HOUSE OF ASSEMBLY

Thursday 17 November 1983

The SPEAKER (Hon. T.M. McRae) took the Chair at 2 p.m. and read prayers.

PETITION: CRIME

A petition signed by 720 residents of South Australia praying that the House urge the Government to legislate to control crime in the districts of Munno Para and Elizabeth in particular, and in the State in general, was presented by the Hon. D.C. Wotton.

Petition received.

QUESTIONS

The SPEAKER: I direct that replies to questions asked in Estimates Committees A and B, as detailed in the schedule that I now table, be distributed and printed in *Hansard:*

WEST BEACH DEVELOPMENT
(Estimates Committee A)

In reply to **Mr BAKER** (29 September).

The Hon. D.J. HOPGOOD: The South Australian Planning Commission is dealing with an application to construct a $1 million holiday cabin complex between an existing on-site caravan park and Marineland. The site is south of Marineland, as indicated by the member for Mitcham. The proposal was advertised inviting public submissions to 18 October 1983. I understand that the application from the West Beach Trust will be considered by the Commission later in November. The plans show that the proposed development lies immediately behind the frontal dune. The Coast Protection Board is being closely consulted on the matter with a view to fencing the dune and providing board-walks to the beach. The stabilisation of the sandhills in the vicinity of the proposal will be secured, in line with the Government's policy concerning the preservation of the remaining sandhills along the Adelaide shoreline.

I understand that funding for the cabin complex is being sought through the Jobs Creation Scheme. No proposal costing $25 million in the West Beach Recreation Area has been received either by the Department or the Planning Commission.

NATURAL DISASTER RELIEF
(Estimates Committee B)

In reply to **Hon. TED CHAPMAN** (6 October).

The Hon. LYNN ARNOLD: The anticipated expenditure on natural disaster relief for 1983-84 is $8.1 million, made up as follows:

	$'m
Carry-on loans (Drought)	2.5 m
Carry-on loans (Bushfires)	2.0 m
Carry-on loans (Floods)	0.1 m
Grants (Freight rebates)	1.5 m
Grants (Fencing)	2.0 m
Total	8.1 m

Treasury has allocated $7 million from the Consolidated Account for 1983-84. Any shortfall in funding requirements would come from loan instalments from earlier primary producer loans. The anticipated expenditure is meant to meet the requirements for clearing up the overflow impact of the drought, bushfires, and floods of 1982-83, and does not provide for the unexpected disasters which might befall South Australian farmers in 1983-84.

GRANTS TO AGRICULTURAL AND HORTICULTURAL SOCIETIES
(Estimates Committee B)

In reply to **Mr LEWIS** (6 October).

The Hon. LYNN ARNOLD: There are no means of predicting which agricultural, horticultural, and field trial societies will receive grants this financial year. Utilisation of such fuds is entirely a matter for each society, and until applications are received by the Department of Agriculture, details will not be known. The grant to each applicant body represents a subsidy on prize money paid to winning exhibitors at the society's annual show, and (where applicable) a printing subsidy of up to $25.

The funds set aside for this purpose aim at a subsidy of 20 per cent and while it is not always possible, because of demand, to achieve that target, the rate generally is not far below that figure of 20 per cent. For example, the grants for 1982-83 were paid at 18.5 per cent of the total prize moneys expended by 59 societies which included the following from the honourable member's electorate.

	$
Coonalpyn & District A. & H. Society Inc.	130.57
Karoonda A. & H. Society	102.33
Keith & Tintinara District Show Soc. Inc.	274.89
Kingston A.P. & H. Society	215.31
Pinnaroo Agricultural Society Inc.	237.36
Strathalbyn Agricultural Society Inc.	274.75
Swan Reach A. & H. Society Inc.	79.23

f.r.v. *JOSEPH VERCO*
(Estimates Committee B)

In reply to **Hon. P.B. ARNOLD** (6 October).

The Hon. LYNN ARNOLD: On 6 October 1983, during the Estimates Committee hearing for the Department of Fisheries, the honourable member asked a series of questions relating to the purchase of the f.r.v. *Joseph Verco* which had capsized in September 1980. You would be aware that, in settling the insurance claim following the capsize of the vessel, it was agreed the insurers, represented by Finlaysons, could institute legal proceedings against any third parties involved in order to recover insurance moneys. It was also agreed the Crown would be party to such proceedings.

Proceedings have been instituted against some third parties, accordingly some matters raised by the honourable member could be regarded as *sub judice.* Nevertheless I am able to advise that the f.r.v. *Joseph Verco* (then known as *Roza S*) was purchased on 12 November 1976 by the then Minister of Agriculture and Fisheries on behalf of the Government of South Australia. The vessel was under survey at the time of purchase. Should the honourable member wish further information, I invite him to discuss the matter personally with my colleague, the Minister of Fisheries.

MINISTERIAL STATEMENT: ANSTEY HILL RESERVE

The Hon. D.J. HOPGOOD (Minister for Environment and Planning): I seek leave to make a statement.

Leave granted.

The Hon. D.J. HOPGOOD: On Tuesday, the member for Todd raised the question of fire protection work at Anstey Hill Reserve. He claimed the Minister's officers have continually refused to allow proper fire breaks or fire-fighting tracks to be built in that area. I informed the House that fire protection work was proceeding, but I have since obtained specific details of the work being undertaken at Anstey Hill. Members should understand that the land in question is under the control of two bodies: the Engineering and Water Supply Department land, which houses the water treatment works, and the former State Planning Authority land, which is expected to be handed over to the National Parks and Wildlife Service and is, in effect at present, under the control of that body.

Both the E. & W.S. Department and the N.P.W.S. are responsible for fire control measures in their respective areas. In regard to N.P.W.S., I wish to provide the House with the following details. Mowing has been carried out along the back of houses on Perseverance Road, and inside the fence along Range Road South. Some five hectares has also been mown by a neighbour in the Range Road South area. Mowing work will continue adjacent to the E. & W.S. land, and all fire tracks in the reserve will be regraded. Importantly, on Saturday 19 November, weather permitting, a joint exercise will be mounted involving the Tea Tree Gully Council, Tea Tree Gully C.F.S., Athelstone C.F.S., and the N.P.W.S. to carry out controlled burns in the Perseverance Road and Range Road areas, along the E. & W.S. boundary, and in other areas where the work should desirably be carried out. Some of this material was made available through the television interview I had some time ago with Mr Russell Stiggants. I would again make the point that this work has been planned for some time, but it has been hampered by unfavourable climatic conditions. Saturday's controlled burn will only proceed if conditions are favourable.

The Minister of Water Resources has informed me that the E. & W.S. is carrying out the following work at the Anstey Hill Water Treatment Works. First, it is spraying a 3 to 4 metre wide strip along the total perimeter of the property with weedicide to prevent and retard weed growth. This process will be repeated as necessary. Secondly, the E. & W.S. Department is slashing high grass in areas, particularly those areas near houses in Perseverance Road. Further, undergrowth has been slashed around water tanks and major work sites. Access tracks have been cleared and reinstated. I am also informed that the overall fire protection programme being undertaken by the E. & W.S. at Anstey Hill is expected to be completed by mid-December, and that the situation will be constantly monitored thereafter.

Both the N.P.W.S. and the E. & W.S. Department are conscious of their community responsibility in regard to fire protection measures. Officers from both Government organisations maintain a dialogue with the Country Fire Services so that the most appropriate fire protection measures are undertaken, and fire risk reduced to a minimum. Both departments have not renegued on their responsibilities, as claimed by the member for Todd, and there is no need for me to issue any instruction on the matter.

QUESTION TIME

ADELAIDE RAILWAY STATION REDEVELOPMENT

The Hon. E.R. GOLDSWORTHY: Will the Premier now table the agreement he signed in Tokyo on 3 October to allow for the redevelopment of the Adelaide railway station site? The Leader of the Opposition asked the Premier to table this agreement in a question on 18 October. In a Ministerial statement on 27 October, the Premier said that he did not intend to do so at that stage as there were minor matters that were still the subject of discussion with other parties. The Liberal Party supports the redevelopment of this site and, while in office, did a great deal of preliminary work to make this possible. However, the Liberal Party will not support any proposal that exposes taxpayers' funds to any significant risk.

Last evening an Adelaide property consultant, Mr L.G. Curtis, said that the Government could face a pay-out of many millions of dollars every year if it proceeds with the project in its present form. This is contrary to claims by the Premier, who told this House on 27 October that the total maximum financial obligation of the Government for the hotel, convention centre, car park and public facilities in the project was estimated at $2.65 million in the first year. However, the Premier did not provide further information to demonstrate how this figure had been arrived at, including assumptions about occupancy and turnover of the hotel, and the use of the convention centre. The Opposition has asked a series of questions in this House in recent weeks with a view to establishing the financial details of the agreement the Premier signed. The House has not yet been given full information and, as taxpayers' funds are to be involved as indicated, the Opposition believes that the Premier has an obligation to provide the maximum amount of information, including the agreement he signed.

The Hon. J.C. BANNON: In the statement I made, to which the Deputy Leader referred, all the important and relevant details in relation to the finances and arrangements of this project have been included, and there is no other information at this stage that I believe the House needs to make its assessment. I am very surprised indeed to hear that from someone who began by saying that the Opposition had been in favour of this project and sought to advance it, and I am aware that, certainly in the case of the member for Torrens as Minister of Transport, that was so: he had done some work on it, and I am not quite sure of the extent to which the Government had supported those efforts or indeed the extent to which any final arrangements had been made until the change in Government and we began to pursue the project. However, that is not a relevant part of the question.

The fact is that the Deputy Leader chooses to quote Mr Curtis and imply that Mr Curtis has some inside or special knowledge that is superior to that of both the Government and the parties conducting this venture. That is absolute nonsense. Mr Curtis referred to having done some sort of computer feasibility analysis. I would be interested to see the details of that analysis. He certainly has not done me the courtesy of letting me have it nor explained its significance in terms of this project. However, I tell the House quite explicitly that several studies have been done on the feasibility of this project and calculations were made as to expected demand and return, and whilst they naturally must be estimates, they are based on the knowledge that can be predicted in the light of trends and present circumstances.

They were done by independent consultants and we have looked at both the lower and upper ends of those extremes in moving into the agreement we have. I would be interested in Mr Curtis's feasibility analysis in regard to how it measures up, because certainly the conclusions that he draws from it are totally different from the conclusions drawn from our studies done by independent consultants. The fact is that he must be erroneous in this, if he has been correctly reported. As I have said, he did not extend the courtesy of letting me have access to either his statement or his figures, which I thought he could have done.

Mr Becker: You should have asked him.

The Hon. J.C. BANNON: I offer him an invitation to do so, and I hope he responds to it. From the figures he quotes, he is much in error and, clearly, he does not understand the financial agreement. For instance, he is reported as saying that there will be an average annual subsidy of $7 million a year required from the Government. That is absolute nonsense. The total gross amount of the Government guarantee is less than $5 million per annum in total at the upper end of the scale. In return for giving that guarantee the Government will receive the whole of the actual income from the convention centre, the car park, in total—

An honourable member: What about the casino?

The SPEAKER: Order!

The Hon. J.C. BANNON: —and half the actual income from the hotel. Whilst these estimates as to the amount of revenue from those sources can vary, there is no doubt that they will provide a substantial offset to the amount of $5 million that I have referred to. The Government's total liability will be a mere fraction of the figure of $7 million that Mr Curtis has quoted. It is a totally erroneous figure.

The honourable member raised the matter of a casino. If the casino is located within this development (and that matter is in the hands of the Authority that is studying applications at present), the Government's gross guarantee would be reduced to less than $2 million per annum, against which the whole of the actual income from the convention centre and from the car park will be offset. I suggest that Mr Curtis in going on to say in relation to a casino that that would simply transfer the burden from one source to another is completely in error. The casino would not only be a source of income in its own right, but also will result in increased patronage of the convention centre if it is located in that area.

That would not be a drop in the ocean in regard to income, as suggested by Mr Curtis: on the contrary, I suggest that that income would be significant. In that context, if it is only a drop in the ocean, I wonder why Mr Curtis, associated with Victoria Square Development Limited, is actively attempting to get a licence for the Hilton premises. If it is a drop in the ocean and is not very relevant, that is peculiar business practice on the part of Mr Curtis. I suggest also that it is worth noting that Mr Curtis was involved with work in developing the Hilton project and with other developments, for which I commend him. I think his statement yesterday is not worthy of his normal attitudes to development in this city. I suggest that his being involved in the Hilton Hotel development and being a bidder for a casino licence in part with that development suggests that he places more significance in regards to return from it than he suggests will come if it is put in as part of the ASER project. So, the figures quoted are nonsense.

The Hon. E.R. Goldsworthy interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: Finally, I ask the Opposition where it stands on this project. Over several weeks we have had carping, censorious questions, attempts to cast doubts on the project, as well as innuendo placed on the financial arrangements.

The Hon. E.R. Goldsworthy: We totally agree with it, but answer the question.

The SPEAKER: Order! I have called the Deputy Leader to order on at least five occasions. I ask the Deputy Leader to restrain himself.

The Hon. J.C. BANNON: This matter concerns a $140 million project involving a convention centre, a major asset, a much needed asset for this city and its tourist development potential. It will provide another major international hotel, an office block, car park facilities and, coupled with developments that will spawn on the other side of North Terrace, represents an extraordinarily exciting project. What has been the reaction of the Opposition? They have cast doubts and have joined with those who for whatever reason have decided that they too want to cast doubts on the project.

I would suggest that the Opposition stand up and be counted on this issue. Are members opposite behind the project? Will they assist the Government in getting it off the ground, or will they attempt to undermine it with questions such as that asked by the member for Light yesterday? 'Is it true that a leading hotel operator has withdrawn from the bid?' he asked. I questioned that afterwards and, first, I discovered that it is not true; secondly, I suggest that by asking a question in that way and raising it in this forum he is attempting to put in threat the negotiations that are going on.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: If the honourable member implies that there is some doubt about the project, what effect will that have on people who are currently assessing their commercial commitment? He knows very well. It is about time the Opposition stood up and was counted and said that it will support the project, back it and try to get it accomplished. If members opposite are not prepared to do that, they are not worthy to be in Opposition and not worthy to be South Australians.

AUSTRALIAN DANCE THEATRE

Mr MAYES: Following the withdrawal of the funding commitment by the Victorian Government, will the Premier advise what steps he is taking as Minister for the Arts to ensure the ongoing survival of the Adelaide-based Australian Dance Theatre as a nationally and internationally acclaimed force in the contemporary dance area?

The Hon. J.C. BANNON: The member for Unley has raised an important question in relation to the cultural and artistic life in not only South Australia but this country. The Australian Dance Theatre has established an international reputation. It has toured overseas and has performed in centres in Australia. It divides its work and time between South Australia and Victoria. It was formed as a result of an important tripartite agreement involving the Federal Government through the Australia Council, and the South Australian and Victorian Governments. That agreement has operated with grants being made by those three bodies on an annual basis since about 1977-78, when the agreement was in fact developed and signed between the respective Premiers of Victoria and South Australia. There has been no notification or amendment made to that agreement.

I was therefore considerably alarmed when reports began to filter through that the Victorian Government was looking to either cutting out and replacing with some other arrangement, or substantially reducing, the expected grant to the Australian Dance Theatre. I have no objection to the Victorian Government giving notice that it is reviewing its commitment in this area and allowing us to discuss it and decide the implications. However, I am very strongly opposed to and disappointed with action which, unilaterally without notice, cuts off or reduces that grant and thus threatens the whole future of this important part of our arts environment.

I wrote to the Victorian Minister, the Hon. Race Mathews, on 29 August expressing my desire to discuss putting the present tripartite arrangement on a more secure basis, ensuring that we could look to it over three to five years. On receipt of a reply from the Victorian Minister, I followed it up with a discussion by telephone on 21 October in which I made clear South Australia's concern about the possible action being taken, the rumours that were circulating and

what that was going to do to the Australian Dance Theatre. I also raised the matter with the Federal Minister responsible for the arts, Mr Cohen, on his recent visit to Adelaide. I understand that Mr Cohen has taken up that matter with the Chairman of the Australia Council. We are attempting to ensure that, whatever else happens, the Dance Theatre does not fold up as a result of this activity.

At the officer level, there is obviously constant communication but, most importantly, I had a meeting with Premier Cain in Melbourne a couple of weeks ago at which I put to him that I believed that we had a *quasi* legal or indeed a legal agreement between us, which could not be terminated, in my view, without some form of adequate notice. Mr Cain promised that he would look into that aspect of the matter and I hope that that will result in at least our being able to agree to funding at the expected level for the next calendar year. As to arrangements after that, we are happy to negotiate. So, the matter is still being resolved. I certainly do not intend to let it rest. My Government is determined to maintain the Australian Dance Theatre's national and international profile, as well as ensuring its place in the South Australian and Australian arts scene.

Our arrangements with Victoria, I think, have been productive and, indeed, on a national basis. The Dance Theatre, of course, has major engagements for the coming Festival of Arts and a large programme for next year. As recently as yesterday I was speaking to representatives from the Texas Sesquicentenary Committee. As the House knows, we are planning a number of exchanges and artistic events, festivals, and so on, in conjunction with Texas in that 1986 year. One of the contributions that we want to make to that is the A.D.T., which I am told would be marvellously successful and very welcome on a tour to the United States, and Texas particularly, in 1986. It is certainly our desire to continue that company in operation, and I hope that the Victorian Government will fulfil, at least in this coming year, the obligations that we expect it to fulfil, and that it does not unilaterally decide to terminate an agreement which has worked so well over a number of years.

ADELAIDE RAILWAY STATION REDEVELOPMENT

The Hon. MICHAEL WILSON: Will the Premier now agree that he made an error when he told this House on 18 October that the extent of exposure by the State Government and the State Treasury in arrangements for the Adelaide railway station project is much less than the exposure agreed by the former Government? Following that statement on 18 October, the Premier gave further information to this House on 27 October in which he said:

> This compares favourably with the $3 million a year in subsidies which had been promised to the project by the Tonkin Government in 1982.

The Premier was comparing this to a figure of $2.65 million as his Government's commitment. However, the latter figure does not include the cost of subleasing office space in the project—a cost which was included in the $3 million the Premier nominated as the former Government's guarantee. Indeed, the Premier did not compare like with like at all.

The former Government's agreement also included provision of funds for a bus station interchange in the complex. The present Government's proposals do not. I have a copy of the Cabinet submission agreed to on 4 October 1982 which represents the position of the former Government at the time of the last election. That submission also shows that the former Government had not given any commitment to guarantee the funds of investors in the project. The present Government has given such guarantees which some have suggested could cost South Australian taxpayers enormous sums of money.

This Cabinet submission and the limited amount of information the Premier has so far made available about his Government's involvement in this project shows that the exposure of public funds under his proposals may in fact be much greater than that ever contemplated by the former Government. I conclude by saying that this Opposition will continue to seek financial details of this project and no grandstanding by the Premier will prevent us from so doing.

The Hon. J.C. BANNON: I am interested in what the honourable member says. Naturally, I am aware of the undertakings given under that agreement reached by Cabinet on 4 October 1982, because I was asked whether, on coming to Government, we would pick up that obligation. At the stage that the negotiations were then I said, 'Yes, seeing that the previous Government had made these agreements we would not wish to impede negotiations and would honour those agreements, accept them as they have been made and allow the company that was granted the rights to pursue the project to get on with it on that basis.'

Those negotiations terminated and the time terminated on 31 March this year, and effectively a new arrangement was entered into. It is a bit sterile to get into this argument in detail. I suggest to the honourable member that my examination of the concessions and commitments made by the previous Government indicates that it was prepared to go much further than my Government has gone. I am not in the business of releasing Cabinet submissions—

The Hon. E.R. Goldsworthy: Well, we will.

The Hon. J.C. BANNON: You can release yours certainly, and perhaps you will authorise me to release a number of others which may prove fairly embarrassing. This is an unproductive pursuit on the part of the Opposition. Let us get on with the job. I suggest again—

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: —that this is part of some sort of campaign to express a bit of unease and uncertainty about the project and to somehow try to downgrade it. That does South Australia in this current phase of economic development no good whatsoever. It is about time that people stopped trying to carp, and knock, and got on with believing in something like this and got behind it. That is a simple proposition and again I would ask the Opposition to do this.

MUNCH 'N' CRUNCH LUNCHES

Mr WHITTEN: Can the Minister of Recreation and Sport inform the House whether the sale of Munch 'n' Crunch lunches in the Adelaide city area is in contravention of the Trade Practices Act or any other relevant regulation?

Members interjecting:

The SPEAKER: Order! The honourable member for Price.

Mr WHITTEN: In a recent article in the *Advertiser* I read that a number of city traders had lodged a petition with the Adelaide City Council objecting to the sale of Munch 'n' Crunch lunches on a door-to-door basis. Can the Minister say whether these sales are being made, by whom, and under what agreement?

The Hon. J.W. SLATER: I am aware of the comments and the explanation made by the member for Price in regard to Munch 'n' Crunch lunches being sold in Adelaide. The short answer is that the Government has no way of controlling or limiting the sale of Munch 'n' Crunch lunches in the Adelaide city area, or anywhere else for that matter. 'Life. Be in it.' is a private company, and the organisation that supplies Munch 'n' Crunch lunches does so through a

franchise arrangement. So, really, it is the principle of free enterprise that the Opposition always espouses. Perhaps members opposite should have more Munch 'n' Crunch lunches to broaden their perspective and improve their health. The campaign for Munch 'n' Crunch lunches was launched by the Premier at the Magill school earlier this year when the member for Coles was present. However, I noticed two or three weeks later that she did issue a complaint—

The Hon. Jennifer Adamson: On representation from schools.

The Hon. J.W. SLATER: Yes, complaints had been received and a comment was made by the member for Coles that there was limp lettuce in the Munch 'n' Crunch lunches. For her information, lettuce has never been part of the Munch 'n' Crunch lunch, anyway, so the complaints about the limp lettuce were quite incorrect. The Munch 'n' Crunch lunches were provided for a two-fold purpose: to provide a healthy alternative to a number of fast foods and snacks; and, secondly, to be readily available at a reasonable cost. Originally the franchise packer supplied the lunches to schools in the metropolitan area.

However, the supplier experienced some problems and a new franchise was awarded to Canteen Services, which now packages and distributes the lunches. An arrangement has been entered into to supply these lunches to city office workers. I can appreciate the concern of some city food outlets in this regard. I point out that Munch 'n' Crunch is not the only supplier of packaged lunches in the city area. As far as I am aware the service is operating within the law and has the same commitments in regard to taxes and overhead expenses as do other food outlets. The success of the Munch 'n' Crunch scheme in the city is such that the supplier will soon have a staff of 15, most of whom were previously unemployed. It is my belief that in the private enterprise system which is always espoused by members opposite Munch 'n' Crunch has the right to compete on the open market with other food suppliers and outlets.

ADELAIDE TO DARWIN RAILWAY

The Hon. D.C. BROWN: Will the Premier say why he allowed the South Australian Government's submission to the Alice Springs to Darwin railway inquiry, a project which is so vital to the South Australian economy both in the short and long term, to be so sloppy, inconsistent and substandard?

The Hon. G.F. Keneally: That's your opinion.

The Hon. D.C. BROWN: Wait, because it was not an opinion. During the past two days the Independent Economic Inquiry into Transport Services to the Northern Territory has been conducting public hearings in Adelaide. For most of Tuesday, the inquiry listened to the South Australian Government's submission and cross-examined those who appeared for the Government. The Premier appeared at 10 a.m. for a short speech, but did not allow himself to be subjected to cross-examination. For much of Tuesday I sat at the inquiry (that was why I was absent from Question Time on Tuesday and yesterday), embarrassed by the unprofessional, incomplete—

The SPEAKER: Order! This is clearly debate and comment. I ask the honourable member to come to his explanation.

The Hon. D.C. BROWN: Certainly, Mr Speaker. I highlight, for instance, what the Premier said in his speech at 10 a.m. on Tuesday. He said:

> It [the railway] will assist trade and tourism links with South East Asia.

He went on to enlarge on how we could gain trade through a rail link.

The Hon. J.D. WRIGHT: What's wrong with that?

The Hon. D.C. BROWN: Nothing whatsoever; I agree. However, on page 13 of the full submission it is stated:

> In general it is anticipated that neither the railway nor the road will cause any significant increase to overseas imports into South Australia coming through Darwin, or exports from this State through the port of Darwin.

That is completely inconsistent with—

The SPEAKER: Order! This is clearly debating the matter. What I am ruling is that it is clearly in order for the honourable member to state what he proclaims to the House is a fact as to what the Premier said and a fact as to what might be in the South Australian Government's submission, although I did not hear the one and I have not seen the other. What is out of order is then to debate the alleged inconsistency. The honourable member for Davenport.

The Hon. D.C. BROWN: Thank you, Sir; I will certainly keep within Standing Orders, and I appreciate your guidance. At the inquiry on Tuesday, Mr Hill pointed out the inconsistency between what appears on page 13 (which I have just read out) and on page 18 of the statement made by the Premier. In the words of Mr Hill, the statements were totally contradictory. Furthermore, under cross-examination, an advocate for the South Australian Government said that the construction of the railway line was likely to hasten the demise of South Australia's manufacturing industry.

The South Australian Government submission is 24 pages long, with five of those pages being devoted to the summary and conclusions. By comparison, the Northern Territory Government's submission, which was tabled before the Commission yesterday, is three volumes and about three to four inches thick. It is very detailed, to say the least. Mr Hill, who is conducting the inquiry, highlighted throughout Tuesday the inconsistencies in and inadequacies of the South Australian Government's submission. Yesterday I was told that it has been widely speculated that a deal has been done between the Prime Minister and the Premier—

The SPEAKER: Order! I ask the honourable gentleman to come back to his explanation.

The Hon. D.C. BROWN: I am pointing out to the House what I was told yesterday by a person in relation to this inquiry.

The SPEAKER: Order! The point at which I took exception was the speculation on which I understood the honourable member was about to embark. The honourable member for Davenport.

The Hon. D.C. BROWN: I was told yesterday in relation to this inquiry that a deal had been done between the Prime Minister and the Premier to sacrifice the Darwin to Alice Springs railway for the saving of Roxby Downs and, frankly, the standard of the submission put forward by the South Australian—

Members interjecting:

The SPEAKER: Order! The honourable member is clearly commenting.

