passed.

Clause 29—'Aggrieved applicant may appeal.'

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

Page 11, after line 44—Insert new subsection as follows:

(1a) Where a planning authority decides to vary a condition or attach a new condition to a consent to a development in relation to which an environmental impact statement has been prepared, the person who enjoys the benefit of the consent may, within two months of the day on which he receives notice of the decision, or such longer period as may be allowed by the Tribunal, appeal to the Tribunal against the decision.

Again, it is consequential to the amendments that have just been passed.

Amendment carried; clause as amended passed.

Remaining clauses (30 to 37) and title passed.

Bill read a third time and passed.

EXECUTORS COMPANY'S ACT AMENDMENT BILL

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

ADJOURNMENT

At 6.36 p.m. the Council adjourned until Tuesday 26 March at 2.15 p.m.