The Hon. J.C. BANNON: That was a very interesting question from the honourable member.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: Perhaps it is relevant to know who made this alleged comment of speculation, and I happen to know: it is a Mr Paul Everingham, Chief Minister of the Northern Territory, who at the moment is desperately fighting an election there and is prepared to use anything, including a project of national importance, if he can make a few political points out of it. That is where the quote comes from, and that is where that nonsense has emanated. I would suggest that the member's question represents another

pitiful attempt to try to assist that politicking around the railway that Mr Everingham has been indulging in.

Indeed, if one wants to move to the realms of speculation, it has been very strongly suggested that it is in Mr Everingham's political short-term interest (and that is what he is concerned about at the moment) that the railway line will not be built, because then he has another stick to beat the Commonwealth with and, as his campaign is all about the rotten deal he is getting from the Commonwealth, it would suit him fine not to have the railway. That is a very interesting reflection on a very interesting question on an important national project.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: Incidentally, it is extraordinary for a Government which was recently granted self-government of a very small population over a vast geographical area is in fact being very heavily subsidised by the rest of Australia at something like five to seven times per capita the smallest of the States. Mr Everingham and his Government are totally dependent upon the Commonwealth and its assistance, and that assistance has been forthcoming. Therefore, to wage a campaign around the Commonwealth and its neglect of the Territory is absolutely extraordinary from the largest mendicant economy in this country.

However, let me return to the submission. It is very easy indeed to quote aspects of a submission out of context. My appearance was there, with the agreement of the Chairman, to make a statement by my presence as Premier of South Australia to put the lie to the sort of calumnies that Mr Everingham for his internal political reasons wanted to push around. That is why I appeared and made a statement of support. The detailed case was taken up under cross-examination by a number of officers, and I will not accept selective quotations, with no reference to the time scale over which these effects are to take place, and with no reference to the context in which they were made, as in any way detracting from it.

The Northern Territory may well have volumes that thick. I would suggest they are the findings and material from previous inquiries that have been conducted, all of which are in Mr Hill's possession. There is no point in the South Australian Government's regurgitating arguments that have been contained in those submissions and worked over in detail in the past. The final and most interesting aspect of the member's question was his reference to our shoddy submission. I hope that he is taking up the matter with the Chamber of Commerce and Industry, because much of the material in that submission was prepared by the Chamber's economist, Mr Rod Nettle, and if he worked—

Members interjecting:

The SPEAKER: Order! The honourable Premier.

The Hon. J.C. BANNON: Listen to them now! The submission was a joint submission between the South Australian Government, the Chamber of Commerce and Industry, and the United Trades and Labor Council, and much of the basis of the submission was the material and studies prepared by Mr Nettle, the Chamber's economist, the launching of which and the material in which was highly commended by the Leader of the Opposition some weeks ago.

That material largely has been used in that submission, with additional matter, and it has been worked up together between those partners. So, I will be interested in passing on the honourable member's comments about the quality of the Chamber's research and involvement in this, together with that of the Trades and Labor Council. I would suggest that again this is the sort of nit-picking which will not serve South Australia well. It may help Mr Everingham's shabby interests to set up this national project in order to get some political advantage: it certainly will not help us.

INTELLECTUALLY DISABLED

Mr FERGUSON: Will the Minister of Recreation and Sport tell the House what his Department is doing in regard to grants and programmes to help community organisations provide recreation and sporting opportunties for the intellectually disabled?

The Hon. J.W. SLATER: About two years ago the Department sponsored a project which resulted in the establishment of a Sport and Recreation Association for the Intellectually Disabled in South Australia. It is now well established and acts both as a communication link between relevant organisations and in fostering innovative projects. Over the past 12 months or so some of those projects have been initiated relating to netball, creative art opportunities and athletics. Indeed, probably the most progressive step was taken this year when I gave approval for funding for a part-time administrator for the Association to act over a period of three years. This was granted under a special category in recreation administration grants. Ms Dianne Schwarz was appointed and recently began her duties in that position. With her appointment I think we can continue to improve the position of intellectually disabled people and the range and quality of opportunities available to them.

A.B.R.D. ROAD WORKS

Mr BLACKER: Will the Minister of Transport say whether work on the A.B.R.D. project between Boston House and Poonindie, on the Lincoln Highway, is on schedule and whether it is expected that there will be any restriction of traffic flow during the present harvest? Some preliminary work is proceeding on the project, with the stockpiling of metal, pipes and culverts. However, I have been advised that some delay has occurred in tendering. Constituents in my electorate have raised concern about whether any traffic restrictions will be imposed, particularly during the current grain harvest season.

The Hon. R.K. ABBOTT: The answer to the honourable member's question is, 'Yes, the work is on schedule.' The contract for the section of road to which he referred will be let to Macmahon Pty Ltd. I am not sure whether there will be any restriction to traffic movement, but I will obtain that information for the honourable member and bring down a report for him.

LOW ENERGY HOUSING

Mr PLUNKETT: Will the Minister of Mines and Energy provide the House with information on the outcome of a recent study into ways of encouraging greater use of low-energy technologies in South Australian housing? I am aware that the study, undertaken by Hassell Planning Consultants, was funded by the State Energy Research Advisory Council. However, I would appreciate knowing more about the findings and the action now to be taken.

The Hon. R.G. PAYNE: I can provide some information, and I thank the honourable member for raising this important issue on energy conservation. The study to which the honourable member referred was entitled 'Implementation Strategy for Low Energy Housing in South Australia' and was funded by a grant from the State Energy Research Advisory Council. The study was funded to establish why public acceptance of the low energy housing concept remained poor, despite the cost benefits that were clearly available. The study has assessed public attitudes to low-energy housing, and has made a series of recommendations about the kind of initiatives that can be taken, by both the

Government and the building industry, to more effectively promote energy efficiency in housing.

On Tuesday, I opened a seminar attended by about 50 representatives of the building and building supply industries, State and local government agencies, and other interested groups. The purpose of the seminar was to see whether some broad agreement could be reached on the approach to be adopted and the means of co-ordinating the strategy outlined in the consultants' report. The seminar is to be followed by an on-going series of reviews, which will ensure that all parties involved have ample opportunities to make their views known.

Both the Energy in Buildings Consultative Committee and the South Australian Energy Council will be asked to review the report, and the views of the State's energy bodies will also require full consideration. When that is complete, the Energy Division of my Department will co-ordinate the whole range of responses to the Hassell Report, so that a comprehensive package of advice on low-energy housing will be made available to the Government for consideration.

ABORIGINAL LAND RIGHTS

The Hon. B.C. EASTICK: Can the Premier say whether the Government intends to legislate to grant land rights to Kokatha Aborigines on terms similar to rights already granted to the Pitjantjatjara Aborigines and those proposed for the Yalata Community? I have been informed that, in a report commissioned by the Government from an anthropologist, Professor R.M. Berndt, the question of land rights for the Kokatha Aborigines is considered. Such rights would include the lands on which the Roxby Downs project is now being developed.

The former Government investigated this matter and agreed that, while all necessary action would be taken to protect sites of significance to the Aborigines, a blanket land rights claim covering the whole area would not be justified. This advice was given to the joint venturers, but it seems that, following the latest report commissioned by the Government, such a claim may now be allowed, which could raise further uncertainty about the future of the Roxby project.

The Hon. J.C. BANNON: The Government does not intend to move in the way that the honourable member suggested. The Government still has the Berndt Report under consideration, and no decisions have been made. The issue of sacred sites and their protection is something that so far is being considered separately from the issue of general land rights. Therefore, the issue has not been raised, except in any context in which these reports are mentioned. That is subject to consideration.

CHAMBER BENCHES

Mr KLUNDER: Will you, Mr Speaker, investigate (although, I hasten to add, not necessarily personally) the effectiveness of the benches in this place in supporting the spines of honourable members? I am aware that this matter has already been raised in another Parliament, but the problem in this place is no less pressing, if I can put it that way. I do not know whether the size and shape of members in 1889, when this Chamber was first constructed, were different from the size and shape of members today, but I do know that 34 vertebrae in my backbone not supported by benches in this place do fairly back me in asking for amelioration of the condition in which they sit here.

The SPEAKER: It could be that this question is prompted by recent late sittings. I know that the benches can, in certain circumstances, make better divans than seats. I do not profess any expertise whatsoever in orthopaedics, but I shall attempt some reasonable investigation at minimal or no cost. I might add it could be that the Heritage Commission will place history, not aesthetics, ahead of comfort if there should be a clash. However, I shall bring down what I hope will be a quick and reasonable reply.

ROXBY DOWNS ROAD

Mr INGERSON: Can the Premier say whether the Government has made any decision in regard to the access road being established to the Roxby Downs project through the area known as Canegrass Swamp? I have been informed that a new report to the Government by an anthropologist concludes that sacred sites have been damaged as a result of work at Roxby Downs, and that claims in relation to sacred sites in the area known as Canegrass Swamp are valid.

This is contrary to the claims made and advice to the former Government. At one stage, the former Government was informed by the representative of the Kokatha community that there were no sites of significance in the area. The present Government approved of the environmental impact study statement for the Roxby Downs project, in general. I have been advised that if those latest claims are entertained, it is possible that amendments will have to be made to the Roxby Downs indenture and that this could further delay work on vital aspects of the project.

The Hon. J.C. BANNON: The answer to the honourable member's question, 'Has a decision been made?' is 'No'.

CRIME WATCH SCHEME

Mr HAMILTON: Will the Chief Secretary consider introducing a neighbourhood crime watch scheme similar to that which is successfully operating in Western Australian? The Minister would be aware that, since my coming into this place, I have suggested many times the need for crime alert and prevention programmes in South Australia, more specifically within the north-western suburbs. I was interested when it was pointed out to me that kits are issued in the scheme that operates in Western Australia that encourage people to watch their neighbours' homes for break-ins and report any suspicious activities. I am informed that each kit contains security suggestions and neighbourhood watch stickers for front doors. I am also informed that more Western Australian country towns are likely to get a neighbourhood crime watch scheme after an enthusiastic response to these kits in Bunbury.

I am further informed that the scheme helps police in controlling crime, and that neighbours are in the best position to know who belongs and who does not belong around the house next door. Members would recall that I suggested a proposal similar to this scheme about six weeks ago in Parliament, and with the forthcoming festive season, when many people will be away on holidays, I ask the Minister to consider such a scheme, and to highlight through the media the benefits of householders watching adjacent properties.

The Hon. G.F. KENEALLY: I will discuss this matter with the Police Commissioner and bring down a report for the honourable member and Parliament. I am aware of the honourable member's continued interest in a scheme that would assist in protecting the properties of citizens in South Australia. The neighbourhood crime watch scheme has obviously been a great success at Bunbury. It is one of which I am not aware, although I am certain that the Police

Department would know of it. Anything that can be done by the community to assist the Police Force in its difficult task of protecting persons and property would be an advantage.

It is worth saying that the Police Department can only be effective in its role if that support from the community is forthcoming. If the support is denied, then its effectiveness is reduced accordingly. I appreciate the fact that the honourable member has directed similar questions to me before. These matters are being investigated, and I will ask the Police Commissioner to consider the scheme that seems to be working effectively in Bunbury. As the honourable member said, other towns in Western Australia are to adopt the scheme. I will have this matter investigated to see whether it is appropriate for it to be introduced into South Australia for the benefit of the citizens of this State.

TORRENS PARK PUMPING STATION

Mr BAKER: Will the Minister of Water Resources say whether there are any plans to improve the operation of the pumping station at Torrens Park? As the Minister may be aware, the pumping station at Torrens Park is of the vintage variety and, like all machinery afflicted with old age, it does not operate as well as it once did. Because of the intermittent nature of the operation, and in conjunction with its old age, the noise causes concern to adjacent residents in Torrens Park and Clapham. As there is a church nearby, one could say that this question is one of a parish pump issue.

The Hon. J.W. SLATER: I can give the member good news, because there will be an upgrading of that pumping station. It will be done in association with the Darlington to Wattle Park renewal of services and upgrading of that water supply. I understand that only today the Public Works Committee gave approval to that project, so it is good news for the honourable member. I think that parish pumps sometimes are important, particularly the parish pump at Torrens Park.

ALDINGA SCRUB

Ms LENEHAN: Can the Minister for Environment and Planning say what is the future of the Aldinga scrub, how it is to be managed, and whether funds will be spent on it this financial year? Many of my constituents, especially in the Reynella and Morphett Vale areas, use the Aldinga and Sellicks Beach areas for recreation purposes. The scrub is the remnant of vegetation that once covered most of the Adelaide Plains, and includes some rare plant species. The previous Labor Minister of Local Government (Geoff Virgo) made successful moves in about 1972 to protect the scrub, but little has been done about it since, hence my question.

The Hon. D.J. HOPGOOD: The honourable member's question permits me a little bit of reminiscence. I can recall being half lost in the Aldinga scrub as a small boy. There are those who would claim that I never really found my way out. For that reason I have always had a certain affection for the area. That area was one of those areas brought under the State Planning Authority reserve scheme, about which there has been some discussion in the House recently in respect to the Anstey Hill area. It is the subject of the present divestment plan, which I have previously explained to the House, under which some of these reserves will be transferred to the National Parks and Wildlife Service, and some will go to local government. We are also talking to the Minister of Recreation and Sport about the possibility of his Department managing some of the reserves.

The Aldinga scrub is one of those earmarked for dedication under the national parks and wildlife system, and a recommendation is before me for some expenditure on this area that would include some fencing and the upgrading of some of the structures now located in the scrub. I assure the honourable member that the area will continue to be protected under the formal mechanisms of the National Parks and Wildlife Act, and we will be spending some funds from the Planning and Development Fund this financial year.

O'CONNOR AIRWAYS

Mr GUNN: Is the Premier aware that a decision by T.N.T. Air to cancel a contract with O'Connor Airways will have the effect of cancelling air services to the following country centres: Kingston, Naracoorte, Mount Gambier, Millicent, and some services to Port Lincoln, Lock, Wudinna, Streaky Bay, Ceduna, Hawker, Port Augusta, Whyalla, Port Pirie, Minlaton, Cowell, Cleve and Kimba?

The Premier is probably aware of the daily courier service conducted to various parts of South Australia by O'Connor Airways which carries bank documents as well as passengers. Many of the areas I have mentioned have no other form of passenger service, and these air services are now available five days a week. The services will cease on 5 December, because of the decision of T.N.T. Air to unfairly withdraw O'Connor's present contract. O'Connor's is a local South Australian firm, based in Mount Gambier, and employs people who will be stood down and lose their jobs, and the future of the company is at stake. Will the Premier contact the senior management of T.N.T. Air? If it will not reinstate the contract, will the Premier agree to appointing a Select Committee to investigate all air services in this State in order to prevent these large monopolies taking action that is detrimental to country people?

The Hon. J.C. BANNON: I was not aware of this decision, and I thank the member for bringing it to my attention. Its consequences will be severe on those centres he has described in terms of passenger access. I certainly undertake to have immediate inquiries made into this matter to see what the position is and whether something can be done about it in the short term. The honourable member asked about having a Select Committee consider the whole question of intrastate services. That is not something I have considered, but I will undertake to study the termination of this contract and investigate the situation outlined by the honourable member.

SALES CONTRACTS

Mr EVANS: Is the Premier aware of the recent High Court decision that ruled that some Queensland off-the-plan sales contracts are invalid and, if so, is legislative action necessary to clarify the position in South Australia? The High Court decision that was brought down in Canberra earlier this week ruled that Queensland contracts which allowed people to sell properties off the plans and which did not name the original owner of the property were invalid. This has placed in jeopardy many contracts in Queensland. As it will be necessary for changes to be made to the appropriate legislation in Queensland, will it be necessary for changes to be made to legislation in South Australia, as a result of this High Court decision? This could affect the sale of flats and units on a form of strata title. Is the Premier aware of that decision, and will it be necessary for us to take legislative action?

The Hon. J.C. BANNON: I am not aware of that decision. As it sounds as though the matters raised would fall within

the jurisdiction of the Attorney-General, either in that capacity or as Minister of Consumer Affairs, I will ask him for a report.

SHACK SITES

Mr BECKER: Can the Premier say when the Government will make a decision regarding non-acceptable shack sites in South Australia? I ask the question of the Premier as it is a matter of Government policy. I believe that the Government is investigating various shack sites in South Australia and I understand a report has been before Cabinet for some time. I believe that many persons are concerned about the future of their shack properties, and now wish to know when the Government will make a decision because they are concerned about the future of their investments.

Many shack owners in South Australia are retired persons, and they are now concerned at the possible effects of the Federal Government's assets test in relation to their shacks. Therefore, they will appreciate any decision by the State Government on shack sites. The investment in these shacks by many people is quite considerable, and they can see their hard work and a valuable asset being removed overnight. Could the Government please expedite a decision, and advise these people accordingly?

The Hon. D.J. HOPGOOD: The matter is not before Cabinet. Some time ago a report was released that was drawn up by a committee set up under the late Liberal Government. That report was released for public comment, but it did not address the totality of shacks existing around South Australia. It has been my concern not only to secure the general acceptance by the community of the substance of that report but also to investigate the parts of the report that have been criticised by the community, and also to consider what the future should be of those shacks and shack sites that did not fall within the terms of reference of the report. I am quite happy to accede to the request to expedite the consideration of this matter, and I think I can promise that public statements will be made on the matter before too long. However, there is not a submission before Cabinet at present.

The SPEAKER: Call on the business of the day.

STATE BANK OF SOUTH AUSTRALIA BILL

The Hon. J.C. BANNON (Premier and Treasurer) obtained leave and introduced a Bill for an Act to provide for the amalgamation of the Savings Bank of South Australia and the State Bank of South Australia and the formation, by the amalgamation, of a new Bank; to repeal the Savings Bank of South Australia Act, 1929, and the State Bank Act, 1925; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

In setting out the Labor Party's economic policy in May 1982, I said that we believed there was a need for a strong head office bank in South Australia, and that the State banking sector should be developed to play this role. I repeated this in the policy speech I gave during the run up to the 1982 election, when I said:

> Our banking sector is important as a generator of growth. Labor will initiate a bold new approach to our banking sector. We will bring about closer co-ordination between the State Bank and the Savings Bank. Together, they can be an engine for economic growth.

When my Government took office, we began discussions with the boards and management of the two banks. We found that they were keen to pursue the idea of closer co-operation and, indeed, it was not long before it became apparent that a full merger of the two banks was the most appropriate path to follow.

Statements by the Leader of the Opposition since that time have also made it clear that this has bipartisan support. On 18 May, I announced that the Government would support proposals put forward by the two banks that they merge. I also announced the formation of a working group to facilitate the consideration of questions which would necessarily come before the Government. The working group, which included representatives of the boards of both banks, considered the framework required for the operation of the new bank. As a result of this work, the boards of both banks have written to me with recommendations which formed the basis of the legislation now before the House.

The legislation has been discussed with both banks, and this Bill represents the results of those discussions during which agreement was reached on all matters. For a number of decades, both the State Bank and the Savings Bank of South Australia have been important institutions in the South Australian community. The Government believes that this merger will not in any way diminish the important role that the State banking sector has played, but rather will enable the services and facilities that the banks have provided to South Australians to be further expanded and developed.

The principles upon which the legislative framework for the new bank is based are:

1. That the bank should conduct its affairs with a view to promoting the balanced development of the State's economy and the maximum advantage of the people of South Australia. Bearing in mind the traditional emphasis on housing, the bank shall also pay due regard to the importance, both to the State's economy and to the people of the State, of the availability of housing loans.
2. That the bank should operate in accordance with accepted principles of financial management.
3. That the bank should operate in conditions as comparable as practicable with those in which its private sector counterparts operate.
4. That the bank should be able to become an active, innovative and effective participant in the South Australian economy and financial markets, with the flexibility to adjust to the changes which are a feature of these markets.

The first two of these principles appear specifically in clause 15 of the Bill. The third is reflected mainly in clauses 6 and 22 of the Bill. Members will note that the bank is to be subject to all State and local government taxes and charges and that it is to pay the equivalent of company tax. It will also be required to pay a dividend based upon the kinds of considerations which would normally determine the declaration of a dividend by a private sector organisation. However, the Bill provides that the dividend shall be set by the Government upon recommendation of the board of the bank. It further provides a procedure for the bank to make public its disagreement should the dividend determined by the Government differ from that recommended by the board. The fourth of the principles is embodied in clause 19, which sets out the proposed powers of the bank. The powers are wide in relation to financial transactions, as the Government is determined that the bank should have the flexibility necessary to operate effectively in a rapidly changing financial environment. It also wishes to ensure that the bank is able to play a leading role in strengthening South Australia's financial base.

Members will note that the Bill currently before the House does not include the detailed provisions related to staffing which are a feature of the Savings Bank of South Australia Act and, to a lesser extent, the State Bank Act. A Bill which incorporates such staffing provisions as may be necessary will be presented to the House later. The Government believes it is more appropriate that the legislation which sets out the powers, functions and structure of the bank should be separate from that which deals with details of employment conditions, and so on.

The banks have ensured that their staff and the union which represents them have been kept fully informed of the discussions concerning the merging of the two banks. The Australian Bank Employees Union has agreed with the proposal for a second measure which deals with employment conditions and, of course, will be fully involved in discussions concerning its provisions.

I would like to place on record my appreciation of the manner in which representatives of the banks have been able to work with the Government to draw up this legislation. All the matters that were addressed by the working group were resolved in the spirit of co-operative consultation rather than one of conflict, and I have every reason to believe that the climate in which these discussions took place has provided a firm basis for the future relationship between the bank and the Government.

Clause 15 makes it clear that consultation is expected between the Government and the bank on matters of mutual concern. Consultation may be initiated by either party, and there is not provision for either party to coerce the other into accepting a particular course of action. However, the bank is required to give serious consideration to any proposals the Government may put to it and to report formally on such proposals if asked to do so.

Even though every effort has been made to ensure that the new bank operates as far as is practicable in the same manner as a private sector organisation, the Government believed that there were a number of aspects of the current legislation which were worth preserving. At the present time, the Savings Bank of South Australia is not bound by the Unclaimed Moneys Act which means that it can hold moneys in accounts which have fallen into disuse and pay them out if clients appear with a valid claim. The Government has agreed with the representatives of the banks that the service to clients which this provision allows should continue. For similar reasons, the Government has also agreed that existing provisions relating to the operation of accounts by minors should be retained.

It is the Government's intention, and the wish of the two banks, that the new bank should come into being on 1 July 1984. While the Bill does not set a specific date of operation, all efforts will be made to ensure that the new bank commences business on that date. It will need to be operating with common products, a single set of accounts, new identifying symbols, advertising approaches, and so on, as from that date. A great deal of detailed work will need to be done in order to bring this about, and it is desirable that this work be done within a firm legislative framework. The early passage of the Bill now before members is desirable in order to provide that framework. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the new Act is to come into operation on a day to be fixed by proclamation. Clause 3 contains the definitions necessary for the purposes of the new Act. Clause 4 provides for the repeal of the Savings Bank of South Australia Act, 1929, and the State Bank Act, 1925. Clause 5 provides that the Crown is to be bound by the new Act. Clause 6 establishes the new bank and invests it with the powers of a body corporate. It should be observed that, while the bank is an instrumentality of the Crown, the bank is to be liable to rates, taxes and other imposts under the law of the State as if it were not such an instrumentality. Clause 7 provides that there is to be a Board of Directors consisting of not less than six nor more than nine members. The Chief Executive Officer is to be eligible for appointment as a Director.

Clause 8 provides for a term of office of up to five years for a Director. This limitation would not, however, apply to the Chief Executive Officer if appointed as a Director. Clause 9 deals with casual vacancies. Clause 10 provides for the remuneration of Directors. Clause 11 requires disclosure of interest by Directors. Clause 12 deals with the procedure of the board. Clause 13 is a validating provision relating to vacancies in the membership of the board and defects in the appointment of its members. Clause 14 invests the board with full power to transact any business on behalf of the bank.

Clause 15 deals with the policies that are to be implemented by the board. The board is required to act with a view to promoting the balanced development of the economy of the State and the maximum advantage to the people of the State. The board is required to give proper recognition to the importance of the availability of housing loans both to the economy and to the people of the State. It is required to administer the bank's affairs in accordance with accepted principles of financial management and with a view to making a profit. Clause 16 provides for the appointment of a Chief Executive Officer of the bank. Clause 17 provides for the appointment of other officers of the bank. Clause 18 provides for delegations by the Board or by the Chief Executive Officer.

Clause 19 sets out the powers of the bank to carry on banking and other related business. Clause 20 empowers the Treasurer to make advances by way of grant or loan to the bank. It provides that grants made by the Treasurer are to be treated, for accounting purposes, as subscriptions of capital. Clause 21 provides that the liabilities of the bank are guaranteed by the Treasurer and empowers the Treasurer, after consultation with the board, to fix charges to be paid by the bank in respect of the guarantee. Clause 22 provides for payments to be made from any operating surplus to the General Revenue. Clause 23 provides for the keeping of accounts by the bank. Clause 24 provides for the annual audit of those accounts. Clause 25 empowers the Governor to appoint the Auditor-General or some other suitable person to carry out an investigation into any aspects of the operations of the bank.

Clause 26 empowers the bank to make payments to the next of kin of a deceased customer from that customer's account. Where a customer is of unsound mind, moneys may also be paid out of his account for his own maintenance or the maintenance, education or advancement of members of his family. Clause 27 provides for the closure of accounts that have fallen into disuse and for payment of the money standing to the credit of those accounts to the Customers Unclaimed Moneys Account. Clause 28 provides that a minor may give an effective receipt for the payment of money standing to his credit in an account at the bank. Clause 29 confers immunity on the officers of the bank for acts or omissions done in good faith or in the course of carrying out the duties of their respective offices. Clause 30 provides that the bank is not affected by notice of any trust to which moneys deposited or invested with the bank are subject. Clause 31 is a regulation-making power.

The Hon. B.C. EASTICK secured the adjournment of the debate.

ADELAIDE FESTIVAL CENTRE TRUST ACT AMENDMENT BILL

The Hon. J.C. BANNON (Premier and Treasurer) obtained leave and introduced a Bill for an Act to amend the Adelaide Festival Centre Trust Act, 1971. Read a first time.

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

That this Bill be now read a second time.

Section 31 of the Adelaide Festival Centre Trust Act, 1971, provides that, for the purpose of assessing water, sewerage and local government rates, the trust property is deemed to have an assessed annual value of $50 000 and an assessed capital value of $1 million. The Festival Theatre, which is not considered to be a marketable property, cannot be valued on the basis of true capital value, and section 31 provides an artificial basis upon which such rates can be determined. The provision was originally to operate for a period of 10 years. An amendment in 1982 extended the operation of the section until 31 December 1983. The adoption of a more realistic basis for assessment would lead to a very large increase in water, sewerage and council rates. The Adelaide Festival Centre Trust would be unable to absorb such an increase in its operating costs.

Similar arts centres in Victoria, Queensland and New South Wales do not pay local government rates. As the State Government presently contributes more than $2 million annually towards the recurrent operations of the Festival Theatre and a further $2 million annually to service debts, the Government considers that the operation of the section should be extended for a further period of 10 years, that is, until 31 December 1993. Clause 1 is formal. Clause 2 provides for the operation of section 31 to continue until 31 December 1993.

The Hon. B.C. EASTICK secured the adjournment of the debate.

SOUTH AUSTRALIAN WASTE MANAGEMENT COMMISSION ACT AMENDMENT BILL

The Hon. T.H. HEMMINGS (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the South Australian Waste Management Commission Act, 1979. Read a first time.

The Hon. T.H. HEMMINGS: I move:

That this Bill be now read a second time.

It makes some minor amendments to the principal Act, the South Australian Waste Management Commission Act, 1979. The number of members of the Commission is increased from seven to nine. One of the additional members is to be a person nominated by the Minister for Environment and Planning. The other is to be a person with experience of environmental management. The purpose of this change is to strengthen the representation upon the Commission of environmental interests. The opportunity has also been taken to amend some references in the principal Act to Ministerial names which have altered since its enactment, and the name of the South Australian Chamber of Commerce and Industry, which is now known as the Chamber of Commerce and Industry S.A. Incorporated. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 amends section 9 of the principal Act, which deals with the membership of the Commission. Subsection (1) is amended to increase the number of members from seven to nine. Paragraph *(e)* of the subsection is struck out and new paragraphs *(e)* and *(f)* inserted, the former providing for three persons (rather than two) to be nominated by the Minister of whom one shall be a person with experience of environmental management, the latter providing for one person to be nominated by the Minister for Environment and Planning. An incidental amendment is to the reference to the Chamber of Commerce and Industry S.A. Incorporated.

Clause 3 amends section 16 of the principal Act, which establishes the technical committee. The amendments concern name changes only: 'South Australian Chamber of Commerce and Industry' becomes 'Chamber of Commerce and Industry S.A. Incorporated', 'Minister for the Environment' becomes 'Minister for Environment and Planning', 'Minister of Works' becomes 'Minister of Water Resources' and 'Minister of Housing' becomes 'Minister of Mines and Energy'. Clause 4 makes a minor drafting amendment to subsection (3) of section 23.

The Hon. B.C. EASTICK secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

The Hon. T.H. HEMMINGS (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Local Government Act, 1934. Read a first time.

The Hon. T.H. HEMMINGS: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

It is principally intended to remove those provisions of the Local Government Act (occurring mainly in Part XXI) that allow electors to demand a poll where a council intends entering into certain borrowing arrangements. It is now considered part of the normal financial management of local councils to undertake borrowing programmes, particularly for capital assets with a long life. The possibility of electors demanding a poll on this single aspect of financial management is increasingly inappropriate.

Furthermore, experience has shown that the provisions relating to polls in fact operate in an inequable manner. In metropolitan councils loan polls are unknown, simply because the numbers required to defeat a proposal are so large as to be impossible, while in a small district council it can be relatively easy for a group of persons to obtain the support of 10 per cent of electors for the requisition of a poll and, indeed, to convince 30 per cent to vote against the proposed borrowing. Conversely, it would be most difficult for a group to successfully canvas 10 per cent of the electors of a metropolitan council to demand a poll. The reforms provided by this measure are therefore most appropriate.

Modern financial management requires that a proper blend of rate income, borrowings and other revenues are used to meet the needs of the council. It is quite unreasonable that this process should be subject to uncertain and lengthy approval procedures. In addition, other amendments revamp

the procedures that councils must employ when they decide to borrow, but there are no significant changes of substance effected. Councils will still be required to give notice in the *Gazette* of resolutions to borrow under section 430, and Ministerial consent will be necessary before borrowed money may be used to compulsorily acquire land. If a special rate must be declared to repay money that has been borrowed for carrying out specific works or undertakings, the provisions of the Act dealing with electors' consent for the introduction of such a rate will continue to apply.

Clause 1 is the short title. Clause 2 provides for the commencement of the measure. Clause 3 amends section 8 of the principal Act. As this measure is intended principally to remove those provisions that allow local government borrowings to be subject to the requisition of a poll of electors, it is appropriate to remove passages which infer that elsewhere in the Act it may be necessary to obtain the consent of electors before borrowing. Clause 4 amends section 424 of the Act by removing the requirement that the consent of electors be obtained before the council may borrow in the manner and for the purposes prescribed in that section. Other incidental amendments are also effected.

Clause 5 repeals sections 426, 427 and 429 of the principal Act. Section 426 presently provides that a council must give public notice of its intention to borrow money pursuant to section 424. Section 427 provides for a prescribed number of electors to demand a poll as to whether a loan should be incurred. If no demand is made, the consent of electors is deemed to have been given. Section 429 provides that where a council also intends to declare a special or separate rate, the notice under section 426 should state so, and thereupon any consent of electors under section 427 to the borrowing of money shall also be a consent to the declaration of the special or separate rate (as the case may be).

Clause 6 provides for the insertion of a new section 430. It is proposed that the procedure for councils intending to borrow money be that the resolution to borrow be passed by an absolute majority. Ministerial consent must still be obtained when it is intended to use borrowed money to compulsorily acquire property. Notice in the *Gazette* must be given. Clause 7 effects a consequential amendment to section 434. Clause 8 amends section 449c. The revised section 430 is also to apply to borrowings under this section. Clause 9 amends section 530c to provide further consistency. Clause 10 is a consequential amendment to section 725, which relates to notices in the *Gazette*. Reference to loans being consented to or forbidden at meetings or polls will become superfluous.

Clause 11 is a consequential amendment to section 797. Subsection (1) provides special procedures for polls on the question of a loan, and so may be struck out. The amendment to subsection (2) is consequential. Clause 12 amends section 858, which is in that Part of the Act dealing with the City of Adelaide. The section, as amended, will be consistent with the procedures provided in section 430 in relation to resolutions to borrow. Clause 13 provides a consequential amendment to section 871j.

The Hon. B.C. EASTICK secured the adjournment of the debate.

LOCAL GOVERNMENT FINANCE AUTHORITY BILL

The Hon. T.H. HEMMINGS (Minister of Local Government) obtained leave and introduced a Bill for an Act to establish a corporation to be known as the 'Local Government Finance Authority of South Australia'; to make provision relating to the financial powers and relations of the Authority, councils and other bodies; and for other purposes. Read a first time.

The Hon. T.H. HEMMINGS: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

For some time the Local Government Association has been involved in discussions with the Government on its wish to establish a Local Government Finance Authority. In New South Wales and Victoria sucessful operations exist based on their equivalent to the Local Government Association which invest, on behalf of councils, cash surplus funds in the money market. Both in Victoria and New South Wales negotiations are under way to extend this function to borrowing on behalf of local councils.

In South Australia, through a very high level of co-operation between the Local Government Assocation and various Departments, particularly the Departments of Local Government, Treasury and Premier and Cabinet, this legislation has been prepared to give effect to the desire for local government to be able to use its funds corporately for the benefit of individual councils. Experience in Victoria and New South Wales demonstrates the very immediate benefits that are available and the proper use of the money market, and it is expected that the same benefits will flow from the borrowing activities of this authority.

On 19 August 1983 a special general meeting of the Local Government Association unanimously adopted the proposals and authorised the Local Government Association Task Force to seek appropriate legislative measures. Following careful consideration by an Interdepartmental Committee and by Cabinet the Bill that has been introduced meets the wishes of local government.

The principal features of the Bill are as follows. All councils are automatically members of the Local Government Finance Authority, but they are not required to participate in either the borrowing or investing activities. Consequently, the decision to take part rests entirely with the individual councils and the success of the authority will be measured by its ability to generate better returns and improve terms. The Finance Authority will be governed by a Board of Trustees made up of two persons elected by the annual general meeting of the Local Government Finance Authority, two appointed by the Local Government Association, the Secretary-General of the Local Government Association, and the Director of Local Government and the Under Treasurer or their representatives. The majority clearly lies with the local government component, and the Chairman and Deputy Chairman are to be drawn from the local government members.

The borrowings of the authority are to be fully guaranteed by the Treasurer and other liabilities may also receive the Treasurer's guarantee. In return for this guarantee, a fee shall be chargeable by the Treasurer which is in line with normal commercial practice. Members will see from the functions of the authority and the purposes of the Act that the principal task of the authority is to implement borrowing and investment programmes for the benefit of councils and prescribed local government bodies. In order that the authority may get off the ground with a reasonable balance sheet, the Treasurer is also able to lodge State funds to the amount of $10 million into the authority if he considers that of value in ensuring that the Finance Authority is given a good start in the financial world.

Clause 27 of the Bill also provides for the authority to reorganise the finances of a council if it is requested and

agreed by the council and the authority. It is emphasised that this is purely a voluntary function and is included so that a service of this nature can be made available to individual councils.

In a separate Bill there is a proposal that the Local Government Act be amended to remove loan poll provisions. The Local Government Finance Authority will be borrowing in bulk for lending to councils. The present provisions, which in practice only impact upon small councils, provide a timetable and a risk of exposure to the Local Government Finance Authority which, it is considered, would cause difficulty. However, the reasons for removing the loan poll provisions go deeper than the requirements of this Bill and are presented separately in the Local Government Act amending Bill.

The establishment of a Local Government Finance Authority is a major step forward in the progress of local government in South Australia. It is indicative of the strength of the Local Government Association and the awareness of local authorities that, to operate in the modern economic climate, co-operation and aggregation of effort is needed.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 sets out definitions of terms used in the measure. Clause 4 provides for the establishment of the Local Government Finance Authority. Under the clause, the Authority is to be a body corporate with perpetual succession, a common seal and the usual capacities of a body corporate.

Clause 5 provides that every council as defined in the Local Government Act is to be a member of the Authority. Clause 6 provides that the Authority is to be managed and administered by a Board of Trustees. Under the clause, an act or decision of the Board of Trustees is to be an act or decision of the Authority. Clause 7 provides for the constitution of the Board. Under the clause, the Board is to be comprised of seven members, of whom two shall be persons elected by an annual general meeting of the Authority, two shall be persons appointed by an annual general meeting of the Authority on the nomination of the Local Government Association, one shall be the person holding or acting in the office of permanent head of the Department of Local Government or any other office of that Department nominated by the permanent head, one shall be the person holding or acting in the office of Under Treasurer or any other office in the Treasury Department nominated by the Under Treasurer, and one shall be the person holding or acting in the office of Secretary-General of the Local Government Association. The clause provides that, until 31 December next succeeding the first annual general meeting of the Authority, the Board shall comprise the *ex officio* members referred to above and four persons appointed by the Minister upon the nomination of the Local Government Association. Under the clause, a person is not to be eligible for election to the Board unless he is a member or officer of a council. Provision is made for the appointment of deputies of members of the Board.

Clause 8 provides that the members of the Board elected by an annual general meeting or appointed on the nomination of the Local Government Association are to hold office for a term of one year commencing on the first day of January following their election or appointment. The clause provides for the removal of such a member by a general meeting of the Authority if the member becomes mentally or physically incapacitated or if he is guilty of neglect of duty or dishonourable conduct. A casual vacancy in the office of such a member is to be filled by an appointment made by the Board.

Clause 9 provides that the Chairman and Deputy Chairman of the Board are to be appointed by the Board from amongst the representative members of the Board (that is, the members elected or appointed by an annual general meeting of the Authority). Clause 10 provides for the procedures of the Board. Clause 11 provides for the validity of acts of the Board and immunity of its members from personal liability.

Clause 12 requires a member of the Board who is directly or indirectly interested in a contract or proposed contract of the Authority to disclose the nature of his interest to the Board and not to take part in any deliberations or decision of the Board with respect to the contract or proposed contract. The clause provides that, where a member of the Board is a member, officer, elector or ratepayer of a council with which the Authority has contracted or proposes to contract, the member is not prevented from taking part in any deliberations or decisions of the Board that have common application to that contract or proposed contract and contracts or proposed contracts with other councils.

Clause 13 provides for the allowances and expenses of members of the Board to be fixed by a general meeting of the Authority. Under the clause, amounts payable by way of allowances to an *ex officio* member are to be paid to the Department or body of which the member is an officer. Clause 14 requires the Board to convene annual general meetings of the Authority and provides for special general meetings to be held upon request by not less than one-quarter of the total number of councils or at the initiative of the Board.

Clause 15 provides that each council may appoint a person to represent it at a general meeting of the Authority and that each council representative is to have one vote on any motion before a general meeting. Clause 16 provides for the quorum for general meetings of the Authority. Clause 17 regulates the procedure at general meetings. Under the clause, the Chairman of the Board is to preside at a general meeting of the Authority.

Clause 18 provides that the business of a general meeting of the Authority is to receive and consider any report of the Board presented to the meeting, to consider and approve or disapprove any proposals submitted to the meeting by the Board, to consider and pass resolutions with respect to any matter relating to the Authority or its affairs raised at the meeting and, in the case of an annual meeting, to elect and appoint the representative members of the Board.

Clause 19 provides for rules governing the procedure for general meetings. Clause 20 requires the Board, at its next meeting after the passing of a resolution at a general meeting, to give all due consideration to the resolution and to take such action (if any) as it thinks fit in relation to the matters raised by the resolution.

Clause 21 sets out the general powers and functions of the Authority. The principal function of the Authority will be to develop and implement borrowing and investment programmes for the benefit of councils and prescribed local government bodies. The Authority may also engage in such other activities relating to the finances of councils and prescribed local government bodies as are contemplated by the other provisions of the measure or approved by the Minister. Under the clause, the Authority is empowered to borrow moneys within or outside Australia. It may lend moneys to councils and prescribed local government bodies.

It may accept moneys on loan or deposit from a council or prescribed local government body and may invest moneys. The Authority is empowered to issue, buy and sell and otherwise deal in or with securities. It may open and maintain accounts with banks and appoint underwriters, managers, trustees or agents. The Authority may provide guarantees, deal with property, enter into any other arrangements or acquire or incur any other rights or liabilities. Finally, the Authority may, at the request of a council or prescribed local government body, provide advice or assistance to the

council or body in relation to the management of its financial affairs.

Clause 22 provides that the Authority is to act in accordance with proper principles of financial management and with a view to avoiding a loss. Under the clause, any surplus of funds remaining after deduction or allowance for the costs of the Authority may be retained and invested by the Authority or distributed to councils and bodies with which it has entered into financial arrangements. Clause 23 provides that the Treasurer may, on behalf of the State, provide funds to the Authority on such terms and conditions as may be agreed by the Treasurer and the Authority. The clause provides for the appropriation of $10 million for application for that purpose.

Clause 24 provides that the liabilities of the Authority in respect of all its borrowings are guaranteed by the Treasurer. Under the clause, the Treasurer may if he thinks fit guarantee any other liabilities of the Authority. The clause requires the approval of the Treasurer (conditional or unconditional) to any borrowing of the Authority (other than by way of acceptance of moneys on deposit or loan from a council or prescribed local government body). Clause 25 provides that an approval of the Treasurer or Minister may be given in general terms and by a person acting with the authority of the Treasurer or Minister.

Clause 26 makes it clear that a council or prescribed local government body may borrow money from the Authority, deposit money with, or lend money to, the Authority, and enter into such other financial transactions or arrangements with the Authority as are contemplated by the measure or approved by the Minister. Clause 27 empowers the Minister, by notice published in the *Gazette*, to transfer to the Authority the liabilities of a council or prescribed local government body in respect of a borrowing and to determine that the moneys remaining payable under the loan are to be regarded as having been borrowed from the Authority on terms and conditions agreed between the Authority and the council or body. This power may, under the clause, be exercised only at the request of the Authority and the council or prescribed local government body.

Clause 28 provides for delegation by the Authority. Clause 29 provides for the staffing of the Authority. Clause 30 requires a council or prescribed local government body, if so required by the Minister, to furnish information to the Authority relating to the financial affairs of the council or prescribed local government body. Clause 31 authorises the Authority to charge fees for services provided under the measure.

Clause 32 provides that the Authority and instruments to which it is a party are to be exempt from State taxes or duties to the extent provided by proclamation. Clause 33 provides for the accounts and auditing of the accounts of the Authority. Clause 34 requires the Authority to prepare an annual report and provides for the report and the audited statement of accounts of the Authority to be tabled in Parliament and distributed to councils and the Local Government Association. Clause 35 provides that proceedings for offences are to be disposed of summarily. Clause 36 empowers the Governor to make regulations for the purposes of the measure. I commend the Bill to the House.

The Hon. B.C. EASTICK secured the adjournment of the debate.

MARALINGA TJARUTJA LAND RIGHTS BILL

The Hon. G.J. CRAFTER (Minister of Aboriginal Affairs) brought up the report of the Select Committee, together with minutes of proceedings and evidence.

Report received.

The Hon. G.J. CRAFTER: I move:

That the report be adopted.

In so moving, I want to make some preliminary remarks about the work of the Select Committee, and I shall then seek leave to continue my remarks later. I take this opportunity to thank the members of the Select Committee for their contribution to the work of the committee. It was quite an onerous task: 21 meetings were held; 83 persons appeared before the committee to give evidence; and 25 written submissions were received. I also want to thank the Secretary to the committee and the officers who assisted in the work of the committee.

As members will see, the report recommends numerous amendments to the legislation, a number of which relate to substantial concessions that have been made by the Maralinga people in trying to bring about a speedy resolution of this matter. The report also recommends an innovative approach in the establishment of a permanent Parliamentary committee to review this legislation.

Briefly, the Maralinga people sought from the Parliament a strong law: they wanted land with rights, not land without rights. The report recommends to the Parliament that we pass this measure as amended, to bring down a strong law. This law will not be as strong as that which passed this Parliament several years ago under the previous Administration. Undoubtedly, in some respects the law has been weakened.

As a committee we have recommended that where appropriate this legislation should remain as close as possible in its effect to Pitjantjatjara land rights legislation. These people have a common language and common cultural similarities, and in the interests of the whole community of South Australia, apart from those in whom this land will be vested, it is seen as being desirable that there be similarity in such legislation. That was the aim of the Select Committee, and it is hoped that that will be achieved during the passage of this measure through the two Houses.

The people involved requested a strong law, and it was the aim of the committee to, in fact, provide that law. In South Australia over the years and following successive Administrations of different political persuasions, we have achieved a good deal of consensus in the area of Aboriginal land rights. That has proved to be of great value to the Aboriginal community and, indeed, to everyone in South Australia. This has not been a matter of political controversy, although it certainly has been a matter of debate. There are ideological differences, but in the main Aboriginal land rights have been achieved by consensus. The Committee has tried to come to grips with this situation, and the report is presented on a basis whereby land rights can be achieved for the Maralinga people by consensus.

This legislation follows that involving Pitjantjatjara land rights, which is the model for land rights legislation throughout Australia.

The Hon. P.B. Arnold: I think you should state early in the piece that it is the view of the majority and not—

The SPEAKER: Order!

The Hon. G.J. CRAFTER: You will have an opportunity to explain—

The SPEAKER: Order! The Minister should refer to honourable members by their district. I also ask honourable members to refrain from interjecting.

The Hon. G.J. CRAFTER: The Committee grappled with ideological differences that were prevalent, as were differences of approach to land rights. There were, in the committee, strong difference expressed. Those differences, for reasons known to honourable members, are not expressed in the report of the committee, but opportunity will be

given during the passage of this measure through the House for them to be fully and properly debated.

Mr Mathwin interjecting:

The SPEAKER: Order!

The Hon. G.J. CRAFTER: There can then be a resolution of the Parliament on those important issues. We have used the legislation of the previous Government as the standard for future land right grants in this State. Indeed, the legislation that was achieved under the Tonkin Administration is regarded highly throughout the country. I believe that the committee has taken the appropriate course of action in the interests not only of those in whom this land will be vested as well as their neighbours but in the interest of the whole of the community in order to achieve that degree of uniformity in land grants of this type. I do not intend to go into details of the report as a number of members have suggested I do, but I will do that at the appropriate time. Therefore, I seek leave to continue my remarks later.

Leave granted; debate adjourned.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 9 November. Page 1582.)

The Hon. B.C. EASTICK (Light): The Opposition supports the passage of this Bill and, in so doing, draws to the attention of the House one or two aspects which still cause some concern. Specifically, the Bill has the support of the Local Government Association and, in putting forward its view in a letter dated 16 November, the Secretary-General of that Association states:

> Since their introduction into the Act in 1969, Parts IXA and IXAA have provided a form of inquiry into the dismissals of Town and District Clerks and clerical, administrative and professional local government officers. The procedure set out in the Local Government Act is different to that contained in section 15 (1) *(e)* of the State Industrial Conciliation and Arbitration Act which applies to nearly all other employees in South Australia, and the remedies available to unfairly dismissed employees are inferior to those provided by the Industrial Conciliation and Arbitration Act.

The inferior nature of the current situation is one that demands the support of the House. There is an expectation of fairness to employees right across the board. The Opposition certainly supports that attitude and this is a case where, there having been an identification of an inferior situation, action ought to be taken to correct it. The Secretary-General further states:

> For these reasons, disputed dismissals have been taken by the Municipal Officers' Association before the Federal Industrial Conciliation and Arbitration Commission as an award matter, and, as a result, have been long and protracted and have resulted in little benefit to the dismissed employee which has, in turn, done nothing to enhance industrial relations between the parties.

That statement of fact is another reason in justification for the support of this measure. As to whether the changed circumstances will necessarily always mean that the matter will be resolved in a short period of time or without considerable cost is a question which only time will determine. As one door is closed in relation to deficiencies, the legal profession and others associated with inquiries seek to find yet other avenues of dispute or challenge and it is conceivable that the clear aims of this measure will be put into some jeopardy by legitimate intrigue (and I do not want it to be construed otherwise) of those people who are retained for the purpose of testing and finding whether there is an alternative interpretation that the clause or the intended course of events. The letter further states:

> The two Associations [the M.O.A. and the L.G.A.], recognising the problem, attempted to resolve the matter by amendment of the Federal award. Unfortunately, the validity of the amendment has been rejected by the court which held:
>
> > So long as the relevant provisions of the Local Government Act remain unvaried and unrepealed, the implication must remain that the Legislature has intended to deny jurisdiction to the Industrial Court under section 15 (1) *(e)* to hear questions concerning the dismissal of local government officers.
>
> This Association is of the view that it is not appropriate for the Local Government Act to contain provisions relating to industrial matters. Local government officers in South Australia are covered by a Federal award which causes further constitutional problems when relating that award to State provisions. The Australian Constitution provides that in any case the Federal award will prevail where there is any inconsistency. The remedies provided by Parts IXA and IXAA are not industrially realistic when compared with those laid down by section 15 (1) *(e)*.

That is another reason why there should be support for the measure before the House. An example of that situation is given where the letter further states:

> For example, a council can ignore any recommendation to reinstate made under Part IXAA if it so wishes upon payment of an amount of compensation to the wronged officer, under section 15 (1) *(e)* the court can order reinstatement and the council is bound by that order. It does not appear appropriate to us that the natural justice afforded to certain employees is not available to all those in local government.
>
> It is significant that the Bill is supported by both the Local Government Association and the Municipal Officers' Association. It represents a considerable achievement in co-operation and consequently its effect can only be to enhance industrial relations between the parties.

As before, that is a supportable view. However, it does beg the question as to why this action is being taken here and now. Members are aware of a major rewrite of the Local Government Act and, whilst we recognise that the total Local Government Act is not being considered at the one time, certainly that aspect of the measure was previously a matter for consideration in the current major local government change. Are there particular issues currently in existence which require that this action be taken in isolation of the major Bill that we expect to see before very long? Is there a view—cynical though it may be—that an attempt is being made not so much to give an element of retrospectivity on cases currently known and which the Minister or those involved would seek to resolve by the new circumstances—

Mr Mayes: Salisbury council—

The Hon. B.C. EASTICK: It is interesting that the member for Unley should say 'Salisbury council'. That is unfortunate, because it just fortifies the question I am now asking the Minister as to whether someone who has taken action which is legitimate under a certain set of circumstances is to be disadvantaged or may be disadvantaged by the passage of this measure. This is conjecture; I am not making any allegations. I believe that we want to be quite certain that any actions commenced thus far will continue, as is the normal set of circumstances, according to the law as it exists at the time of the action. That is the first question.

Secondly, I ask the Minister whether any consideration has been given to the nature of the award that applies to the Adelaide City Council, because the Municipal Officers Award in relation to local government bodies in South Australia is different in so far as the award associated with the Adelaide City Council is concerned. Whilst I am completely aware that the Local Government Association of South Australia seeks to represent the Adelaide City Council, and does, the particularity of the difference which exists between the Adelaide City Council's award and all other councils in this State may well place the Adelaide City Council, without particular consultation on this matter, into some area of concern or into a variance upon a system which has been in vogue for many a long day.

I took the opportunity of looking at the two awards. I found that the Municipal Officers (South Australia) General

Conditions Award, 1981, under section 30, 'Termination of employment and reinstatement', in so far as it applies across the general field, provides:

(1) Resignation

Any officer, other than a casual employee, desiring to terminate his employment shall give to the council two weeks' notice, or in the case of a professional engineer shall give four weeks notice, of his intention to do so; or in lieu thereof the officer shall forfeit two weeks' or four weeks' salary, as the case may be. Provided that, where the express provisions of an officer's employment provide for a longer period of such notice, such provisions shall be applicable.

(2) Summary dismissal

A council may summarily dismiss an officer or an officer on probation for dereliction of duty, serious misconduct or proven inefficiency.

(3) Proposed dismissal

Before any action is taken against a member of an association party to this award, the officer shall be supplied, in writing, the grounds of the proposed dismissal.

(4) Problem-solving conference

A conference shall be convened by the council as soon as possible to discuss the issues raised in the written grounds and to endeavour to devise an appropriate resolution to the problem. The conference shall be attended by a representative of the council, the officer concerned, the Secretary of the Local Government Association and/or his representative and the Secretary of the officer's association and/or his representative, and such other persons as agreed by the parties to the conference.

If the officer concerned is a town or district clerk or an assistant town or district clerk or the municipal engineer, the representative of the council shall be the mayor or chairman. In any other case, a representative of the council shall be the town or district clerk. Provided that, if either the mayor or chairman, or the town clerk or district clerk, as the case may be, is unable to attend, then that person or officer may appoint a representative in his or her place or stead.

The conference shall consider alternatives to dismissal including redeployment of staff and reallocation of resources, giving priority in its consideration to retaining the officer in his current position, or where that is not practicable to placing him in another suitable position for which he is qualified and suitable. If this involves a reduction in status of the officer, such officer shall not suffer any reduction in salary until the expiration of two weeks after the reduction in status has taken effect.

(5) Termination on notice

If the conference cannot devise an appropriate resolution to the problem then the council shall give to the officer two weeks notice, or in the case of an engineer four weeks notice of its intention to terminate, or shall pay to the officer two weeks or four weeks salary, as the case may be, in lieu of notice. Provided that, where the express provisions of an officer's employment provided for a longer period of such notice, such provisions shall be applicable.

(6) Reinstatement

(a) The dismissal of any local government officer is subject to the operation of section 15 (1) *(e)* of the Industrial Conciliation and Arbitration Act, 1972, as amended, of the State of South Australia or any order made thereunder; provided, however, that the provisions of that section shall operate in lieu of and in substitution for the provisions of Part IXA and Part IXAA of the Local Government Act, 1934, as amended.

(b) In the case of an officer ordered to be re-employed, in accordance with this subclause, in his former position pursuant to the provisions of section 15 (1) *(e)* of the Industrial Conciliation and Arbitration Act, 1972, as amended, of the State of South Australia, the conditions of his employment upon such re-employment shall not be less favourable to the officer than would have been the case if he had not been dismissed from his employment.

(7) Certificate of service

Upon termination of employment, the council, when requested by the officer concerned, shall provide him with a certificate of service stating length of service, duties performed, the classification of the officer and details of any long service leave entitlement.

A similar clause is contained in the Municipal Officers (Adelaide City Council) Consolidated Award, 1983. Clause 36, headed 'Termination of employment', states:

Subject to the provisions of the Local Government Act, any permanent officer desirous of terminating his or her employment shall give to the council one month's previous notice of his or her intention, in writing, so to do; and in the event of the council's desiring to terminate the service of any permanent officer, it shall give to such officer, in writing, one month's previous notice of its intention so to do, provided that this shall not affect the common law right of the council to dismiss immediately any officer for good cause.

The council shall not in exercising its powers of termination in this clause make any distinction, exclusion or preference on the basis of sex other than a distinction, exclusion or preference based on the inherent requirements of a particular job.

That is the totality of the clause under the special Adelaide City Council award. Whilst I stick by my statement made much earlier that it is highly desirable that justice be meted out the same to all employees, whether in one council or another, whether in council employment or general business employment and, therefore, inclusion under section 15 (1) *(e)* is the appropriate action, I suspect there may be a conflict of interest if the measure which we are being asked to process at this time is implemented without the full consultation of the Adelaide City Council and some undertaking being given that any special arrangement or any special time lapse necessary for it to get its house in order, as the other councils' houses will be in order, should be so given.

There has been some court conflict as to precisely how the Federal award should be considered in a State court. We know of the wider ramifications of *Moore v Doyle,* and of persons having some difficulty in being assured that their action is taken in the correct court in the first instance. Hopefully, that will all be a matter of the past in the event that this issue is corrected by the means that the Government has indicated. However, it is important that, in giving that support, we do not, either in this place or in another place, completely walk away from a sense of responsibility that we must have to the State's major council employer. I say major in the sense of being the first, and major in the sense that it is the council associated with the capital city of the State, and one whose views must be given proper consideration before the final proclamation or passage causes them to be in some difficulty, its award being at variance with other actions proposed to be taken by the general award under the alteration now proposed.

The Hon. T.H. HEMMINGS (Minister of Local Government): I thank the Opposition for supporting this Bill. It highlights the bipartisan approach of the Local Government Association when both I, as Minister, and the member for Light received identical letters seeking support for the Bill. The member for Light asked why it was being introduced now, when there is a major rewrite of the Local Government Act now with councils for consideration. Both the Local Government Association and the Municipal Officers Association considered that the matter should be dealt with as speedily as possible. With only two sitting weeks left and with the major amending Bill having 28 pages, it would be virtually impossible for it to be considered before March, and I think that everyone realises that. That is why it is being introduced now: there are no sinister motives. It was mentioned that perhaps the Salisbury council—

The Hon. B.C. Eastick: It didn't come from this side.

The Hon. T.H. HEMMINGS: No, it did not come from the member for Light, but from the member for Unley. The Salisbury situation is a defamation action, and not any action taken under section IXA or section IXAA. As there are two other cases pending, it would be improper for me to mention them, because they are before the courts. That was not the reason why—

The Hon. B.C. Eastick: They will proceed as the law exists at the moment.

The Hon. T.H. HEMMINGS: Yes. It was thought by the Local Government Association, the M.O.A., and by the Government that, if it were introduced as speedily as pos-

sible, it would be a natural act of justice to those officers in local government so that they could be covered. The member for Light mentioned the problems of the Adelaide City Council, and makes great play that it has been the principal council in the State and that we should take note of it. I could easily give an undertaking to this House that I would ask the M.O.A. and the Local Government Association to insert section 15 (1) *(e)* of the Conciliation and Arbitration Act into the Adelaide City Council award, and support that application. However, I advise the House that the M.O.A. has written to the Adelaide City Council today indicating that it wishes to vary the Adelaide City Council award to give the same conditions as 15 (1) *(e)*. Now that we know that the M.O.A. has written to the Adelaide City Council and I have given an undertaking to pursue this matter with the council, if we pass this Bill, at least some of the member for Light's problems will be dealt with.

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

WRONGS ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 8 November. Page 1482.)

The Hon. H. ALLISON (Mount Gambier): The Opposition supports this legislation, which comes to us largely as a result of recommendations of the Law Reform Committee and the 24th report handed down in 1972. That report, which relates to civil action against witnesses who commit perjury, contains the following recommendations:

We recommend that the law should be amended to provide that a civil action should lie against a witness who has committed perjury in an action, at the suit of a person who has suffered damage (including in that expression liability for costs) as a result of the perjury in the following circumstances:

1. The evidence given by the perjured witness must have been material evidence in the first action.

2. The defendant must either have been convicted of perjury in relation to the first action or it must be proved that the Attorney-General has decided not to prosecute. The latter of these alternatives of course simply relates to the Crown's discretion whether or not to lay an information in any given case and not necessarily to the strength or weakness of the evidence which would prove the perjury. It is common knowledge that it is difficult to induce juries to convict even in a plain case of perjury and naturally the Crown has to take that into consideration (along with other matters) in deciding whether or not to prosecute. Where the defendant has not been convicted the plaintiff's case should be supported by corroborating evidence.

3. In order to get over any defence based on *res judicata* the proposed Statute should include a clause that this cause of action shall not be defeated by a defence based on the *maxim res judicata accipitur pro veritate.*

4. It is sufficient that but for the perjured evidence the plaintiff in the second action might have succeeded in part or might have succeeded in diminishing the verdict otherwise given in the first action, for example, by proving contributory negligence.

As the Bill entered the other place it omitted to tackle certain of the Law Reform Committee's recommendations; there were deficiencies. However, because amendments of the former Attorney-General were subsequently accepted, we have no fault to find with this legislation and support it through the second reading.

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

SAVINGS BANK OF SOUTH AUSTRALIA ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 November. Page 1580.)

The Hon. B.C. EASTICK (Light): The Opposition supports this Bill. With the rapidity of changing conditions in the Australian financial market's flexibility and innovation are critical if the Savings Bank of South Australia is to match services offered by other financial intermediaries. Recognising the changing structure of the banking sector, the former Liberal Government finalised negotiations in 1982 for the Savings Bank to acquire an equity of 26 per cent in the merchant bank Credit Commercial De France Australia Ltd. Both the Government owned banks are well placed to understand and participate in the commercial environment and economic development of this State. The Savings Bank of South Australia and the State Bank, two of the largest and most respected financial intermediaries in this State, as was envisaged in the legislation introduced to this House earlier this afternoon, are soon to be one entity.

Over the past few years both banks have expanded and diversified in isolation to the point where most of the services they offer are similar. Both banks have become more aggressive in the local market place, and have been competing against each other, with the consequential duplication of resources. One of the corporate philosophies which guided the operations of the Savings Bank is:

To provide a range of financial services and facilities in an effective and innovative manner to serve the needs of the people of South Australia.

I suggest that the bank has achieved those goals, and there is now a need for a new challenge. The State Bank has similar corporate goals. The merger of the Savings Bank and the State Bank, announced earlier this afternoon, follows consideration for some time by the former Tonkin Liberal Government, and the action to consummate the merger was ready to be implemented at the time of the election, and is now introduced by the present Government.

In his Address in Reply speech on 22 March the Leader indicated that there would be distinct advantages for all South Australians resulting from such a merger to form a South Australian banking corporation. In that speech he suggested that one of the new services that could be provided by a merged bank would be corporate banking, including management of consortium loans, and local and foreign currencies. I am informed that merger plans have been progressing smoothly in line with targeted goals, and I look forward to the presentation of the necessary legislation, and the debate to follow.

I also understand that the newly created corporate banking department of the Savings Bank has been functioning effectively. The Savings Bank is now set to move into the national corporate area with participation in a $140 million loan to the extent of $10 million, by utilisation of a commercial bill facility to fund the takeover of W.R. Carpenter Holdings Ltd.

A merger of both Government-owned banks according to guidelines initiated by the Liberal Party will provide significant opportunities for a South Australian banking corporation to participate in similar syndications for the economic benefit of South Australia. Whether we sit on this side of the House or the other side, it is the long-term benefit to the South Australian economy that I hope is foremost in our thinking. The removal of quantitative lending controls on an unsecured basis in terms of section 31 of the Act has the full support of the Opposition, and is one step closer towards a smooth merger of both organisations.

The Hon. J.C. BANNON (Premier and Treasurer): I thank the Opposition for its support of this measure and, indeed, for the remarks made by the honourable member. I guess in a sense the whole question is in view of the fact that we are moving to this merger, which we hope to have

effected towards the end of the financial year, is why go through this process now? The answer is that the Savings Bank will be operating commercially and strongly over the next six months or so before the merger, and this will assist its operations.

The trustees believe that it is important that they have this ability over that intervening period, and I think, as the member for Light said in his closing sentence, this is one of the amendments that can be made which will pave the way for the amalgamated bank and its operations. I thank the Opposition for its support and commend the Bill to the House.

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

STATUTES AMENDMENT (FLOOD MANAGEMENT) BILL

Adjourned debate on second reading.

(Continued from 9 November. Page 1582.)

The Hon. B.C. EASTICK (Light): I am not the lead speaker for the Opposition, although I will be participating in the debate. I will continue now until the member for Chaffey, who will lead the debate for the Opposition, arrives for that purpose. The present Bill is generally acceptable to the Opposition and certainly is far better than the one introduced by the Minister of Water Resources earlier when an undertaking which had been given to the Local Government Association and which had been worked through by the Local Government Association with the former Administration failed to come forward in an acceptable manner. Long debate between the E. and W.S. Department and, more particularly, the Department of Water Resources, local governing bodies, and the Local Government Association had determined that, because local government was being forced into accepting increasing responsibilities in relation to the flooding problems, the local governing body ought to be written into the Act and ought to be seen to have a very significant role.

As a result of those determinations, the previous Government (via the Hon. Mr Hill in another place, as then Minister of Local Government, and the Hon. Mr Peter Arnold, as Minister of Water Resources) had lengthy discussions and agreed a form of presentation that was satisfactory to the Local Government Association. That association, as it expressed to the Premier no less, was most upset when the present Government in May this year brought in a measure that sought not so much to write local government out of the events but certainly placed the total responsibility within the area of water resources. That is a matter of the past. It has been resolved, and the present Bill is somewhat better than has previously been the case.

We find that several aspects of the measure need questioning, and that will certainly come in the Committee stages, but I now deal with certain local government aspects. The Opposition questions why there is a need to tie into this local government amendment a provision for additional acquisition powers. Acquisition powers already apply to local government and, therefore, there is an overkill, it would appear, in adding yet another clause into the Local Government Act dealing with acquisition. I mention that in passing, because the Minister might comment when he answers, either giving a satisfactory explanation or his reply can act as a base from which we can proceed when we move further along.

Another area that concerns members rather than perhaps the local governing authorities at present is that many of the deposits of material on individual's property is a legacy of some action that has taken place further up the line of flow. The honourable member for Davenport drew to my attention earlier today the problems associated with Ash Wednesday causing a major loss of growth in the Waterfall Gully and other areas. A few days later there was a major downpour of rain, which allowed tens of thousands of tonnes of silt, sand, and other debris to be brought downhill and deposited on individuals' properties.

The removal of those deposits from those properties, as desirable as it may be, would seem to be a cost that might not rightly be the responsibility of the person whose property is so assailed. The Opposition and those who have considered this measure were of the genuine belief that the real issue is that, where a person has failed to manage his property such that there is an overgrowth of weeds and other forms of rubbish in a watercourse that allows a build-up of pressure, which, when it lets go creates subsequent damage downhill, there may well be a case for the individual to meet the costs of clearing the watercourse, or taking such other action as is necessary. However, where materials have been deposited on the individual's property because of some other disaster situation (and we will accept, I believe, that the disaster situation applying to Ash Wednesday was followed two weeks later by the heavy rainfall), that is hardly a responsibility that that individual should bear.

Yet, we believe from information that has come our way that officers of some councils may be viewing the passage of these measures as a means of forcing the cost of the removal or reinstatement upon the people who were the unfortunate receivers of debris, rather than the creators of debris. We will want to consider that, because it is in the area of local government, as I have indicated. By posing this question, we do not seek to fine down the debate to those being the only issues, and I am sure that my colleague the member for Chaffey, in an overview of the Bill as presented, will have quite a deal more to say about it.

Finally, I refer to the inference that can be drawn that people will be responsible for paying a fee for the liberty of taking certain action on their property to tidy up sand and gravel that may be deposited in a watercourse, and I have no doubt that that issue will also be discussed in the Committee stages. We suggest to the Minister that, if we are seeking a co-operative manner of approaching what can be quite serious consequences (that is, flooding and the effect of it), there should be no impediment in the way of the person who owns the property to co-operate fully with the Department of Water Resources or the Department of Local Government. If one is to create a false charging cost or a false licence into the system that will mitigate against the individual's enjoying his own property and being co-operative, the end result will not be that which I believe either the Government or the Opposition would want to achieve. The details of that can be spelt out in due course.

The Hon. P.B. ARNOLD (Chaffey): The Opposition supports the Bill, although it is concerned about one or two matters. Members would be well aware that this legislation came into being as a result of the flood that occurred in 1981 affecting the council areas of Burnside and Campbelltown and particularly First, Third and Fourth Creeks. A joint committee was established by the Government, and the legislation resulted from the recommendations of that committee. Following discussions with the Local Government Association and the bringing down of the joint committee's report it was clear that controls on flood management were required in the Local Government Act. After a great deal of discussion with the Local Government Association, the former Government eventually agreed that that should be the case. Legislation was in the process of being prepared in that regard prior to the last State election.

However, following the election, the incoming Government decided that the operative clauses should be contained within the Water Resources Act and, as a result in about March it decided to introduce a Bill containing provisions such as those in this Bill. Once again, as a result of the reaction of the Local Government Association, which wanted the provisions contained in the Local Government Act, the Government saw fit not to proceed with that Bill. We now have before the House legislation which to all intents and purposes is the same as that which was being prepared by the former Government prior to its leaving office. In the second reading explanation the Minister has largely summed up the purpose of the legislation as follows:

. . . to provide local government bodies with powers to discharge effectively their responsibilities for the management and mitigation of floods, for floodplain and general watercourse management and for the provision and maintenance of drainage works; and to accord the Minister of Water Resources powers to prepare and issue flow forecasts and flood predictions and to provide appropriate indemnification of the Minister.

The Opposition has no argument with that. We certainly support this legislation because it embodies the conclusions that the former Government finally came to as the result of its discussions with various members of the community and particularly with the Local Government Association. The member for Light referred (and this is of concern to the Government) to a provision stipulating that it be the responsibility of the landholder through whose property any river or creek might pass (not a proclaimed watercourse) to be responsible for any obstructions of the watercourse itself on his property.

If local government can without limitation require a person to remove an obstruction in the form of debris or litter that may have come from upstream or from Crown land as a result of a freak flood, a landholder could be confronted with an extremely large cost in clearing any such obstruction. I have no concern at all about the other provisions in regard to normal obstructions, certain man-made obstructions, and so forth, but a property owner could be confronted with a very substantial bill for removal of general refuse and litter washed down from higher up in the catchment area which could be quite beyond that landholder's capability to pay. I ask that the Minister address himself to that problem when he replies to the second reading debate.

There is a very real need for this legislation as it applies not only here in the metropolitan area but in many country areas, in towns and so on where there are creeks and rivers that are not proclaimed watercourses under the Water Resources Act. This legislation will certainly give local government the ability to effectively manage watercourses, and it will confer on the Minister the responsibility of providing the necessary flow forecasting and advice to local government, which information is available within the E. & W.S. Department. That Department has a wealth of knowledge on this subject, but by the same token it is not necessary under the Water Resources Act for the Minister to be responsible for those areas not covered by that Act. The Opposition would like a response from the Minister regarding the effect of the removal of debris from upstream by an individual, particularly having regard to the that that debris could be in vast quantities.

Mr EVANS (Fisher): I support the principle of the Bill, and perhaps I could emphasise and amplify some of the concerns expressed by the member for Chaffey, the shadow Minister of Water Resources. In a way I have an interest in this matter because I own some very low-lying land through which two streams pass. My first concern relates to the new section dealing with interference with watercourses which provides in part:

A person shall not—

(a) deposit anything in a watercourse;
(b) obstruct a watercourse or do anything that might result in the obstruction of a watercourse;
(c) alter the course of a watercourse;
or
(d) remove rock, sand or soil from the bed or banks of a watercourse or otherwise interfere with the bed or banks of a watercourse,

unless authorised to do so by the council.

This implies to me that if one owns a property such as the one I own (and many other people in the hills and other parts of the State would have the same problem), and the natural downstream flow is at some point of the stream lower than it is in other sections of the stream, there could be a build-up of silt, sand and rock that is washed downstream. According to this legislation, it seems that if that were the case and one wanted to carry out the normal annual cleaning of a stream that should be done to make it a free-flowing stream to protect one's own property and that of neighbours from a build up of water and/or possible flooding further downstream, one would be obliged to go to the council concerned and ask, 'Please can I clean out a section of the stream on my property?'

I have a property on one of the major tributaries of the Sturt River, one of the main streams of the State. It is not as big as the Murray or even the Torrens River but, that aside, it is one of the main streams of our State. Departmental officers or Ministers might ask what does it matter if one has to go along to the council to get permission to clean the stream, but I believe that that is hogwash. Surely we can word the Act in a way that states quite clearly that normal maintenance to provide a free flow should be allowed (and to do that maintenance, one has to shift debris, branches and other rubbish). Likewise it should be clear that one does not need permission from the council to clear the annual build-up. However, the Act does not cover that situation. New section 635 (3) provides:

An authorisation conferring a right to remove rock, sand, or soil from the bed or banks of a watercourse may be granted on conditions requiring the payment on stipulated terms of reasonable consideration to the council.

I know what that provision is supposed to mean: that, if one wants to take rock, sand or soil out of the stream for a commercial purpose or to make concrete for one's own property, it should be prohibited unless the council gives permission. The council has the right to make a charge or receive a royalty for the material removed, and I do not object to that as it is quite proper. However, the Bill does not say that the council will make the terms regarding a consideration for the material: the council can make a consideration for just giving permission. It does not say that the charge will be for the material.

New subsection (3) implies that the council can require a payment on stipulated terms. I know what is intended but, unfortunately, if there is a loophole of any type, some council officers will go overboard, and an example of this is cited in today's paper in regard to the Stirling community. I will not go into that now.

The Hon. J.W. Slater interjecting:

Mr EVANS: The Minister can say 'No' if he wishes, but I desire to ensure that the legislation is clear and concise so that those other than lawyers can understand it, whereas I do not believe that that is the case at the moment. I am concerned that we are putting more power and responsibility on councils. Such responsibility should be clearly defined so that there are no problems involving constituents or owners of land. The principle of the Bill is important, and I can quote an example.

One dam that caused more argument than any other dams, other than the Chowilla and Dartmouth, was the Coromandel Valley dam in the Frank Smith Park area. People argued to retain it, and I did not get into conflict

with them. They were asking the Government and the community to retain a dam that was created by re-routing one of the main streams through the Adelaide Hills—the Sturt Creek. I have respect for Mr Smith's good intentions and the way he worked for the overall betterment of the community, but I believe that the practice of re-routing streams is unacceptable. I appreciate the Minister's concern. However, we need to go further when talking about flood control.

In the Playford and Walsh era, this State found the money to build the Sturt flood dam on the Sturt Creek above the Flinders University in Coromandel Valley. It has been a godsend to those properties and home owners down on the plain around Sturt and the bottom end of Darlington, right through to the Patawalonga. Since that time there has been virtually no major flooding of the Sturt Creek. I have talked to three colleagues (not necessarily from the same side of politics as myself) about that flood dam and they did not know it existed. It was built for the purpose of controlling floodwaters. The member for Brighton would be aware of it as we have a common boundary, although I do not know whose district is more involved. It is nothing more than a holding dam with a pipe with a capacity to let enough water flow into the Sturt Creek to maintain a reasonable stream and not cause flooding further down. Why we have not tackled the problem further around the hills where the flow comes into the metropolitan area, I will never know.

One can consider Brownhill Creek or Waterfall Gully where we have had massive flooding. One can go right around the perimeter of the south-eastern side of the city and find that, since the mid-1960s, we have taken no action to put in flood-control dams. They are not as expensive to build as reservoirs as we do not need the same strength of walling. We do not need to worry about seepage as the water merely soaks down through the rock strata, and that is all the better. However, the cost that it can save the community during times of heavy rain is astronomical and, therefore, by comparison the cost of building them is very cheap. I am amazed that we have never taken up that challenge, especially at a time when the Federal Government says it is prepared to make money available for jobs for the unemployed. The building of flood-control dams is oriented towards people with machines such as scrapers, earth-movers and jack-hammers: it is not the sort of job that can be done with just a few people. A considerable number of people must be involved and it is not over-expensive in terms of what they achieve. Why have we not taken up that challenge?

There are examples in the hills and along the Onkaparinga River where people have put fallen logs across the stream to cross it. People have dumped material over the banks thinking that it is a nice place to get rid of heavy material, which may block the stream further down if it is moved. I had the experience of working on the cleaning of the Mount Bold reservoir from 1961 to 1963, when the wall was raised 20 feet, with about 60 other people who worked hard. If the community knew of the waste that was chucked into and washed down the stream into that reservoir over a period of 200 to 300 years, it is inevitable that we will lose much water capacity through people's stupidity.

One of the things that takes the burden away from the stream in the autumn and winter during the heavy rains is that so many property owners have built dams so that the heavy initial downpours do not end up in the stream as they used to 15 to 20 years ago. By the time all the dams are full, the rain has tapered off, and we get the steadier rains prevailing. The heavy flash falls that occur in the autumn when the soil is hard create much run-off, as there is not a lot of grass to hold back the floodwaters.

The dams built by property holders have acted as a form of flood control and stopped the severe washing that used to occur in tributary streams to the Onkaparinga because of that fact. Building those dams has been an asset, not a burden, to the water catchment area. I hope that the Minister of Water Resources realises that, because there has been something of an attitude of saying, 'We should stop property owners building more dams.' That is one of the main flood control measures in the upper reaches of the catchment area for the autumn rain when the soil will not absorb water and there is no grass growth to slow down flooding of the surface of the land. I query, as did the member for Light, the need for the council to have acquisition powers as is to be provided in new section 640, which provides:

> A council may, subject to and in accordance with the Land Acquisition Act, 1969, acquire land for the purpose of carrying out works for the prevention or mitigation of floods.

Why would a council want to acquire land to stop flooding? Would it be for a public or private purpose? I assume that the only reason that the council would want to acquire such land would be for a public purpose. If that is so then the Local Government Act clearly states, by the amendment that we made to it in 1969, that a council may acquire land for a public purpose. Some people will argue that acquiring land to stop flooding, where a council does it, is not a public purpose. I would like to know how a council is concerned in something that is not a public purpose. The only reason I can see why a council would try to stop flooding is for a public purpose.

The Hon. J.W. Slater: Don't worry about it, Stan.

Mr EVANS: It should not be there. I happened to pick it up early. I emphasise that I have been concerned about local government acquisition powers. I do not want to see a duplication of laws. If I do not need to worry about it, I am thrilled that the message got through so early. I am happy to support the Bill, subject to the Minister's confirming the provision in relation to having to get permission before taking any material out of the stream. I hope that the Minister can convince the House and give a direction, by that, convincing councils, and their employees in particular, that a person is not carrying out normal maintenance in maintaining the free flow in the stream, taking out the silt that is washed down to a particular point, and that a person can take out that material so that the water will not rise to such a level that it floods that person's land and possibly other land down stream. I support the Bill.

The Hon. J.W. SLATER (Minister of Water Resources): I move:

> That the time for moving the adjournment of the House be extended beyond 5 p.m.

Motion carried.

The Hon. JENNIFER ADAMSON (Coles): I support the Bill. I have a special reason to know how important this Bill will be, particularly to urban dwellers of South Australia, because of the effect of the June 1981 floods on my electorate, particularly on the suburbs of Rostrevor and Campbelltown, which of course are in the electorate of Hartley but which are within the council area of Campbelltown. In discussing the problems of urban flood management it is important, I think, to consider the topography of the areas affected or potentially at risk from flood. In the District of Coles there are three creeks of the River Torrens—Third, Fourth and Fifth Creeks; in fact, the northern boundary of the electorate is the River Torrens.

Each of those creeks, particularly Fourth Creek, has catchment areas which extend up into rural areas. The June 1981 flood, which resulted in setting up the local government and State Government committee to consider this problem, resulted from exceptionally heavy rain in the catchment

areas and in the local areas which were affected for about five days preceding the actual flood. I well recall going to my electorate office on the morning of Friday 24 June, and my driver leaving me in the usual place. It was just simply raining then, but when I went to leave the office at midday, the junction of Newton Road and Montacute Road was completely under water. In fact, we had grave difficulties in leaving the electorate, because not only the residential areas but also the main thoroughfares were heavily flooded.

The catchment area of Fourth Creek extends up into Marble Hill, Ashton, Morialta, and Norton Summit. The flooding on that occasion caused extensive damage in Rostrevor and Campbelltown, and a hundred properties were flooded in the area of Fourth Creek. A number was flooded in the area of Third Creek, particularly around Pulford Grove, in Magill, and probably about 50 houses were damaged.

The Campbelltown council met the emergency with what I consider to be enormous skill and management expertise, which, combined with a high level of voluntary involvement, meant that the damage was minimised as well as it could be in the circumstances. In fact, the response of the Campbelltown council to that flood is I think best demonstrated by the fact that 6 500 sandbags were filled and distributed within 24 hours of the emergency, and put in place by council workers and volunteers. Had that not been done, and had the pre-disaster plan not been as effective as it was, the damage in Campbelltown would have been very much greater.

I would like to outline particularly two problems which my local council found in those circumstances and which are being addressed in this Bill. First, the council found that in the emergency it needed to enter creeks in private property to carry out works and to remove silt, sand and debris. Some of that debris had accumulated before the flood, probably years before, but much of it was actually carried down in the floodwaters, which came with unusual force. One example was that where Fourth Creek passes behind the Campbelltown council chambers there is a creek bed approximately 4ft deep. At the height of the flood that creek bed was only 18in. deep. Of course, the floodwaters were rising well above it.

During that emergency the Campbelltown council spent $600 000 on alleviation works—a considerable sum for a council to have to find in an emergency situation. That was spent on clearing and sandbags. The difficulty that arose was that in entering private property and authorising council machinery and works on private property, the senior staff of the council were very much aware that they had no direct or explicit authorisation under any Act to do what they were doing in the interests of public safety. The only backing that they had was the common law rule of necessity. The Local Government Act as it stands prior to the passage of this amending Bill is silent on this matter. At that time the Premier and the Government did not believe that the situation required the application of the State Disaster Act. So, the council and its staff were vulnerable in doing what they did out of necessity. As I will go on to explain, that vulnerability was highlighted by one resident taking legal action against the council.

Following the flood, the council made orders under Part XXXV of the Local Government Act, and it served notices under sections 642, 643 and 639 of the Local Government Act requiring clearance of creeks on certain properties. That was done because at that stage no-one knew whether the following week there might not be equally heavy rain repeated, and the council was bound to take responsible action to ensure that the situation did not recur and that any clearing that should have been done was done. In order to assist with this the E. & W.S. Department made available machinery, and I believe the Highways Department did the same, and there was a high level of co-operation.

However, a certain property owner secured an interlocutory injunction preventing the council from carrying out clearance works on his property, for whatever reason I do not know. But, he decided not to co-operate in circumstances where other property owners did co-operate. There was a hearing in chambers on 1 July, and the injunction was extended at that hearing restraining any action by the Campbelltown council to clear that property pending judgment following a formal hearing of the matter by the Supreme Court. The earliest that that hearing could have taken place was December 1981, and it could possibly have occurred in January 1982. In other words, in what was demonstrably an emergency situation, the Campbelltown council would have had to wait six months to gain (or possibly not gain, depending on the court's judgment) the legal power to enter that property and clear the creek bed.

In the event, the hearing did not take place because the council eventually bought the property, and it was also obliged to pay the resident's legal costs. That situation in which the Campbelltown council found itself, highlights, as dramatically as anything could, the need for this Bill. The Campbelltown council was concerned that, while its powers under section 35 of the Local Government Act appeared to be almost absolute, the Supreme Court hearing indicated that that was not so. I am sure that other local government bodies believed that they had powers which proved in the event not to be available to them, and that was not the only problem that the council experienced.

The Campbelltown Town Clerk has drawn my attention to difficulties which the council had under the then Planning and Development Act (now the Planning Act), in which the power of the council to refuse subdivision because a property was possibly subject to inundation is not sufficient in so far as a council has to prove necessity in a court of law, or in an appeal court. As anyone would know, that is a costly process and a time-consuming process, and the lack of that power by local government has resulted, I believe, in construction taking place on the flood plain of the Torrens River and possibly in the areas close to the creeks of the Torrens River which should not have taken place and, as far as I can see, that situation still needs to be remedied. In other words, the power to refuse subdivision of properties which are possibly subject to inundation is still not available to local government in the clear cut way in which it should be.

One other deficiency in the law which is being overcome by this Bill but which affected the Campbelltown council area in respect of the June 1981 flood was that the Building Act amendments of 1972 removed the ability of councils to regulate by by-law the height of foundations of buildings. That inadequacy will be remedied by this Bill, which will allow the Minister of Water Resources to approve flood plain maps under new section 40f, as inserted by clause 13, and the publishing of those maps in the *Government Gazette* will enable councils to introduce supplementary planning regulations to cover the construction which councils believe is necessary in areas that are possibly subject to inundation. Another advantage of this Bill is that its amendments to the Local Government Act greatly simplify what could only be described as archaic verbiage which has never been easy for local government officers or residents to interpret and, in that regard, people should in future know where they are with a great deal more clarity than they have been able to judge in the past.

In supporting the Bill, and in recording those events of June 1981, I would particularly pay a tribute to the elected members and the staff, most particularly the Town Clerk (Mr Denis Morrisey) and the Engineer (Mr Wilbur Ted-

manson) and their staff, and also to the enormous number of volunteers who helped to ameliorate what was a very frightening and dangerous situation for many residents of Campbelltown. Their response to that emergency was magnificent. They worked tirelessly for literally days and nights on end, and I am sure that, as a result of that experience, the input by the Town Clerk of Campbelltown to the joint committee was invaluable to the committee's deliberations. Having so recently experienced the full physical force of the flood and the legal inadequacies which prevented effective management by the council of the flood at the height of the emergency and immediately after the emergency, Campbelltown's contribution to that joint committee must have been a valuable one indeed.

There are one or two matters which I would like to raise in Committee, but I simply commend the Bill, and particularly commend the manner in which the legislation deals with both the Water Resources Act and the Local Government Act in a way which strengthens and clarifies the law, and in a way which is particularly acceptable to officers of local government who have to administer their councils in areas which may be subject to flooding for the greater protection of council and private property, and for the better economic management of disasters which obviously will continue to affect us from time to time. We certainly hope that there will not be another disaster like that one in Adelaide for a long time to come. I support the Bill.

The Hon. D.C. BROWN (Davenport): I support the remarks passed by members on this side of the House, particularly the member leading for the Liberal Party in this debate, the member for Chaffey. I would like to speak specifically about a problem that could be caused in my district by the provisions of the Bill, particularly as it affects residents living along First Creek (or Waterfall Gully, as it is more commonly known). During Ash Wednesday the whole of the catchment area of First Creek was burnt out. That area extends from Greenhill Road, through to the Mount Lofty summit, and the southern side of the South-Eastern Freeway. That huge area was completely devastated by the bushfire, and hardly one square metre within the catchment area of First Creek was not burnt out.

A fortnight later heavy rains fell and the water running into First Creek carried with it all the debris from the Cleland Conservation Park, which is in the catchment area for First Creek. The debris apparently accumulated at the bottom of the Cleland Conservation Park, but still within the park. Eventually it burst out and was washed down through the Waterfall Gully area. A number of the residents told me that one minute the creek had literally nothing in it and the next minute four or five feet of water was rushing down. The water swept down trees, stumps, a tremendous amount of soot and rubbish, and virtually anything that was left loose in the whole of the catchment area from Cleland Conservation Park was washed down. At that stage the water was starting to hit obstacles, and, because it was a slow flowing creek, much of that debris was deposited throughout the Waterfall Gully area. When I visited the area the morning after that flooding, I saw mud, soot and rubbish. The soot was like black powder, not like the heavier ash. It was remarkable to see it because it was like a suspension in water. It did not settle down, even though it had been standing for some time. After it settled as the water eventually evaporated it left a residue of fine black powder.

Since then the creek bed has been built up heavily. Heavy rains have fallen several times, and it now appears as though every time heavy and persistent rains fall in the catchment area there is immediate flooding along Waterfall Gully. Three or four floods have occurred this year and that will continue until the creek bed is cleaned out properly.

Members interjecting:

The Hon. D.C. BROWN: I do not think that honourable members appreciate that the build-up of silt and rubbish in First Creek is so extensive that the problem is not one of trying to hold back a flood-control mechanism in Cleland Conservation Park, because the neck floods as soon as the volume of water increases. The council, along with all the other burdens it had to meet at that stage, did not have financial resources to clean out the creek, and local residents had to do the job. The council approached the State Government, first for immediate financial relief (which it did not get) to help clean out the creek. It received assistance from the State Government in other areas, but not to carry out major repair works to the creek bed. When the council did not receive any money from the State Government, the onus fell on the residents. If this legislation is passed, the local council could tell the residents that they were obligated to clean out that part of the creek bed that flows through their property. Houses have been built along the banks of First Creek, and the owners would be asked by the council to clean up the creek bed. If the work was not done within a certain period the council would be entitled to ask the residents to pay for the cost the council incurs in cleaning the creek bed. The cost could be as high as $4 000 or $5 000 in the case of residents living along First Creek. It could cost even more than that, because already truckload after truckload of silt and rubbish has been taken away. I know of one house on a large block that had a deposition of four to six inches over the entire property. I also saw a lawn tennis court which had about three inches of solid material deposited on it. This is not a small problem; it is a substantial problem. I understand that the cost of removing rubbish in some cases could be as high as $4 000 or $5 000 or more for individual residents.

Under this Bill, the entire cost for the cleaning up work could be imposed on the residents involved, even though they were not to blame for the silting up of the creek or for the rubbish and debris that have collected in it. The entire blame could go back to the unique circumstances that occurred earlier this year, with the bushfires and then the floods a fortnight later. If anyone was to pick up the blame for it, it should be the State Government, because 95 per cent of the debris came from the Cleland Conservation Park. That is why the council went to the State Government and asked for relief, and why I asked the State Government for relief. I was annoyed, to say the least, that the State Government turned down such a reasonable request.

I am therefore unable to accept that part of the Bill that will impose a financial burden on residents simply because they happen to be the unfortunate victims of circumstances where the Government, perhaps through negligence in some ways in not controlling the debris coming down from Cleland Conservation Park, has allowed the debris from that park to be deposited throughout Waterfall Gully, and it is now legislating to allow councils to impose on the residents the financial cost of cleaning up First Creek. That would be immoral, to say the least. For that reason I ask the Minister whether he could comment on this set of circumstances. It is a real one, because the creek is still blocked and most of the debris is still there except for the obvious debris which has been removed from around the houses. I understand there is still a wrangle going on about who will be responsible for cleaning up the creek bed.

Unless I get a satisfactory response from the Minister I shall be forced to move an appropriate amendment that, in circumstances like that, where the residents could prove that the debris blocking any creek was not of their making and their responsibility, they should not have imposed on them the financial burden for its removal. I ask the Minister to carefully consider that, because collectively there are

about 130 or 150 blocks along Waterfall Gully, and the total cost of cleaning up First Creek could be as much as $250 000 or $500 000. I have been involved personally with many of these residents, and I would be most annoyed if this Parliament is trying to slip through a measure which would put the financial responsibility for the flood damage and the cleaning up of it unfairly on the shoulders of the residents. I would fight this Bill tooth and nail if that was the case.

The Hon. D.C. WOTTON (Murray): I am pleased indeed to see that this legislation has finally reached the House. Like other speakers today, I was concerned about the effects of the June 1981 floods and the results of the floods in my district in the Hills, particularly in the Onkaparinga Valley from Oakbank through to Balhannah, with the flooding of a number of homes. Of course, significant damage was also caused at that stage to the Onkaparinga Racing Club property and the racecourse itself, and it was only as a result of a lot of hard work by members of the committee and other responsible people that the situation in regard to that course is back to normal and, in fact, I am sure that it is an improvement on what it was before. However, on that occasion in June 1981, I met with the District Clerk of the Onkaparinga Council, my colleague the member for Chaffey (then Minister of Water Resources), and my colleague in another place the Hon. Mr Hill (then Minister of Local Government). We spent some time considering the most appropriate moves that could be made to remedy the obvious problems being experienced because of the lack of power on the part of local government to effectively discharge its responsibilities.

As a result of that, the committee to which other members have referred today was established, and Mr David Seaman (the District Clerk of the Onkaparinga Council, in my own electorate) was one of those who was involved with it, working through this legislation. As the former Minister for Planning, I certainly recognise the sensitivity associated with flood plain maps. It is quite obvious to local government that councils will want some authority and some certainty that residents, when they come to develop, will look for some certainty in relation to areas that are flood prone and where special precautions have to be taken. I certainly understand the sensitivity in regard to the release of some of those maps.

I also support the amendment that will be moved by the member for Davenport if he does not receive a satisfactory response from the Minister. I believe that the comments made by the member this afternoon are very valid indeed, and we need to receive some commitment from the Minister that he will take that into account; otherwise I will certainly be supporting the amendment that the member for Davenport will be putting forward. Apart from that, the legislation is good legislation and will help local government and communities generally which have, over a period of time been affected by flooding, which are flood prone and which are likely to come under the effect of such flooding in future. I know that local government will gain considerably from this Bill, so I support the legislation.

Mr INGERSON (Bragg): I rise to support the Bill and make a couple of brief comments. Principally, the area of concern in my electorate is in the suburbs of Hazelwood Park, Leabrook and the area being affected by Second Creek, which sources itself in the catchment areas in the near Hills. The problem that the member for Davenport mentioned is similar to the problem that existed just below Hazelwood Park and just off Rochester Street, in Leabrook. It seems that the same sort of comment of significant costs for the residents in the area is a problem that we ought to ask the Minister to consider. The other matter brought to my attention related to the definition of 'reasonable compensation', and I ask the Minister whether he can explain what is envisaged in this case by that definition. I support the Bill.

Mr LEWIS (Mallee): I support the measure. I am disappointed that the extent to which the Crown is bound is not specified, to my satisfaction anyway. I would not be standing here now if it were not for the fact that the Crown irresponsibly, in August 1971, failed in its management duties to downstream occupiers and owners of land, causing an increase in the intensity of flooding in the Torrens River in that month 12 years ago. It cost me literally thousands and thousands of dollars and destroyed any prospect I had that year of ever making a profit from the strawberries that I produced at that time.

I believe that, if a citizen has to be bound in the fashion in which this Act envisages, so also should the Crown, and had the kind of mismanagement which occurred at that time not only in the Torrens Valley but also in relation to water catchments on the Para, such as the Warren, which caused extensive damage to market gardeners in the Gawler, Gawler River and Virginia areas as a result of the intensified flows that came down that river not occurred, a good many people would have been a lot better off today than they are, and it would not have cost the taxpayers as much as it has. I think that, no matter how many Acts of Parliament we pass in this and another place, nonetheless, the intensity of rain that can cause flooding of the kind about which most concern has been expressed in the course of this debate in the Adelaide metropolitan area will still be there.

There is very little which can be done to mitigate that consequence. When it rains very heavily and with considerable intensity (that is, lots of precipitation in a short space of time), it will run off at rates much faster than the existing naturally developed watercourses can cope with and we can, therefore, expect that flooding in those streams of intensities of the order of 100-year floods, 1 000-year floods and 10 000-year floods will still cause flooding by degrees. It would not be possible for us, as a Parliament or a State Administration, to prevent that from happening. We may be able to mitigate—

Mr Evans interjecting:

Mr LEWIS: That is unquestionably the case: it will certainly ameliorate if not entirely eliminate anything with a flood intensity up to the 10-year flood intensity expectations on those streams, and probably between the 10 and 100-year expectations. However, from speaking to the hydrologists whom I know and with whom I have had professional dealings over the years, I find it is simply not possible to eliminate all consequences of such heavy downpours. People who build near streams on the flood plain or in the area where water spreads when streams break their banks need to be aware of the risk they are taking, and that it is not a matter of 'if' there will be a flood; it is a matter of 'when'.

One does not know what the future holds, or when it will happen, but if, by introducing this measure, we as a Parliament (and the present Government) believed that it would be possible to tell the people of South Australia that measures of this type will solve our flood problems, we would be guilty of gross deceit. In economic terms that will never be possible. We should be committing the public money to other things.

It is not legitimate for some people to live in comfort at the taxpayers' expense in amenities created artificially, given that they should have been aware—*caveat emptor*—of the risks associated with their choice to live there, while at the same time people elsewhere are denied the basic necessities of a civilised community in terms of health support services, such as fresh potable water. I for one am opposed to expenditure (not that this Bill envisages it) of substantial sums of

money to mitigate the effects of floods for the benefit of the real estate value of householders, while at the same time people elsewhere in the community that I represent have to go without a fresh, healthy, potable water supply. I think that decisions along those lines are inaccurate in the establishment and identification of priorities to the extent that they are immoral.

Mr MAYES (Unley): I add my support to this Bill. In so doing I will make some brief comments about the possibility of flooding occurring in the metropolitan area, particularly in the area that I represent. My district is similar to other inner suburban districts on the other side of the central city area. As the member for Bragg pointed out in regard to his district, these areas can be significantly affected by flooding and, with the additional metropolitan domestic intensity of occupation of inner suburban areas and the hills face area that contributes to the effects of flood waters that may pass through districts such as Bragg and Unley on their way to the sea through other districts, the passage of flood waters can have dramatic effects.

Whilst a member of the Unley council many years ago, I was involved with the council in its endeavours to resolve the flood water problem, in concert with other metropolitan councils. Unfortunately, we had some problems with one council area in particular (which I shall not name) in reaching a satisfactory arrangement for ponding and for upgrading the metropolitan flood drains. This is a problem of great concern to me and to many of the local government people of Unley.

In regard to the Unley area, predictions indicate that the area is subject to the possibility of a one in 50 flood. A flood would be extensive and would cause a great deal of damage to the entire Unley district and surrounding areas. Potentially, the whole of north Unley, Parkside, Wayville and Goodwood could virtually go under water if the area experienced a one in 50 flood. When I was a member of the Unley council, Scipp Tonkin and Associates prepared flood estimates (as rough as they were), which gave us some idea of the possible impact of floods on the community. I cannot stress too much the damage and threat to human life that can occur in flood situations. We know of the impact of the flood that occurred in the Gawler area this year, and of the need for the State to draw on its emergency funds and the resources of disaster relief organisations to assist the communities that were affected.

I strongly support the Bill as a step towards assisting the community in regard to its giving a fore-warning and an idea of the possible impact of flooding in the metropolitan area. I join with my colleagues opposite in saying that these measures are essential. We must take further steps to protect the community by establishing a flood management unit; I hope that occurs in the near future. I understand from the Minister that this measure goes part way towards the establishment of such a unit. We look forward to the Minister and local governments having greater powers to deal with not only emergency situations but also with situations to prevent emergencies.

When I was a member of the Unley council I had experience with the clearing of rubbish from the drains in the area. One creek in the area flows no more than 100 yards from where I live. On many occasions large trees and all sorts of rubbish block the drains and must be cleaned out to prevent local flooding. As a local councillor, on many occasions I had to assist with the clearing of drains, which is done at some risk to the people involved. Therefore, I indicate my support for the Bill. As a candidate before the last election, I gave an undertaking (together with my colleague from Norwood and the candidate for Torrens) that I would support the establishment of these additional powers for local government and the Minister of Water Resources. I am pleased to say that, with the approval of the shadow Cabinet, that is now coming to fruition and, again, one of our policy statements is being put into operation. I believe that this matter will be of benefit to the whole of the Adelaide community and to future communities in attempting to protect the community from damage.

The Hon. J.W. SLATER (Minister of Water Resources): I have listened with interest to all the comments made by members opposite and by my colleague, the member for Unley, and I thank them for their support. I will not go into matters in great detail at this stage: it is probably more appropriate to do that during the Committee stages. The member for Fisher referred to the use of dams for flood mitigation purposes. I point out that control dams for anything of this nature is not a matter covered in the Bill. The Government hopes to introduce legislation in the new year to control dams exceeding a stipulated dimension. The member for Davenport referred to a situation that arose a few weeks following the Ash Wednesday bushfire, that is, the flash flood that, unfortunately caused a great deal of damage in various areas. The member for Davenport said that the creeks had silted up as a consequence of previous occurrences. He asked whether I would comment in regard to whether the owners of land through which creeks flow should be required to remove silt or obstructions.

I would expect councils to act responsibly and not require residents to take the extraordinary action mentioned by the member for Davenport. Proposed new section 634 provides:

> The council shall be responsible for the protection of all water courses within its area.

I expect councils to act responsibly. They will be given power under this legislation to exercise a degree of responsibility. Councils certainly should not insist on residents in unusual circumstances being responsible for clearing obstructions.

The other question raised related to the acquisition powers mentioned by the member for Light. Proposed new section 640 provides:

> A council may, subject to and in accordance with the Land Acquisition Act, 1969, acquire land for the purpose of carrying out works for the prevention or mitigation of floods.

I am advised that the present acquisition powers under the Local Government Act are quite unwieldy. The proposed new section will provide a relatively speedy means—

The Hon. B.C. Eastick: All the more reason why it should be resisted.

The Hon. J.W. SLATER: We are dealing with flood mitigation and emergency situations which may require action within a certain time span. Certain requirements are set down under the current legislation. The legislation has to be gazetted, notice must be given in newspapers, and time allowed for objection. It may be that we need to give councils additional powers so that they can take speedier action in relation to flood mitigation.

The Hon. B.C. Eastick: You won't be able to own your own land soon.

The Hon. J.W. SLATER: We can deal with that in the Committee stages. I do not need to make any further comment except to say that the Bill gives local government additional powers as requested. It is true that similar legislation has been presented on two previous occasions: I believe that a similar Bill was presented by the previous Government, but it lapsed following the election. I reintroduced the legislation in the last session of Parliament, but it was not proceeded with as a result of discussions with the Local Government Association. The Association completely agrees with the Bill. I hope that, as members opposite have supported the Bill, we can come to an arrangement

on some of the questions raised during the second reading debate.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—'Repeal of Part XXXV and substitution of new Part.'

The Hon. JENNIFER ADAMSON: Proposed new sections 634 and 635 are critical to the Bill in so far as they provide local government with powers to ensure that it has the right to prevent people from obstructing watercourses. Proposed new section 635 will certainly deal with a situation that has arisen in my district where residents wishing to beautify watercourses running through their properties have removed rocks, sand or soil from the bed or banks of watercourses. I support that part of the new section, but am concerned as to the precise meaning of councils being responsible for the protection of all watercourses within their areas. It appears to be a simple statement, but I query the extent of the word 'responsible' in terms of protection. Does it mean that the property owner is absolved and that the primary responsibility lies with the council? How will that be interpreted? The resident or ratepayer may say that a council has the responsibility—which would undoubtedly involve financial responsibility—for all watercourses in the area. Will the Minister clarify the precise meaning of 'responsible for the protection of all watercourses within its area'?

The Hon. J.W. SLATER: The honourable member should read proposed new sections 634 and 635 in conjunction with others in that Division. Surely a council should be responsible for the protection of watercourses within its defined local government boundary. I refer the member for Coles to proposed new sections 636, 637 and 638, which give councils powers of entry and responsibility for the maintenance of watercourses.

The Hon. P.B. ARNOLD: The Minister referred to a council's requirement in relation to the removal of debris. He said that he believed that a council would act responsibly. In many instances I am sure that that will be the case. However, a court or tribunal can only act on the provisions of the legislation. The Bill does not contain a provision or direction as to what a council should do in the circumstances highlighted during the second reading debate. Therefore, I move:

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

(1a) An owner of land shall not be required under this section to remove obstructions from a watercourse if those obstructions have been carried onto his land by the current from land further upstream.

I believe that my amendment will give councils a direct indication of the responsible approach required of them, as mentioned by the Minister. If the requirement is not contained in the legislation in any way whatsoever, any court of law would have to ignore that point.

The Hon. D.C. BROWN: I support the amendment and I thank the honourable member for Chaffey for moving it. As I explained in the second reading debate, it will protect residents, who are totally blameless, who find rubbish or deposits that may exist in watercourses. I think that Parliament needs to give some thought to the rights and protection of individuals from indiscriminate action by State and local government agencies. Often in the past Parliament has passed legislation which does not adequately protect the rights of people who are totally blameless. One member, amongst others, who tried to protect the rights of the individual was the former member for Mitcham. On numerous occasions I can recall him moving amendments to protect people's rights. This Parliament generally accepted those amendments. I point out to the Committee that I am not trying to emulate the former member for Mitcham, Mr Justice Millhouse, but I certainly take up the case for protecting the rights of individuals where they are not responsible for rubbish and other obstructions that exist in a watercourse.

I was somewhat surprised that the Minister introduced legislation which does not protect individuals in this area. I concur wholeheartedly with the general sentiments of the Bill, but I think that the Minister should have looked at this aspect. I am sure that he agrees. The Minister listened intently to the example I mentioned of First Creek, Waterfall Gully. I am sure that the Minister would be the last person to put on to those people a cost of $4 000 or $5 000 to clean up rubbish that eventuated from Government land. For that reason I support the amendment.

The Hon. J.W. SLATER: I have considered the member for Davenport's comments, but I do not accept the amendment. The circumstances that he described are certainly a problem. I can see situations arising where there would be difficulty in determining with any great degree of certainty who had responsibility. A landowner upstream may have dumped rubbish or some other prohibited material into a watercourse, allowing it to wash into a nearby property. In those circumstances, I would certainly not expect the innocent landowner to be responsible for removing the obstruction to the watercourse.

The Hon. D.C. Brown: That is what the legislation does.

The Hon. J.W. SLATER: It does, but I say that it should not be the responsibility of the landholder if he is not responsible for the obstruction.

The Hon. D.C. Brown: That is exactly what is going to occur.

The Hon. J.W. SLATER: No, it is not going to occur at all. The people responsible for the obstruction should be required to remove the obstruction. We will give responsibility in such situations to local councils. That is what the legislation is all about. I cannot accept the amendment.

The Hon. P.B. ARNOLD: The clause, certainly, gives local government the responsibility, but at the same time we have not protected the interests of the individual. Surely, that is what legislation is all about. We are here to legislate in the interests of the people. The Minister is saying that we are tending to legislate in the interests of Government, local government, and so on. The Minister is disregarding the interests and well-being of the individual. I think we are starting to get things back to front.

If the Minister is not prepared to accept the amendment perhaps he is prepared to rethink the clause and redraft it. The Minister has virtually admitted that there is a problem. I am concerned that in law a householder or landowner is certainly liable. No matter what we say in this place, the court will only be interested in what is contained in the legislation.

The Hon. D.C. BROWN: The Minister has admitted that, in the case I outlined this afternoon, a householder should not be required to pay or cover the financial burden of removing rubbish that he was not responsible for. As I said earlier, the Burnside council did not have the financial resources of between $250 000 and $500 000 to clean up First Creek. The council went to the State Government, which would not give it the necessary money. The Government provided some financial assistance to clean up some of the flood damage, roads, and places like that, but not to clean up the creek bed.

I understand that residents have now been served with a notice by the Burnside council stating that they must clean up the creek bed and that if they fail to do so the council will carry out the work and charge the residents for the cost of that work—the very provision that we have in the legislation. I understand that the council's legal grounds are rather weak: they may be weak at present, but once this

legislation is passed it becomes a watertight case and the residents will be required to pay. That is why I support the amendment. I am trying to protect people in a very real situation where they have already received notice from the local council. Although the council's requirement may not hold water at present, it might within a matter of weeks.

I ask the Minister to reconsider his attitude because there is absolutely no protection whatsoever for the individual. The Minister has said that there could be cases where there is an argument or dispute between a council and an individual in relation to rubbish or material that might have flowed down during a flood. I stress that, where there is a reasonable doubt as to whether or not the landowner is liable, we should protect the landowner in those circumstances. A person is innocent until he is proven guilty. Surely, when there is doubt, justice must be on the side of the landowner rather than on the side of the council or the governing body.

The Hon. P.B. Arnold: The legislation says that the landowner is guilty.

The Hon. D.C. BROWN: The legislation, as it presently reads, provides that the individual is guilty and is liable for the cost, even if all parties agree that the rubbish came from a property further upstream. The Minister himself said a few moments ago that it would be unreasonable to charge the landowner under those circumstances, but in fact the legislation gives the specific power to the council to do so. The Burnside council, I understand, has already served notice on the residents of Waterfall Gully to clean out the creek beds, stating that if they fail to do so the council will have to do it and put the cost of that on to the residents involved. It is the State Government's Cleland Conservation Park which is responsible; that is where the rubbish comes from. I am not saying that the cost should be put back on to the State Government, but I am saying that the cost should not be imposed on individuals.

If the Minister wants a deputation with a large number of residents who will be angry and far angrier than those at Mount Osmond who appreciated his support this afternoon and who were very reasonable indeed, he will get them from Waterfall Gully, because they have already suffered from the flood. Some have lost thousands of dollars, and I understand that one resident in particular has been put into the Bankruptcy Court because of the losses incurred due to that flood and also the fires. There are about 120 houses and residential blocks along First Creek in Waterfall Gully alone which would be affected by this legislation, not some time in the future but virtually immediately if this Parliament allowed the Bill to pass without an amendment being made.

Mr EVANS: I support the amendment. I cite an example where a property owner has a piece of land totally denuded of trees, a grazing property, and the land above is timbered country very much in its native state: immediately below there is a council culvert slightly less than a metre wide, and during a year a certain amount of debris moves to the top property, remains on it, and with a heavy flood it goes through the grazing land, blocks the council culvert and forces all the other smaller material to build up until the culvert is totally blocked.

It then washes over the council road at the same time flooding the owner's land, and he can do nothing about it because it was not on his land before the flood. However, he carries the burden of having to remove all of it because within a short period a massive amount of debris builds up. Then the council comes along and says, 'The material is on your land blocking our culvert; you clean it up', when the owner had nothing to do with it at all. He has done the right thing by keeping his stream clean, and suddenly all this material has been brought down in a massive flood. That owner has to carry the burden, and in all common sense the Minister must realise that that is totally unacceptable. This reinforces the point made by the member for Davenport and the member for Chaffey that we should consider the individuals where they have not been responsible for the problem. Someone else has inflicted it on them. They should not have to pay the price. I hope the Minister sees reason on the subject.

The Hon. JENNIFER ADAMSON: I support the amendment. I would like to add to the examples put by my colleagues in terms of what could happen. It is acknowledged by us, including the Minister, that debris can wash down, and sometimes it can be not tree trunks, silt or rock but old refrigerators and motor cars; that is not unknown by any means. If such an obstruction should lodge in a watercourse, downstream from where it has been cast away by some irresponsible person, as this Bill stands it is the downstream property owner who will be subjected to the cost of removing whatever it may be: car body, refrigerator, derelict washing machine, all kinds of junk. It could even be that property deposited from one neighbour could lodge downstream in the adjoining property. It is not too difficult for the Minister to imagine the argument and litigation and proof required as to who put it there.

The Hon. J.W. Slater: It's a responsibility of the council.

The Hon. JENNIFER ADAMSON: The responsibility should indeed be put on the council, in response to the Minister. The neighbour downstream should not have to bear that cost. It is not, in my opinion, sufficient to say that a council would not be so irresponsible as to make the property owner bear that cost. Under this Bill the council has no option and, even without this Bill, as the member for Davenport has demonstrated, a council has chosen to take that course of action. Whether one might describe it as responsible or just is another matter, but it has done it, which demonstrates that councils will do it again, and the property holder will be charged with a cost which is quite inequitable, unjust and wrong.

The Hon. D.C. Brown: It's a breach of natural justice.

The Hon. JENNIFER ADAMSON: Yes, it is a breach of natural justice, as the member for Davenport says, and no-one should have it hanging over them. Knowing the people in the Waterfall Gully situation, and knowing my own constituents who live along those creeks, it happens (because it is a particularly beautiful area and it attracts a particular resident into the area) that, in my experience, the people living along those creeks are unusually articulate and capable of pursuing a case with great zeal and vigour. I would suggest to the Minister that it would be a good thing to stop and reconsider his attitude here and now, otherwise he may find himself or possibly his colleagues in another place subjected to a great deal of public pressure—and it would indeed be public pressure—from these residents. I am not in any way making threats to the Minister. I am simply forecasting, because of my own experience of the residents, what will happen and the people living along—

Mr Ingerson: I can support that.

The Hon. JENNIFER ADAMSON: I can only speak for the residents of Third, Fourth and Fifth Creeks, because they are my constituents but, believe me, they are a pretty high-powered group of people, very articulate, and they know their rights. There are a few lawyers among them—

Mr Lewis: And a few journalists!

The Hon. JENNIFER ADAMSON: I do not know about the journalists, but they are people placed in very responsible positions who know their rights as citizens and who will pursue those rights with all the zest and vigour at their command. I urge the Minister to reconsider this matter here and now and, having done so, to accept my colleague's amendment.

Mr INGERSON: I support the member for Davenport, and I agree with the member for Fisher. In Hazelwood Avenue, as the Minister would be aware, there is a culvert which continually gets blocked due to debris coming down. I would like to support the member for Fisher's argument by pointing out another practical situation that occurs. I would ask the Minister to look at this matter, and I am quite sure that with his zeal he will be able to suggest an amendment which would be suitable, if he does not agree with this one.

The Hon. J.W. SLATER: In almost every example or case, any obstruction in a watercourse comes from further upstream. Almost on every occasion—

An honourable member interjecting:

The Hon. J.W. SLATER: The examples given by the member for Davenport, the member for Fisher and the member for Bragg involve a situation where debris has accumulated for various reasons, and it is washed further down where the watercourse runs through other people's property. How does one differentiate? On almost every occasion that happens. I am not unfamiliar with the creeks in the area, although most do not run through my present electorate.

[*Sitting suspended from 6 to 7.30 p.m.*]

The Hon. J.W. SLATER: Before the adjournment, I was about to relate a situation that I recall arose in the mid-1970s at Third Creek in Campbelltown. At that time, the area was part of my electorate but is now in Hartley. I recall severe winter flooding at that time which caused substantial damage to neighbourhood homes in Sycamore Terrace and Cypress Street, Campbelltown, and some adjacent streets. One of the major causes of that flooding arose from the fact that a section of the creek north of the bridge at Sycamore Terrace flowed through private land before entering the Torrens River. It was overgrown with weeds, and a large amount of debris had been washed down from further upstream.

This flooding was caused by debris along with other obstructions that had built up, and consequently the council had no authority to enter upon the land or take action to enter the creek, which would have alleviated that situation. This Bill proposes to remedy situations exactly like that. For the benefit of Opposition members, I quote new section 636 (1), as follows:

A council may—

the emphasis is 'may'—

by notice in writing . . .

New section 637 (1) provides:

A council may cause such work to be carried out as may be reasonably necessary for the purposes of . . .

Taken to an extreme, almost every problem associated with watercourses relates to obstructions that occur upsteam of the obstruction. If this amendment is carried, it will mean that none of those obstructions at all will be removed. It is actually defeating the purpose of the legislation, and I certainly oppose the amendment.

Mr MATHWIN: I ask the Minister to reconsider his position in this matter. I support the amendment, and I would have thought that the Minister would support it. The Bill places owners in a shocking situation, whereas the amendment would not require them to remove an obstruction from a watercourse if that obstruction had been carried on to their properties by the current from further upstream. To me, that makes common sense. The Minister says that he will not support this amendment, which means that a landowner, who may be in an area that receives all the debris, will be forced to remove it at his own expense. Existing legislation requires people in the metropolitan area not to allow floodwater or stormwater from their properties to go on to other people's properties. I think that it is quite wrong for the Minister to take the attitude that he is taking, and I ask him to reconsider the situation.

The Hon. P.B. ARNOLD: I can well appreciate the situation that the Minister has presented to the House. However, by the same token, we are presenting the opposite side of that situation whereby a person may have on his property, as a result of a flood, a large tree that has been carried down the creek and deposited there, and all the other rubbish and debris coming behind it then accumulates.

If that debris had built up as a result of some structure, such as a small bridge across the creek that the landowner had built, it would clearly be that person's fault and problem. However, in the situation described earlier, where a large tree could come down, catch on something and hold, a massive amount of debris could build up on that tree, and by law the council could force that landholder at very significant expense to remove all the debris.

I also appreciate that this is perhaps unlikely to happen in a vast majority of councils with responsible people involved in them. However, if the Bill passes as it stands, it would provide that overall power to a council. All I am saying is that it is a bit one-sided. If the Minister is not prepared to accept this amendment, surely his Department has the ability to draft some legislation that would be at least even handed, and I do not think that it is fair on the public at large to merely oppose this amendment without suggesting any alternative.

The Hon. TED CHAPMAN: I am staggered to learn that the Minister is unprepared to accept the good things in this amendment. However, in order to become better informed about the subject generally and in particular the Minister's objections, I ask the Minister whether the term 'watercourse' refers to the high-water mark or the low-water mark within which the debris becomes the responsibility of the owner of a property on which the debris is lodged following, say, a flood. A few months ago there was a massive flood in the Barossa Valley where watercourses overflowed their normal bank levels (but were still within the overall flood level of those watercourses) and lodged debris on many properties and public thoroughfares. Does the debris in question, that is, the debris subject to be disposed of from a person's property by direction of a council, include debris that may be spread over a property in those extreme circumstances such as a flood and, therefore, to the highest known water mark, or is it the debris that ordinarily may flow in a watercourse?

Members interjecting:

The CHAIRMAN: Order!

The Hon. TED CHAPMAN: I take a point of order, Mr Chairman. How can we reasonably participate in a debate if I cannot get a basic interpretation on this subject?

The CHAIRMAN: There is no point of order.

The Hon. TED CHAPMAN: It is a simple request.

The CHAIRMAN: Order! The honourable member will resume his seat.

The Hon. TED CHAPMAN: An answer is required to that question. Then I will back off.

The CHAIRMAN: Order! The honourable member will resume his seat. The Chair has on numerous occasions pointed out to the Committee that it has no power to direct any Minister to reply at a given time. The honourable member for Fisher.

The Hon. TED CHAPMAN: I am sorry if I have misled you, Mr Chairman. I was not suggesting for a moment—

The CHAIRMAN: Order! Is the honourable member taking another point of order?

The Hon. TED CHAPMAN: Just temporarily, and without wasting a lot of time. I certainly was not requesting you, Mr Chairman, to direct the Minister to do anything. I

was requesting that you give the Minister a reasonable amount of time in which to courteously answer my question.

The CHAIRMAN: There is no point of order. The honourable member for Fisher.

Members interjecting:

The CHAIRMAN: Order!

Mr EVANS: According to the Minister, the amendment of the member for Davenport would include even material which came from the landholder's land where the debris had built up, but I do not believe it does. It includes material that has come from another landowner's property; in other words, if debris has come from that landowner's property, that is his responsibility. The amendment is talking about material that comes from another property above the landholder's. If the Minister is not prepared to accept this amendment, I ask him to consider making it an obligation on the local council to inspect the streams once a year, because unless the council is prepared to—

Mr Ferguson: It would send up the council rates.

Mr EVANS: The honourable member would know that in all probability the Department and local government put their heads together to draw this up, and the constituents had no say. The council is accepting no responsibility as to inspection. If we are going to oblige an owner to clear debris from his property that may have come from somebody else's property, there must be an onus upon councils to regularly inspect all streams to ensure that debris is not sitting on one property causing no problems for this winter but the following winter it is in a neighbouring property causing that person concern and expense, with the council telling him to shift it, when in fact it was not his doing in the first place.

Mr Ferguson: It'll still send up the council rates.

Mr EVANS: So be it. If all the electors in a council area have to pay the bill for proper management of a watercourse, surely that is better than making one or two individual electors pick up the tab. That is what the member for Henley Beach is talking about. If the Minister is saying he is not prepared to accept this amendment, I am asking him to indicate whether he is going to make it an obligation on the council to ensure that the watercourses are clean, because if he does not it is totally unfair.

Mr Ferguson: It's the constituents who would make that decision.

The CHAIRMAN: Order! The honourable member for Alexandra.

The Hon. TED CHAPMAN: In the hope that I might get a reply this time—

The CHAIRMAN: Order!

The Hon. TED CHAPMAN: —I ask the Minister whether this obligation on the ratepayer by direction of a council is applicable in a case where that person is a ratepayer of the council downstream in the adjoining council area. Whose responsibility in those circumstances is it to direct the ratepayer to dispose of the debris? Is it the responsibility of the council downstream from the area where the debris originated, that is, the adjacent council, or is it the responsibility of the council upstream which had previously been a contributor or, indeed, the party responsible for the debris in question?

The Hon. J.W. SLATER: If the member for Alexandra looks at the Bill, on page 2 he will see, under 'Protection and Maintenance of Water Courses':

633. This Division does not apply in respect of—

(a) a Proclaimed Watercourse under the Water Resources Act, 1976;

(b) a watercourse that is under the control of the Crown or that is, by Statute, under the control of a particular body corporate;

or

(c) a watercourse declared by proclamation to be a watercourse to which this Division does not apply.

All other watercourses come under this Bill. When it comes to the rights of the individual it would appear that none of the members on the other side have actually read the legislation or my second reading explanation. If they look at page 4, 'Division III—Appeals', they will see that the rights of the individuals referred to are protected. An appeal lies to the Water Resources Appeal Tribunal.

In new section 642 (1) *(c)* members will see the words 'against a notice given under this Part'; that applies except in an emergency situation (that is covered in new section 641), and new section 642 (1) *(c)* continues with the words 'or against any term or condition of such a notice'. So, there is a right of appeal in the situations referred to by the member for Davenport and others in regard to a decision by the council. As that provision is already in the legislation, the amendment is not necessary, and I oppose it.

Members interjecting:

The CHAIRMAN: Order!

The Hon. TED CHAPMAN: I am staggered to learn of yet another attempt by the Government to compel the community to go through the process of insult and then require it to go through the process of appeal. In this State we are getting bogged down with procedures of a bureaucratic and regulatory nature, and here is yet another example where the Minister himself is subscribing to that bureaucracy and suffocating style of community administration. I would have thought that the principle that David Tonkin, the previous Premier, introduced into the administrative system in this State, setting out to deregulate and remove unnecessary bureaucratic involvement in the community and the affairs of the public was a good principle.

I would have thought that the Government, wherever reasonably possible, might have sought to repeat and adopt that principle. Yet, after a whole week of mucking around with administrative proposals, the Minister of Water Resources is dishing up yet again a case of gross interference in the affairs of those in the community, and in this instance feeding local government with yet another opportunity to build it up with bureaucratic tools and machinery to encumber ratepayers. I support the amendment.

The Hon. D.C. BROWN: I have waited and waited for the Minister to make a clear statement about how he reconciles statements he made to the House before dinner with what is in the legislation. He said that he agreed with the view expressed by the Opposition that, if debris came down from another person's property, it was only fair and reasonable that a person downstream should not be expected to cover the cost of removing it from the creek. I do not think the Minister would deny that that is a reasonable proposition. The purpose of the Opposition's amendment is to protect the individual in that situation. The Minister said that the defence for the individual is contained under Division III—Appeals, which provides:

642. (1) An appeal lies to the Water Resources Appeal Tribunal—

(a) Against a refusal of the council to grant an authorisation under this Part—

which does not apply—

(b) Against the imposition by the council of a term or condition in respect of an authorisation under this Part;

(c) Against a notice given under this Part not being an order under section 641—

which applies to the emergency provision—

or against any term or condition of such a notice.

Stretching that to the absolute limit, I suppose one could say that one of the conditions might be an appeal to the Water Resources Tribunal on the grounds that one, although innocent, had to pay. But the point the Opposition is making

is that there is still an obligation under this legislation for an individual to pay. He might be able to appeal and be successful, although there are no grounds whatever to guarantee that the Tribunal will even consider his case. The Opposition maintains that a person who finds that debris has been washed down on to his property is innocent and should not have to pay the costs that would be imposed on him by the council for its removal, that he remains innocent, and that it is up to the council involved to pay the costs.

The Minister maintains that a person in that situation is guilty, that he must pay the costs, and that if he wants to appeal he has a chance to appear before a tribunal, although there is no specific protection for him in this regard whatsoever: there are only vague grounds on which a person could appeal. If that is the basis on what the Labor Party looks after the rights of the individual, then let us get it out of office as quickly as possible. The Parliament is here to protect the rights of the individual. The more I listen to the Minister, the more I am astounded and somewhat shocked at the lack of regard that he gives to the rights of individuals.

He is prepared to condemn a person and say that he must pay the costs associated with the removal of debris, putting up only a very tenuous argument about any protection that a person might have. On my reading of the Bill, I believe that the individual has no protection whatever. There is no guarantee or requirement that the Tribunal should take into account in its determination whether or not the debris originated on a person's property. I assure members opposite that I shall be pointing out to the people living at Waterfall Gully the little regard that the Minister and the Labor Party has for their rights and the imposition that will be imposed on the 120-odd landowners along Waterfall Gully Road if this legislation is enacted.

Mr Mathwin: What about areas such as Salisbury, and so on?

The Hon. D.C. BROWN: This applies to the whole State. Just before the dinner break the member for Mitcham, who unfortunately cannot be here this evening, asked me to voice his concern about the Minister's rejection of this amendment. A large number of creeks flow through the area that he represents, carrying water from the hills.

Mr Gregory interjecting:

The Hon. D.C. BROWN: It is fine for the honourable member to interject from out of his seat; I know the little regard that he has for the individual. The union movement pushes individuals aside, kicks them aside like dirt. That is exactly what the Government is doing on this occasion.

Mr Ferguson: When the member cannot think of anything else to say he criticises the trade union movement.

The CHAIRMAN: Order!

The Hon. D.C. BROWN: The honourable member invited that response.

The CHAIRMAN: Order! Interjections are out of order, and the answering of interjections is out of order. I hope the honourable member will come back to the amendment.

The Hon. D.C. BROWN: I never left it. The member for Mitcham is very concerned because a number of creeks, including Brownhill Creek, flow through his electorate, which pick up debris from the hills and wash it downstream after heavy rains. The residents living along Brownhill Creek and other creeks will be required to pick up the bill for removal of debris. My concern is that the Minister just does not understand how this Bill will operate. I understand his wanting to stop people putting up small bridges across creeks, which are likely to collect debris, or damming or weiring the water on their property, which would increase the possibility of flooding. I would be the first to admit that if a landowner placed an obstacle on the watercourse he should be required to remove it and that, if he refused to do so, the council should remove it and bill the person responsible for it. There are cases where that might be so within Waterfall Gully.

The Hon. J.W. Slater: That is in the next part of the Bill.

The Hon. D.C. BROWN: I am supporting the Minister in that objective. In regard to the amendment, the Minister has said that he supports the point we are making, but he is being totally inconsistent in saying that he will not vote for it. Be it on his shoulders now that individuals will have no rights whatever in this regard. I shall never allow the Minister to forget this occasion of his brushing aside the rights of individuals. I raise this matter because it is a very real problem already. I foresee that certain individuals could be receiving bills within months of the passing of this legislation, simply because already there are existing watercourses where obstacles have been lodged due to floodwaters. Once again, I appeal to the Minister to support the amendment. If he will not do so, we will have to hope that reason prevails in another place.

Mr EVANS: I take up the Minister's point that there is a right of appeal. Where in the legislation does it say that one of the conditions for objection is that somebody else's debris has ended up on your property? The Tribunal does not have to consider the appeal—it can say 'Bad luck'. The Tribunal does not always have the same personnel. Even though the Tribunal today may have some understanding of what the Department may be trying to achieve, the next lot of members may not. I do not believe the Minister can point out anywhere in the legislation that one of the conditions for appeal is that the debris on a person's property came from another property further upstream and that they have no responsibility. That is not the case. If the debris is on one's property, the council will issue instructions to shift it. If the property owner does not shift it, the council will authorise a contractor to shift it or will do it itself, and will then present him with a bill.

The second point we need to look at in regard to people's rights is the case of the individual who owns a property and has done everything necessary to maintain a free-flowing stream. Other people upstream may have been neglectful, and may have let the stream become blocked. A flood may then come and pull the debris down on to the second owner's property, and he then has to pay the penalty. He may have kept the property clean, physically worked on it, done everything that is right by good neighbourly practice, and been responsible for the watercourse. Suddenly he is given somebody else's burden, and there is no way out of it. I ask the Minister to tell us where in the legislation an individual is given the right to appeal because material came from another property. The Tribunal does not have to consider the issue, as it is not part of the right of appeal. One can go to the Tribunal and make a complaint because the material came from another property. The member for Hartley is saying that it is a stupid amendment.

Mr Groom: I did not say that.

The CHAIRMAN: Order! If the member for Hartley wishes to interject, he will go back to his seat.

The Hon. D.C. BROWN: Interjections are out of order!

The CHAIRMAN: Yes, interjections are out of order.

Members interjecting:

The CHAIRMAN: Order!

Mr EVANS: The Minister admits that a principle is inolved and that an individual should not have to carry the burden created by somebody else, but he is reluctant to take the time or to guarantee that an amendment will be drawn up to create a more practical situation. Even if a person does have the right of appeal, why should he, having not broken the law, be forced to go to appeal? It means taking time off from regular work, fronting up to the Tribunal, and giving evidence to justify one's position when the Tribunal can say, 'Sorry, you have no grounds on that basis

because the legislation does not cover it.' Why force people to go to appeal and pay the cost of a problem that they did not create? Even if the Minister is not prepared to accept the amendment, I ask him to accept the principle that there should be a modification to the Bill to cover the point we are making. I am not trying to protect the person who has been negligent—the Minister can be as tough as he likes in that area. However, he is not putting an obligation on the council to inspect streams to ensure that they are clear. I am disappointed that he is so adamant that he is not prepared to accept the amendment or bring in another that he thinks covers the point.

The Hon. J.W. SLATER: I remind members opposite that this legislation is identical to that proposed by the previous Government.

Members interjecting:

The Hon. J.W. SLATER: I do not believe that it is a mistake, and I oppose the amendment. If an individual is aggrieved by a decision of the council taken under this legislation, he can appeal. Generally, I expect councils to act responsibly and, if not, the individual has the right of appeal to the Water Resources Appeals Tribunal. Members opposite do not understand the effectiveness of that Tribunal. It is chaired by a magistrate and comprises a panel of persons capable of assessing water situations. It is a most appropriate group of people to handle this legislation. The rights of individuals are adequately protected with their right to appeal to that Tribunal. There is no cost to the Tribunal unless the individual chooses to engage a solicitor. I expect that, on almost every occasion, councils will act responsibly.

The Hon. P.B. ARNOLD: I did not think I would ever see the day when a Minister of a Labor government would get up in this Chamber and admit that legislation prepared by the Liberal Party was perfect. Even we are prepared to admit that it is not always perfect, and that it is only as a result of debate that small deficiencies are highlighted. It is far better that the matter be corrected here and resolved to the satisfaction of the Government, because there is every likelihood that it will be resolved in another place in a manner which may not be acceptable to the Government. So, we can continue down this path hour after hour. If the Minister was prepared to accept the point raised and to move a further amendment (we are not saying that our amendment is perfect), we would be happy for him to do so. However, if he is going to bury his head in the sand, he can rest assured that, when the matter is considered in another place, it will come back here amended in a form which may not be satisfactory to the Government.

Mr MEIER: I, too, support the amendment. Most of the arguments to date have been connected with close metropolitan areas. However, if we think of the last flood which affected the Gawler and Light Rivers, a terrific amount of damage was done to fences, crops and property generally. I know of one landowner who had to spend tens of thousands of dollars repairing his fences. If on top of that he was faced with this regulation that he had to remove obstructions from the water it could be, I believe, an unbearable burden. For the Minister to say that he could appeal to the appropriate authority so that he does not have to carry that out might be fine, but why allow this amendment to be carried? That situation then could be covered and the problem would not occur. I ask the Minister to seriously consider this amendment. When a flood occurs people are in enough trouble, without having to face the problem of having to clear up a massive amount of debris or obstructions afterwards.

The Committee divided on the amendment:

Ayes (15)—Messrs Allison, P.B. Arnold, Ashenden, Becker, Blacker, D.C. Brown (teller), Evans, Goldsworthy, Gunn, Ingerson, Mathwin, Meier, Oswald, Wilson, and Wotton.

Noes (19)—Messrs Abbott, Bannon, Crafter, Ferguson, Gregory, Groom, Hamilton, Keneally, and Klunder, Ms Lenehan, Messrs McRae, Mayes, Payne, Peterson, Plunkett, Slater (teller), Trainer, Whitten, and Wright.

Pairs—Ayes—Mrs Adamson, Messrs Chapman, Eastick, Lewis, and Olsen. Noes—Mrs Appleby, Messrs L.M.F. Arnold, Duncan, Hemmings, and Hopgood.

Majority of 4 for the Noes.

Amendment thus negatived.

The Hon. P.B. ARNOLD: I move:

Page 4, lines 9-11—Leave out new section 640.

In the Local Government Act, the provisions of new section 640 are covered in Part XX, section 407, which states:

> Subject to the provisions of this Act, the council may, in any case not provided for by the Roads (Opening and Closing) Act, 1932, compulsorily take land within the area, except park lands and public reserves, and, with the consent of the Governor, land in any part of the State, for the purpose of carrying out any of the works or undertakings which it is authorised by this or any other Act to execute.

There is no need for this new section to be included in the legislation. The Minister has said that it is there to enable local government to act more quickly in acquisition of land. We are talking about rivers and creeks that flood for a matter of one, two or three days when there is obviously no chance to acquire land in that period, and the gap between floods is normally quite sufficient to acquire any land that is necessary under the provisions already in the Local Government Act.

This legislation is before this Committee principally because of problems which arose as a result of flooding in June 1981. We are now in November 1983. The current legislation provided local government with ample opportunity for any acquisition that might be necessary under the existing requirements. The Opposition opposes the inclusion of new section 640.

The Hon. J.W. SLATER: I oppose the amendment. I believe it is necessary for this section to be included in the Act. It gives councils power, subject to and in accordance with the Land Acquisition Act, to acquire land to carry out works for mitigation of floods. The whole purpose of this legislation is to give councils the power to act in such situations and have the power to acquire land. Even though there is a provision for that in the Local Government Act, I believe it is important that this section remains. Consequently, I oppose the amendment.

The Hon. P.B. ARNOLD: The statement just made by the Minister is not correct. As I read it, section 407 of the Local Government Act, in its final Part, gives local government all the power it requires. That clause states:

> . . . for the purpose of carrying out any of the works or undertakings which it is authorised by this or any other Act to execute.

That is a far-reaching dispersal of the powers of local government. It covers all aspects of the legislation. We are in the process of amending the Local Government Act to give local government powers in relation to flood control. The Bill gives local government power to acquire land for any purposes contained in the legislation or any other Act under which it is authorised to operate.

Mr EVANS: The Minister has said that, in the case of an emergency, the measure gives council an opportunity to take possession of land quickly, to overcome the problem. Under land acquisition legislation it is not a fast process in terms of doing it overnight. However, proposed new section 641 gives councils power in an emergency to take possession of land to carry out emergency works, for example, the provision of sandbanks or whatever. I do not say that it takes ownership of the land, but it gives the council the

opportunity to take possession, which is all the council wants in an emergency.

An emergency situation is no argument for the Minister to give a council power of acquisition under this legislation. The power of acquisition was introduced in 1969. At that time I was not happy with it because it went too far. That power of acquisition gives a council the opportunity to take away land from people not just for public purposes but also for private purposes, as was the case with the Hilton Hotel. The Salisbury council was going to take over 11 houses to help Myers build a shopping complex by selling it back to the shopping operator. I object to that sort of principle. That power is contained in the Local Government Act. Why do we need another complication for people? Both sides of politics have said over the years that we introduce too much legislation—too much unnecessary cross-over legislation.

I ask the Minister in all sincerity to think about what he has said. Under proposed new section 641, if there was an emergency situation (such as a bad flood involving my house) a council could move in and sandbag and put more water over my home, flooding it to the rooftop, if it thought that was necessary. The council could take complete control of my land, and I would have no claim against it if it acted in the best interests of the majority of people in the area. However, I suppose in that situation one person has to carry the burden. I do not object to that occurring in an emergency situation, but the power of acquisition in this Bill is unnecessary; it is already provided in another Act. I ask the Minister to think about what he has said, because he wiped out his own argument with his statement about emergency situations.

The Hon. J.W. SLATER: I oppose the amendment. The member for Chaffey referred to section 407 of the Local Government Act: he should have read it in conjunction with sections 408 to 415 inclusive. We are trying to give councils power under the Land Acquisition Act in relation to works required for the prevention of floods. We want to shorten procedures so that councils can ensure that flood mitigation is carried out quickly. It is quite a lengthy procedure. I oppose the amendment.

The Hon. P.B. ARNOLD: I find somewhat amusing the dedication that the Minister has shown in supporting the clauses of this Bill which give these powers to local government, because he introduced a similar Bill in March that did not give local government any powers at all; it was all to be done under the Water Resources Act. It is incredible that this situation has arisen.

The previous Government drafted similar legislation, in which we found two faults. The legislation introduced by the Minister before the Local Government Association took him to task did not give local government in South Australia any powers at all; it placed it all under the Water Resources Act. I find it somewhat amusing to see the vehemence with which the Minister is now supporting this legislation.

Mr EVANS: How long will it take a council to obtain control of land under new section 640, even though that is already possible under the Land Acquisition Act?

The Hon. J.W. SLATER: That is a question that I cannot answer. It would depend on the circumstances. However, the acquisition power is necessary.

Mr EVANS: The Minister is telling us that he wants to speed up the process, but he has not told us by what method he will speed up the process. It still has to go through the Land Acquisition Act. Is the Minister suggesting that a council will not have to give notice to the landholder, or wait for some period, whether it be one week or three months? What is the most rapid time in which a council can take control of land under the powers of acquisition contained in this clause, and how quickly can it be done under the Land Acquisition Act? In the past, I have experienced councils taking hold of property belonging to my family. What is the time difference between the two pieces of legislation?

The Hon. J.W. SLATER: The information I have is that it will probably shorten the procedure by about three months.

The Committee divided on the amendment:

Ayes (16)—Messrs Allison, P.B. Arnold (teller), Ashenden, Becker, Blacker, D.C. Brown, Evans, Goldsworthy, Ingerson, Lewis, Mathwin, Meier, Oswald, Rodda, Wilson, and Wotton.

Noes (19)—Messrs Abbott, Bannon, Crafter, Ferguson, Gregory, Groom, Hamilton, Keneally, and Klunder, Ms Lenehan, Messrs McRae, Mayes, Payne, Peterson, Plunkett, Slater (teller), Trainer, Whitten, and Wright.

Pairs—Ayes—Messrs Ashenden, Baker, Eastick, Gunn, and Olsen. Noes—Mrs Appleby, Messrs L.M.F. Arnold, Duncan, Hemmings, and Hopgood.

Majority of 3 for the Noes.

Amendment thus negatived.

Mr EVANS: I refer to the principle involved in this clause, particularly in relation to pages 2 and 3 of the Bill. I raised this matter in the second reading debate and referred to proposed new section 635 (1) *(d)*, which states:

> A person shall not remove rock, sand or soil from the bed or banks of a watercourse or otherwise interfere with the bed or banks of a watercourse unless authorised to do so by the council.

I have no objection to that, except in circumstances which I will come to in a moment. Proposed new section 635 (3) states:

> An authorisation conferring a right to remove rock, sand or soil from the bed or banks of a watercourse may be granted on conditions requiring the payment, on stipulated terms, of reasonable consideration to the council.

The words 'conferring a right' can be construed in several ways. If the matter goes before a court, lawyers might have one way of doing it, but an individual may not want to go to a court or consult a lawyer to find out what 'conferring a right' means. The new section refers to payment—is it payment for the right to clean a creek of debris such as sand, gravel or rock that is washed down, or are we talking about the right to remove material to sell on a commercial basis? I think that is what the Bill refers to, but it does not say that. I ask the Minister to think about this matter very seriously. We have passed legislation before that has had two or three meanings. A poor old individual who has no knowledge of the law could be approached by a council inspector and asked to remove from a watercourse sand, gravel, rock or whatever. The individual might say that he wants to shift it, whereupon the council says that it will charge him $10, $20 or even $30 for inspecting the watercourse and giving him the right to shift it. The clause does not clearly define whether the right we are talking about means removing material to sell.

Mr Chairman, I ask you or anyone else who is not conversant with the law to say whether that is the case. I believe that, if it came before a court, the lawyers would argue both ways as to how the clause could be interpreted. It is very simple for us to draft a clause saying that a council cannot charge an inspection fee or give people authority to remove material to make a creek or stream a free-flowing watercourse. Taking it a step further, proposed new section 636 (1) states:

> A council may, by notice in writing served personally or by post on the owner of land through which a watercourse passes, require him within a period specified in the notice, to carry out, or cause to be carried out, on his land work of a kind specified in the notice for the purposes of—
>
> *(a)* removing obstructions from the watercourse;
>
> *(b)* making good damage to the watercourse;
>
> or
>
> *(c)* otherwise maintaining the watercourse in good condition.

Nowhere does the landholder have the right to shift sand, rock or silt from a watercourse to keep it in good condition. I mentioned during the second reading debate that I own high land which lies near reasonably flat lying country. The stream has a path of about one-third of a metre in about 46 m. The water flows very slowly, and if one does not clean it out regularly it gradually builds up until it floods the whole area. When I bought the land, the stream had not been cleaned for some 38 years (it was an old market garden), and the water flooded over the whole area and at times over the council road.

The Bill does not give me permission or power to clean the silt, sand or rock from the stream each year, which I must do to maintain it in good order. I must ask the council to inspect the watercourse and give me permission to do it. That is hogwash: it should not have to be the case, and I ask the Minister to think about that very seriously, because I have the right (in fact I have a responsibility) to shift debris such as trees, limbs, old cans, motor car bodies or whatever flows down from my neighbour's property. I am bound by law to do it; but when it comes to the natural silt, rock or sand, I do not have the right to shift it. Under proposed new section 635 (3) the council can levy a charge for the inspection of a watercourse. The Minister and I disagree that to determine who is right would require a legal test case.

The Bill does not give me the right to maintain my stream in good, free-flowing condition, except as regards debris. The Bill clearly states that rock, sand and soil are not debris, because their removal is not allowed without council permission. Is the Minister prepared to accept an amendment in another place to qualify the situation? If not, the situation will be very difficult for many landholders. We are not simply talking about a little area in the Hills where Stan Evans lives—we are talking about the whole State.

I can understand that there is a necessity to ensure that people do not exploit the situation in some parts of the State by removing sand and gravel and using it to mix concrete—a practice that was carried out in all parts of the State until the introduction of crushing plants, and so on. It was a regular practice, and some people still do it. In some areas where there is no ready supply of washed material, it is an ideal opportunity for people to exploit the situation. I agree and accept that that situation should be covered. I also agree that the situation should be covered in relation to soil from banks of a stream that has silted up over the years. People can widen the stream and remove good top soil. I accept that that situation must be covered.

I am referring to good stream husbandry for the maintenance of a good free flow. It does not give me the right to remove material without permission. I believe that I should automatically be permitted to do that, if my creek is silting up and flowing over the top in a heavy rain. On several occasions recently I have had to wade into a stream on my property wearing a pair of shorts to remove unwanted material. If this Bill passes I will be breaking the law if I do that in the future.

Mr Becker: On your own property?

Mr EVANS: Yes. If I work for a neighbour on his property, I am also breaking the law. I ask the Minister whether he will think seriously about amending the Bill to cover that aspect. It is no good our saying that council officers do not get tough, that the law is not framed to the last degree to try to catch people. There could be an argument between a landholder and a council employee over some other issue. The council employee could then become vindictive to get even with the landholder. We have seen that type of situation arise many times in the past in all areas not just local government where people have these sorts of responsibilities. It would not need to happen on many occasions to be unjust. If it happened only once it would be unjust, so that opportunity should be removed.

The Hon. J.W. SLATER: I refer the member for Fisher to proposed new section 634 as follows:

> The council shall be responsible for the protection of all watercourses within its area.

Proposed new section 635 (1) *(d)* provides:

> ... remove rock, sand or soil from the bed or banks of a watercourse or otherwise interfere with the bed or banks of a watercourse, unless authorised to do so by the council.

I interpret that to mean that the council has the responsibility. If a person wants to remove rock, sand or soil from a watercourse on his property, he must obtain authorisation from the council and, as a consequence, he will be able to remove it with the approval of the council. I do not see anything wrong with that.

In relation to an authorisation conferring the right to remove rock, sand or soil from the bed or banks of a watercourse, and so on, that may be granted on conditions requiring payment on stipulated terms, of reasonable consideration to the council. No doubt that means that people can, for commercial purposes, obtain sand or top soil (I think that probably still applies in various parts of the State). This legislation covers the whole of the State and not just the metropolitan area or the Adelaide Hills. A person may remove rock, sand or top soil, and so on for commercial purposes and, here again, on reasonable conditions stipulated by the council. I see that as being fairly clear. I hope that there are no complications.

I am confident that there are no complications, because I think that there are two separate matters. First, in relation to commercial purposes, which probably pertain now and we do not want to interfere with that. Secondly, as I mentioned before, new sections 634 and 635 give an individual the right to obtain material from a creek within an individual's property, but certainly, because the council is responsible, the individual must obtain authorisation from the council. I see nothing wrong with that.

Mr EVANS: The Minister is missing the point that I am making. There is enough humbug nowadays without having to go to councils each year and ask for authority. Not everybody lives close to council chambers and the various age groups must be considered.

The Hon. J.W. Slater interjecting:

Mr EVANS: The Minister is again trying to be smart. I agree that the new section 634 states that a council shall be responsible for the protection of all watercourses within its area, but that does not mean that a council must pay to have them all protected properly. It does not mean that councils have to carry the burden: it means the councils have to supervise and make sure that watercourses are maintained in a satisfactory condition. If the Minister disagrees with me, let him say so, but I believe that that is the situation. It is a council's duty to make sure that watercourses are kept in good condition.

The Hon. J.W. Slater: That's right.

Mr EVANS: The Minister agrees on that point, so let us go to new section 635. There are certain things that a person is not allowed to do, unless he gets permission from the council, such as depositing anything in a watercourse. I take it that it would be very seldom that a council would allow anybody to deposit anything in a watercourse, except fish, tadpoles, frogs or ducks. That provision prevents the dumping of debris in a watercourse. Further, a person shall not obstruct a watercourse or do anything that might result in the obstruction of a watercouse. That is fair enough. I can understand that a council must decide whether or not a dam, weir or pump can be installed in a watercourse. I have no objection to that.

Another provision of the Bill is that a person shall not remove any rock, sand or soil. I would be quite happy with that provision, if the Minister added the proviso that there is no need for a person to obtain permission from a council in cases where it is obvious that something should be done. If a person goes further than that and carts away material covered under new section 635 (3) and sells it, that is a different argument. I am referring to a situation where a person must keep a stream free of material to obtain a free flow each year.

The Minister referred to material coming from further upstream, and it could be from the banks of a dam that has broken in a neighbour's property: it is still soil, sand or rock. That could occur on a Saturday or Sunday, but the landholder will have to locate an engineer and say, 'My land is going to be flooded and I am not allowed to clean it unless you give me some authorisation.' I say that that is totally unacceptable.

It is easy for the Minister to say that he agrees with my point: will he have the Bill amended in another place to cover the situation that I have described? I am not trying to rig the system so that people can get away with bad practices: I am trying to save unnecessary humbug for those people who properly manage their land and for those people who are confronted with an emergency situation outside of council hours.

A person could be in a position of having sand, silt and rock deposited at a place near their home which could result in flooding of a stream, causing a lot of damage to the home. Technically, if they did not clear the stream they would be liable. The Minister can deny that, but he would not be correct in doing so. I am asking the Minister to give a guarantee that that provision will be reviewed in the other place. It is all very well for the Minister or departmental officers to say that common sense prevails, but in law common sense does not prevail. I am asking that the Minister have this point picked up. In the instance of a person who takes a responsible approach it is not fair to expect a person to have to trot along to the council and say, 'Please can I clean out my stream?' This is not good legislation, and I ask the Minister to ensure that this provision is further considered in another place.

Mr LEWIS: This clause provides for a number of new provisions to be inserted in the principal Act. As I am allowed to speak on only three occasions, I ask on this occasion, as a point of order, whether members indeed have only three occasions on which to speak to clause 6, or whether you, Sir, would be generous enough to enable members to speak to each of the new sections to be inserted by clause 6. Otherwise, it may result in my having to speak for 15 minutes in regard to the considerable number of anomalous situations contained in the provisions. Another strategy I could follow would be to move a number of amendments, which would give me an opportunity to refer to the various problems.

The CHAIRMAN: Order! The Chair will not allow the member for Mallee to carry on in that vein. The matter before the Chair is clause 6. The member can refer to any part of clause 6, and that is all.

Mr LEWIS: Thank you, Mr Chairman. You have misunderstood my request or point of order. I asked whether it would be possible for us to consider each of the enormous number of new sections separately.

The CHAIRMAN: Order! There is no point of order. The Chair has made it perfectly clear to the member for Mallee that we are dealing with clause 6. The honourable member can deal with any part of clause 6.

Mr LEWIS: Thank you for that direction, Sir. I foreshadow that I will be moving some 20 amendments to enable me to cover the points that must be considered by the Committee. First, I point out that new section 637 can be interpreted in different ways. It states:

(1) A council may cause such work to be carried out as may be reasonably necessary for the purposes of...

(b) making good damage to a watercourse;

That could be interpreted by some as meaning 'repairing'. Why was the word 'repairing' not used? Why is there ambiguity in regard to 'making good damage'? Is there a difference between good and bad damage? What would a court rule in connection with the interpretation of that? That could leave an ambiguity in the mind of a person consulting the Act to determine what he is entitled to do. This is an example of what I regard as sloppiness in the provisions. I think there ought not be any discretion as to the interpretation of whether damage is good or bad. I seek from the Minister in a more general sense an opinion about the operation of the provision. The provision contained in clause 6 could have amazing ramifications. For example, I want to know how the Minister believes we should interpret new section 635, which states:

(1) A person shall not—

(a) deposit anything in a watercourse;—

'a person' includes a body corporate—

(b) obstruct a watercourse or do anything that might result in the obstruction of a watercourse;

(c) alter the course of a watercourse;

or

(d) remove rock, sand or soil...

I want the Minister to consider the situation that obtains in the greater part of the southern part of my electorate, an area of some 1 400 square kilometres. When is a watercourse not a watercourse? I refer to the floods that occurred there just two years ago, when more water moved across that country than was stored in all the metropolitan catchments by a factor of several times in volume. It caused enormous damage and considerable hardship to many people. In that instance the water was not deep when moving across that country. At its deepest point it was about 2 ft. However, it is generally acknowledged by everyone, including Government authorities, such as the Tatiara Drainage Trust and the South-East Drainage Board, that nonetheless such locations are deemed to be watercourses, even though they may be up to 16 miles wide. Therefore, a person may not construct a driveway from the highway to his homestead. In some cases that driveway may be as much as 2 km long. The provision prevents the construction of driveways on an elevated foundation. The footing material used beneath the surface would be illegal.

It would also prevent a large number of lucerne seed growers and other irrigated agricultural croppists from doing laser levelling of their land, covering tens of thousands of acres. The provision as it stands would make that rearrangement of topography level illegal. Furthermore, whilst it appears sensible as it relates to Third, Fourth and Fifth Creeks and other watercourses in the eastern suburbs, the provision is damnably stupid in its effect on the way in which landholders may or may not direct floodwater across their properties along what are considered to be watercourses. Is it illegal to construct an embankment for some kilometres (perhaps up to 60 or 70), as has been done by one landholder in the Mallee District to redirect the flow of water across his own property, substantially for his own interest and benefit, and to the detriment of no-one else?

I would have to acknowledge that the detriment is to the native fauna and at the end of that watercourse which will be substantially changed in its natural state some several kilometres down that original course because it will never again be inundated. There are hundreds of square kilometres of that heath country which will never again go under water, as has been the natural course of events since before mankind

settled this continent—40 000 years ago. It has been going on for several millenia. There is plenty of evidence of it—thousands of years.

That has changed now. This Act makes illegal what has been done by that man. It also makes the action taken by a number of ratepayers in the Tatiara District Council along the Cannawigara Road (and I hope my colleague the member for Victoria makes some mention of this in a short while) quite illegal in that they diverted the spread of water along the watercourse, as agreed and acknowledged by those statutory authorities to which I referred (the South-Eastern Drainage Board and the Tatiara Drainage Trust), and intensified the flow, forcing it to move at a great pace across their properties. In consequence, they redirected the course it would have taken into the hundreds west of Cannawigara. Consequently, they changed the effect it had on the properties of landholders to the west. Some who were flooded out would not have been had the banks that were erected not been erected. Others who were not flooded out would have been. In consequence, the thousands of dollars lost by some would not have been lost and others would have lost it. Does the Minister intend that this Bill should apply there, and if not, why has it not been specified? It usurps the authority of the Tatiara Drainage Trust and makes it completely redundant. There is no further purpose for that Trust to even exist.

The Hon. J.W. Slater: Why don't you read the legislation and wake up to yourself?

Mr LEWIS: I do indeed. Where does it say in the legislation that any of the watercourses to which the Tatiara Trust addresses itself, and for which it is responsible, are proclaimed? As a consequence of the effects of this Bill, I worry that those people to the north-west of the Tatiara Creek in the District Council of Coonalpyn Downs may find that the ways in which they were attempting to get some redress, to have redress for what has happened and to prevent it happening again in the future, will have been in vain. They will have spent many thousands of dollars on legal advice for no good purpose. I would therefore like to understand from the Minister whether, when and how it is permissible to erect buildings, construct fences and driveways on those watercourse, although not clearly defined, in the area to which I have referred in the District Council of Tatiara and Coonalpyn Downs and on the north-eastern side of the District Council of Lacepede.

The Hon. J.W. SLATER: I am not familiar with the honourable member's electorate, but I shall be glad to get information he seeks and advise him accordingly.

Clause passed.

Remaining clauses (7 to 18) and title passed.

Bill read a third time and passed.

PRICES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 November. Page 1579.)

The Hon. H. ALLISON (Mount Gambier): The Opposition supports the second reading. The Bill does two things: first, it increases the penalties for a breach of provisions of the Act relating to minimum prices of wine grapes; and, secondly, it extends from six months to twelve months the period during which prosecutions might be instituted under the Act. The Opposition supports increases in both penalties and the time allowed for bringing prosecutions, as we understand from evidence given by grapegrowers that, in fact, many prosecutions have been prevented because the facts of prosecution have not been brought to the notice of the authorities until more than six months after the offence has been committed.

We believe that in those circumstances an extension from six months to 12 months is a fair thing. We understand that so far there has been only one prosecution under the Act since 1966, when the Act was introduced. It would seem a reasonable speculation that many prosecutions might have ensued had the period been extended at the outset. It is possible that the effective passage of the Bill will allow prosecutions to take place.

We also understand that in his second reading explanation the Minister stated that he had set up an inquiry into loopholes in the Act and into evasions under its provisions. We await with great interest the outcome of that enquiry. There will probably be further amendments to the Act. The Act itself is controversial and is the only example of a minimum price control in South Australia, although there are obviously examples of price controls applying to milk (although not a minimum price control). That matter comes under the Minister of Agriculture. They are the only two examples that we are able to find in this State. Grapegrowers in South Australia expect that this minimum price control will be maintained. There is a unanimous desire by grapegrowers in the industry to keep effective price control. The Opposition supports the legislation.

The Hon. G.J. CRAFTER (Minister of Community Welfare): I thank the Opposition for its support for this measure. I will pass on to the Minister in another place the Opposition's interest in the inquiry that he envisages as a follow up to these amendments to the Prices Act.

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

BILLS OF SALE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 November. Page 1675.)

The Hon. H. ALLISON (Mount Gambier): The Opposition supports this legislation. The amendments before us, I believe, represent the first amendments to this Act for almost 100 years. In 1886 the Act was first brought into being in the House, and here we have it in 1983 with its first substantial amendment. As the former Attorney-General in another place stated in his second reading explanation, an inquiry into the need to bring this Bills of Sale Act into the 1980s was initiated. I am very pleased to see the honourable member for Semaphore in an acting capacity in the Chair. It is the first time I have been able to speak under his jurisdiction, and it is a pleasure. As I said, it is almost 100 years since the Bill was first introduced. These amendments do go some way towards bringing the Act into conformation with 1980s business requirements. That does not mean to say that these amendments are anywhere near exhaustive. The amendments which have already been accepted in another place we believe have gone some way towards improving the legislation which was introduced there. Some amendments proposed by the former Attorney were refused. But, we do not intend to reintroduce those amendments at this stage.

However, we do wish the House to note that the Bill does not pre-empt the present inquiry by the Law Reform Committee into further improvements. The substantive questions relating to bills of sale having been referred to the Law Reform Committee, it is quite on the cards that in the not too distant future when that committee reports we will find that there will be a totally new mechanism in relation to securities for loans and personal property. Of course, finance

companies at present tend to use other mechanisms like chattel mortgage documents more frequently than they use bills of sale. So, the Law Reform Committee may be investigating quite substantially a means of providing a registration mechanism other than the mechanism of the Bills of Sale Act to cover those chattel mortgage documents. The various real problems that exist in the light of modern day usage are still present all through the Bills of Sale Act. We believe that ultimately when the Law Reform Committee reports there will be further very substantial amendments to the Bill. We support the legislation.

The Hon. G.J. CRAFTER (Minister of Community Welfare): I rise to thank the Opposition for its support of this measure. As the honourable member said, it is a matter that has arisen out of negotiations with the Law Reform Committee in this State and work done by successive Governments. It is an area of law that has not been attended to for a very long time. Hopefully, this interim measure will bring about a better law for the community, particularly in the area of commerce and the rural economy that will benefit from an updated law in this area.

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

MARALINGA TJARUTJA LAND RIGHTS BILL

Debate on motion resumed.
(Continued from page 1941.)

The Hon. G.J. CRAFTER (Minister of Aboriginal Affairs): Earlier today I was commenting to the House on the work of the Select Committee on this measure. I thank the honourable members who formed that committee for their endeavours. It was an onerous task and involved substantial travel throughout the State. It might be of interest to all honourable members to note that the committee visited the remotest areas of the State, settlements at Ceduna, Cook, Yalata, Maralinga, Alice Springs, Ernabella, Mimili, Indulkana, Granite Downs, Marla Bore, Ayers Rock, Fregon, and Amata, as well as hearing substantial evidence in Adelaide, to which many people travelled from remote parts of the State. The support given to the Committee by the officers of the Parliament, officers of the Office of Aboriginal Affairs, and the interpreter who travelled with us on a number of our journeys, the Rev. Bill Edwards, is all very much appreciated by members of the committee. The *Hansard* staff travelled with us and took evidence during the proceedings, often in very difficult circumstances indeed.

The work of the Select Committee proved for me, as I am sure it did for other honourable members, a very worthwhile learning process. Indeed, we travelled the course of history. We visited Maralinga, the lands where the southern Pitjantjatjara people lived until the area was acquired for the atomic bomb tests carried out by the British Government in the early 1950s. We heard graphic evidence from those men—fortunately, they are alive and able to give evidence to the committee—who had responsiblity for the removal of the Aborigines from those lands. They had records that were available and one gentleman in particular, (Mr Gaden), who is now resident in Ceduna, gave absolutely superb evidence to the committee of the graphic details of the removal of those people to an Aboriginal settlement established at Yalata. We visited Yalata, and in that sense followed the path of those people, and back at Maralinga we attended a corroboree and ceremonies which are referred to in the Select Committee report. We met a large gathering of Aborigines at Maralinga and talked about the land and the way in which it should be transferred.

Prior to the Select Committee's being formed I had travelled, as the member for Chaffey had travelled before me when he was Minister of Aboriginal Affairs, to the Far West to have discussions with the Maralinga people about the tranfer to them of these lands. These people are quite wonderful in the way in which they have preserved their culture, their religion and their tribal structure, despite this transfer from their lands, and indeed a detribalisation process or the Europeanisation process that has gone on naturally at Yalata and in other places where the people have resided since they were prohibited from living on their traditional lands.

Throughout the discussions (and I am sure that the member for Chaffey has had this said to him), we were reminded of the promise made by Sir Thomas Playford on 26 July 1962 to the people that the Maralinga lands would be returned to their traditional owners. That is a promise that successive Governments have honoured, and indeed I am sure that it is the wish of us all that this land should be returned to these people. As I have said on many occasions it is land that has never been settled by Europeans. It is a most desolate area in the eyes of those of us who have European origins. It is an incredibly dry area; it is probably one of the driest places in the world, and yet to these people it is their home and their land and they have learned to live on it, albeit in a nomadic way and depending on season to season where they live and how they survive.

The progress in the return of this land has been laboriously slow. Premier Dunstan made moves when the Labor Party came into office in the late 1960s. The Minister responsible for Aboriginal affairs, the current Chief Justice (Hon. Mr Justice King), also made moves in the early 1970s to have this land transferred. Then the previous Administration, to which I give full credit for the work that it did in the area of Aboriginal land rights, made further progress. Indeed, substantial progress was made in the granting of land rights under the Tonkin Government. That was done in conjunction with (although obviously at a lesser priority than) the Pitjantjatjara land rights legislation which was achieved in 1981. I think that the Maralinga people were quite prepared to sit back and wait for that legislation to pass before reasserting their claim.

The events of recent days in the Northern Territory relate very much to the work carried out by the Select Committee, because the Uluru National Park, the Ayers Rock area, is very much part of the Pitjantjatjara lands, and the people in whom we are vesting the Maralinga lands of course speak Pitjantjatjara and are part of that same tribal grouping. It is interesting to read the editorials in the important newspapers over recent days and to see their support for the vesting of the Uluru National Park in the traditional owners, the Pitjantjatjara people. The Melbourne *Age*, the Sydney *Morning Herald* and the Adelaide *Advertiser* have all come out with very understanding and supportive editorials. I think they reflect the attitude of a great many people in Australia, people who do not necessarily belong to any political Party but who are concerned about the incredible disadvantage suffered by the Australian Aborigines and who indeed have concerns beyond our shores and the concern for those who live in oppressive situations, mostly in Third World countries.

Unfortunately, our traditional occupants of this land fall into that category and are in no more privileged a position despite our wealth than the poorest people in many other nations of the world. It is in that sense that people around Australia, people who have a feeling of compassion and want to bring about justice to the weakest in our community, support land rights legislation as a way in which we can give stability to Aboriginal communities, to give a sense of identity and of purpose, and to give an economic base on which they can rebuild their own lives and that of their communities.

Mr Mathwin: We have to be very careful, otherwise it becomes apartheid.

The Hon. G.J. CRAFTER: As this debate flows on, the honourable member will see the difference clearly between apartheid and Aboriginal land rights; there are substantial

differences, of course. Those editorials reflect that feeling that is abroad in our community that this is an appropriate time, whether it be in the Northern Territory or here in South Australia, for the Parliament to express to the community that land rights can be granted without many of the fears that are expressed.

I notice that the Melbourne *Age* took Mr Everingham (the Chief Minister of the Northern Territory) to task over his fears that the granting of land rights would affect the tourist industry in the Northern Territory, and obviously part of the agreement of the transfer of title has meant that tourist developments and the industry are indeed secure, and that the problems of access and others that have been raised will not be realised; in fact, it is my belief that the tourist industry could indeed help the Aboriginal community. There is developing, as the committee saw, particularly in the Pitjantjatjara lands, quite a substantial Aboriginal artifacts industry and some quite superb craftwork is being achieved, much of which is being sold at Ayers Rock. That could also help to bring about independence for those communities and a lessening of the total dependence that so many of them have on Government for their very existence.

Uluru is also an indication of the interest that the Commonwealth Government has in this area of land rights, and I believe that Governments such as ours will receive substantial support from the Commonwealth Government to ensure that land grants of this nature are administered properly and that programmes developed on them are properly funded. The churches in this State and indeed right around Australia have taken a particular interest in issues relating to Aboriginal advancement, and I believe that they, as organisations in the community which have no vested interest, if one likes, or axe to grind, speak on behalf of a wide cross-section of the community which sees the granting of land rights as important to the development of the Aboriginal community as human beings and people with dignity and rights that have not been realised in the past.

A good deal of the Select Committee's work was taken up with submissions from mining companies, and I put to the House that, whilst there was disagreement in the committee on key issues, such as mining of Aboriginal lands, there was general agreement by the mining companies that land rights are a fact of life and that they do have positive values for the Aboriginal communities that benefit from them. However, the companies expressed very real fears with respect to the profitability of their organisations, and obviously they have obligations to their managements and shareholders to advance to the duly elected democratic forums their concerns that will affect the profitability and their programmes and to try where possible to minimise that effect.

We, in Government, have responsibilities to try to balance out rights between groups with different interests, responsibilities and approaches, culturally, philosophically, and the like, and that is not an easy task. I think that the Select Committee was placed under quite incredible pressure to try to bring down a solution to this very vexed problem of compensation for mining, particularly exploration, on Aboriginal lands. It would have been hailed across the country by one or other of the parties as a solution to this very vexed problem, but I do not believe that it is appropriate for a State Parliament to involve itself in financial incentives for the mining industry as such, and I believe that, along with other incentives of this nature, particularly for mining exploration, it should be created not from one State to another but should be established federally.

There are already very substantial tax incentives for mining exploration in this country (up to 110 per cent tax deductions), and if we were by our legislation to provide a mass of internal incentives or to reduce a financial barrier against exploration programmes, then I think that we would have diverse laws from State to State and conflict with the Commonwealth Government, and that would be doing no-one any great service in the long run. This is a very real issue. We talked about it frankly with the mining companies and with spokesmen for the Aboriginal communities, and we do not have the answer: it is as simple as that.

We would very much like to, but we do not, and we do not believe that this is legislation where we can embody that sort of solution and try to grapple with these fundamental principles which I believe are *ultra vires* to a State Legislature. The Select Committee's report contains—

Mr Mathwin: It isn't unanimous, is it?

The Hon. G.J. CRAFTER: No, it is not unanimous. Of course, the report, under Standing Orders, must be a single report, but there will be opportunity in this debate and during the passage of the Bill to illustrate the diversity of opinions expressed within that committee. The committee heard evidence from the Maralinga people about a series of matters raised in the second reading debate, particularly by members of the Opposition,. relating particularly to access on lands and roads, and to the permit system, and the like. I believe that all of these have been tackled responsibly and a number of amendments have arisen to the original legislation as a result of those discussions and recommendations.

The people of Cook, where we visited, have been provided for in a special way (particularly the children), so that there is opportunity for free access to recreational areas for them (in one of the most remote communities in this State), and so that they can move freely in the recreational areas to which they have grown accustomed and which they have enjoyed over the years. There is a rabbit trapping industry established on the land, and arrangements have been made with a rabbit trapper for that industry to continue. The arrangements for that are embodied in further amendments to the legislation.

As a committee, we had the opportunity to travel to Alice Springs to inspect the register maintained there by the Pitjantjatjara Council with respect to permits granted over those lands, and statistical information of that has been included in the report. I believe that that substantially allays the fears expressed in the second reading debate in this House. Once again, the Maralinga people have made what I consider to be substantial concessions with respect to access of persons over their lands to travel to the Untamed Conservation Park, for the inviting on to lands by the traditional owner of an Aboriginal friend, and the like.

As I said, I believe that the Select Committee has covered the field of the legislation very thoroughly indeed. There is a wealth of resource material contained in the annexures to the report that is available for honourable members to inspect to help them come to grips with the issues that we had to come to grips with. I believe that when members study that report, as I hope they will, they will form conclusions very similar to those which the committee formed. The advantage we have had in this State over the years has been substantial consensus. I do not expect that we can achieve total consensus in an area where there are clear ideological differences between the political Parties. But I think we have achieved in this State something we can be proud of, and that is substantial consensus between the political Parties on this important issue. It is important not only to the proper making of laws of this nature, but it is also very important to the Aboriginal communities themselves that they see a Parliament that is clearly expressing its interest and concern in their well-being, future and development. For that reason the committee has also recommended a permanent committee of the House of Assembly to visit annually those lands and report to Parliament on

the legislation and indeed on the people and the enjoyment of the land.

Mr Mathwin: How often?

The Hon. G.J. CRAFTER: Annually, which I trust can be achieved this Christmas, as we have promised these people on many occasions throughout this year. I urge honourable members to study at least some of the evidence that we have collected, to give this matter serious thought, and, indeed, to support the speedy passage of this legislation so that justice can be done to these important, although remote, people in this State.

Mr GUNN secured the adjournment of the debate.

[Sitting suspended from 9.43 p.m. to 4 a.m.]

The SPEAKER: I notice that there are some objects being displayed and I ask that those honourable members who are displaying objects (the honourable member for Chaffey, for instance), remove them.

FINANCIAL INSTITUTIONS DUTY BILL

Returned from the Legislative Council with the following suggested amendments:

No. 1. Page 1, lines 14 and 15 (clause 2)—Leave out 'first day of December, 1983' and insert 'first day of January, 1984'.

No. 2. Page 2, lines 40 and 41 (clause 3)—Leave out all words in these lines.

No. 3. Page 4, line 24 (clause 3)—After '31' insert the word and figures 'or 34'.

No. 4 page 5, lines 7 to 9 (clause 3)—Leave out the definition of 'trust fund account'.

No. 5. Page 6, lines 20 to 30 (clause 5)—Leave out subclause (4).

No. 6. Page 7, lines 5 to 8 (clause 5)—Leave out subclause (7).

No. 7. Page 9 (clause 7)—After line 24 insert new paragraph as follows:

(ka) a receipt of money by a pastoral finance company that is a registered financial institution other than a receipt that is an amount received by the pastoral finance company in the course of banking business carried on by it, or in the course of short-term dealings;

No. 8. Page 9 (clause 7)—After line 39 insert new paragraph as follows:

(na) a receipt of money by a registered financial institution from a charitable organisation for the purpose of investing that money;

No. 9. Page 9 (clause 7)—After line 39 insert new paragraph as follows:

(nb) a receipt of money by a registered financial institution (being a bank, building society or credit union), being a payment to the credit of an account kept by that financial institution of an amount payable to the person in whose name the account is kept under or by virtue of the Repatriation Act, 1920 of the Commonwealth, or any other Act of the Commonwealth Parliament relating to the repatriation of members of the military forces of the Commonwealth;

No. 10. Page 9 (clause 7)—After line 39 insert new paragraph *(nc)* as follows:

(nc) a receipt of money by a financial institution that occurs by reason of an amount being credited to an account of a particular person where there is a corresponding debit to another account of the same person, being an account—

(i) kept by the same financial institution; or

(ii) kept by a financial institution that is a member of a group of which the firstmentioned financial institution is also a member, both financial institutions being banks;.

No. 11. Page 11, line 16 (clause 8)—Leave out '10' and insert '12'.

No. 12. Page 11, line 19 (clause 8)—After 'person' insert '(not being a charitable organisation)'.

No. 13. Page 12, line 18 (clause 12)—After 'proceedings' insert 'under this Act'.

No. 14. Page 19 (clause 31)—After line 26 insert new subclause as follows:

(2a) A charitable organisation may make application to the Commissioner in a manner and form approved by him for approval of an account kept in the State in the name of the charitable organisation by a bank that is a registered financial institution as a special account for the purposes of this Act.

No. 15. Page 19, line 27 (clause 31)—Leave out 'or (2)' and insert ', (2) or (2a)'.

No. 16. Page 19, line 28 (clause 31)—Leave out 'may' and insert 'shall, subject to this section,'.

No. 17. Page 19, lines 38 and 39 (clause 31)—Leave out paragraph *(a)* and insert new paragraphs as follow:

(a) is an amount received by the pastoral finance company in the course of banking business carried on by it;

(ab) is an amount received by the pastoral finance company in the course of short-term dealings;

No. 18. Page 20 (clause 31)—After line 14 insert new subclause as follows:

(6a) An amount shall not be paid to the credit of a special account kept by a bank in the name of a charitable organisation unless that amount represents moneys paid for the exclusive use of the organisation.

No. 19. Page 20, lines 28 to 47 (clause 31)—Leave out subclause (10) and insert new subclause as follows:

(10) Where the Commissioner is satisfied that an amount has been paid to the credit of a special account in contravention of this section, the Commissioner—

(a) may by notice in writing given to the financial institution at which the special account is kept and the person in whose name the account is kept, cancel the account as a special account for the purpose of this Act; and

(b) may determine a period, not exceeding one year, during which the person in whose name the account is kept is ineligible to make application under this section.

No. 20. Page 21, line 18 (clause 32)—Leave out 'may' and insert 'shall, subject to this section,'.

No. 21. Page 23, lines 5 to 44 and page 24, lines 1 to 3 (clause 34)— Leave out the clause and insert new clause 34 as follows:

34. (1) A person, who is eligible under subsection (2) to have an account kept in the State by a registered financial insitution (being a bank, building society or credit union) approved as a special account, may apply to the Commissioner, in a manner and form approved by him, for approval of the account as a special account.

(2) For the purposes of subsection (1)—

(a) a dealer in securities is eligible to have an account kept in his name that is a dealer's trust account for the purposes of the *Securities Industry (South Australia) Code* approved as a special account;

(b) a person who is under a prescribed statutory obligation to pay money to the credit of a trust account kept in his name is eligible to have that trust account approved as a special account;

(c) a legal practitioner is eligible to have a trust account kept in his name under Part III of the Legal Practitioners Act, 1981, approved as a special account;

(d) an agent or land broker within the meaning of the Land and Business Agents Act, 1973, is eligible to have a trust account kept in his name for the purposes of his business as an agent or land broker approved as a special account;

(3) Where an application is made under subsection (1) the Commissioner shall, subject to this section, issue to the applicant a certificate of approval of the account as a special account.

(4) Where a certificate under this section is produced to the registered financial institution at which the account is kept, the financial institution shall designate the account to which the certificate relates as a special account for the purposes of this Act.

(5) The following restrictions apply in respect of accounts approved as special accounts under this section:

(a) an amount shall not be paid to the credit of such an account kept in the name of a dealer in securities unless it is an amount that is required or permitted to be paid to the credit of a dealer's trust account under the Security Industry (South Australia) Code;

(b) an amount shall not be paid to the credit of such an account to which subsection (2) *(b)*, *(c)* or *(d)* applies unless that amount represents trust moneys received by the person in whose name the account is kept and required by statute to be paid to the credit of that account;

(6) Where the Commissioner is satisfied that—

(a) an amount has been paid to the credit of a special account in contravention of subsection (5); or

(b) the person in whose name an account approved as a special account under this section is kept, has ceased to be eligible to have the account approved,

the Commissioner—

(c) may by notice in writing given to the financial institution at which the special account is kept and the person in whose name the account is kept, cancel the account as a special account for the purposes of this Act; and

(d) may determine a period, not exceeding one year, during which the person in whose name the account is kept is ineligible to make application under this section.

No. 22. Page 24, line 13 (clause 35)—Leave out 'may' and insert 'shall'.

No. 23. Page 24, line 21 (clause 36)—Leave out 'a sweeping account, or a trust fund account' and insert 'or a sweeping account'.

No. 24. Page 24, line 28 (clause 36)—Leave out ', a sweeping account or a trust fund account' and insert 'or a sweeping account'.

No. 25. Page 24, lines 41 and 42 (clause 37)—Leave out all words in these lines.

No. 26. Page 25, line 46 (clause 42)—Leave out 'may' and insert 'shall'.

No. 27. Page 30, line 18 (clause 53)—After 'Commissioner' insert, 'or a decision of the Commissioner,'.

No. 28. Page 30, line 19 (clause 53)—After 'assessment' insert 'or decision'.

No. 29. Page 30, line 20 (clause 53)—After 'assessment' insert 'or decision'.

No. 30. Page 30, line 21 (clause 53)—Leave out 'to the assessment'.

No. 31. Page 30, lines 26 and 27 (clause 53)—Leave out 'or vary the assessment' and insert ', vary or rescind the assessment or decision'.

No. 32. Page 30, line 35 (clause 53)—Leave out 'or vary the assessment' and insert ', vary or quash the assessment or decision'.

No. 33. Page 39, line 30 (clause 75)—After 'Act' insert ', in any other law, or in any contract, agreement or other instrument (including an instrument constituting a trust) made before the commencement of this Act,'.

No. 34. Page 39, line 34 (clause 75)—After 'Act' insert ', in any other law, or in any contract, agreement or other instrument (including an instrument constituting a trust) made before the commencement of this Act,'.

No. 35. Page 39 (clause 75)—After line 38 insert new subclause as follows:

(3) Nothing in this Act, in any other law, or in any contract, agreement or other instrument (including an instrument constituting a trust) made before the commencement of this Act, prevents a person from recovering from any other person with whom he has dealings an amount equal to the amount of financial institutions duty that he may be liable to pay to a registered financial instititon on account of the receipt by that financial institution of moneys relating to those dealings.

No. 36. Page 39, lines 39 to 47 and page 40, lines 1 to 24 (clause 76)—Leave out the clause.

No. 37. Pages 41 and 42, The Schedule (clauses 1 to 3)—Leave out these clauses and insert new clause as follows:

1. (1) Where a person is unable reasonably to comply with the provisions of this Act requiring him to furnish to the Commissioner a return relating to the month of January, 1984, the person may, not later than the twenty-first day of February, 1984, make application to the Commissioner for an extension under this section.

(2) An application by a person under subsection (1) shall state the basis upon which the person proposes to estimate the amount of duty it proposes to pay under this Act in relation to the month of January, 1984.

(3) The Commissioner may, in his discretion, grant the extension to which the application relates.

(4) Where—

(a) a person to whom an extension has been granted pays before the twenty-first day of February, 1984, the estimated amount of duty specified in his application in relation to the month of January, 1984;

(b) furnishes not later than the twenty-first day of March, 1984, a return in accordance with this Act in respect of the month of January, 1984; and

(c) pays to the Commissioner the amount (if any) by which the duty payable in accordance with the return so furnished exceeds the amount of estimated duty paid by the person under this section, the person shall be deemed to have complied with the provisions of this Act relating to returns for the month of January, 1984.

(5) Where the amount by which the duty payable in accordance with returns furnished by a person in accordance with subsection (4) is less than the amount of estimated duty paid by the person under this section, the Commissioner shall refund the amount by which the estimated duty exceeds the duty payable.

(6) The Commissioner may, in his discretion, grant a further extension to a person who, having made an application under this section relating to the month of January, 1984, makes further application relating to the month of February, 1984.

(7) An extension granted under subsection (6) shall be upon such terms and conditions as the Commissioner may determine.

No. 38. Page 43, The Schedule (clause 4)—After 'non-bank financial institution' twice occurring insert in each case ', charitable organisation'.

No. 39. Page 43, The Schedule (clause 4)—Leave out 'twenty-fifth January, 1984' and insert 'twenty-first day of February, 1984'.

No. 40. Page 43, The Schedule (clause 4)—Leave out '1 December 1983' and insert 'the first day of January, 1984'.

No. 41. Page 43, The Schedule (clause 5)—Leave out 'twenty-fifth day of January, 1984' and insert 'twenty-first day of February, 1984'.

No. 42. Page 43, The Schedule (clause 5)—Leave out 'first December, 1983' and insert 'first day of January, 1984'.

No. 43. Page 43, The Schedule (clause 6)—Leave out 'twenty-fifth day of January, 1984' and insert 'twenty-first day of February, 1984.'

No. 44. Page 43, The Schedule (clause 6)—Leave out 'December, 1983' and insert 'January, 1984'.

No. 45. Pages 43 and 44, The Schedule (clause 7)—Leave out 'twenty-fifth January, 1984' and insert 'twenty-first day of February, 1984'.

No. 46. Pages 43 and 44, The Schedule (clause 7)—Leave out 'December, 1983' and insert 'January, 1984'.

No. 47. Page 44, The Schedule (clause 7)—Leave out 'interim trust fund account', wherever it occurs, and insert, in each case, 'interim special account'.

No. 48. Page 44, The Schedule (clause 7)—Leave out 'trust fund account', wherever it occurs, and insert, in each case, 'special account'.

Consideration in Committee.

Suggested amendments Nos 1 to 4:

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

That the Legislative Council's suggested amendments Nos. 1 to 4 be agreed to.

In so moving, I draw particular attention to the acceptance of amendment No. 1 which this motion constitutes. It concerns the date of operation of the financial institutions duty. This has been a matter of considerable controversy and concern on the part of the Government. A number of the amendments have come before us from the Legislative Council: while some have improved the Bill or are acceptable to the Government, in some cases quite unacceptable amendments have been made. I particularly suggest that those amendments which seek in some way to affect the revenue of the State represent a fairly unprecedented assertion of power by that Chamber. I think it demonstrates once again the fact that the Legislative Council in our bicameral system believes that it has that right, or indicates by some of the amendments moved that at least in a modified way the revenue of this State can be affected. As I say, in certain respects that is totally unacceptable to this Government.

But, in the current economic climate, bearing in mind the fragile nature of the recovery that is under way at present, the fact that the Government's Budget must be in place firmly and as soon as possible, that there must be a minimum of disruption so that we can get on with the job of governing this State and restoring its economy, and the interests of avoiding the sort of constitutional crisis that could well have arisen at a time when this State could not afford to have such a crisis, the Government has been prepared to make in respect of the operational date a concession to allow this measure to come into operation a month later than envisaged.

Mr Chairman, let me stress again that our acceptance is reliant very much on the circumstances in which we find ourselves today, and the need to get on with the job of government with a Budget firmly in place. I hope that we

do not have a repetition of this sort of approach to a financial measure taken by the Upper House. Amendment No. 1 deals with the date of operation, and later there will be many consequential amendments relating to it. Amendments Nos 2, 3 and 4 relate to definition areas, and they will be accepted; they are acceptable as well.

Mr OLSEN: Quite obviously, in the discussions behind closed doors between the Democrats and the Premier, the Democrats have won. The Premier has backed off. There is an operative date of 1 January for this legislation. It will be interesting to see, when the measure goes back to another place, what the trade-off is in terms of votes in the Legislative Council on this measure. What absolute nonsense for the Premier to get up and to say that he hopes he does not see a repetition in relation to this sort of money measure in this Parliament. That is entirely in your hands, Mr Premier. Bring a measure into this Parliament that does not have holes in it for a start. Do not ask this Committee to pass a Bill that has holes in it, that is faulty legislation, and then say that it can be fixed it up in another place—that is the request that you made of this House and this Committee last week, because you did not do your homework, you did not get your act together and you have paid the price.

The Hon. D.J. HOPGOOD: I rise on a point of order. Is it not a fact that people are supposed to address the Chair in Committee as in House?

The CHAIRMAN: Order! I uphold the point of order. I know that it is early in the morning, but I ask honourable members to calm themselves and get back to the matters before us. The honourable Leader of the Opposition.

Mr OLSEN: Quite clearly, this is the first substantial money measure to pass through the South Australian Parliament in 10 years, and it is in an incomplete state. The Treasurer of this State asked this Chamber to pass a faulty Bill: it was then left to another place to address those faults. It is quite clearly evident that Cabinet and the Minister responsible for the Bill did not do their homework: they were unclear about the implications of the legislation and had to change track in a number of areas. The amendments that have been moved in that regard are a reflection of the amount of the work put in by the Opposition to alert the community to the faults in the legislation. We have brought the Government to heel, the Opposition being the watchdog of faulty legislation presented to the Parliament. I suggest to the Premier that he would not want to see a repetition of this spectacle—

The Hon. J.C. Bannon: You are dressed for the occasion, too.

Mr OLSEN: It was appropriate to be dressed like this on this occasion—

Members interjecting:

The CHAIRMAN: Order!

Mr OLSEN: I remind the Committee and the Chief Secretary that it was the Treasurer who suggested that the Legislative Council could amend this Bill. In fact, the Treasurer publicly invited the Legislative Council to amend the Bill, and the Chief Secretary knows that as well as every other member of the Committee: indeed, the public is well aware of that fact, because it was placed on the public record in this Chamber. There is no doubt that, since the sittings of the Legislative Council were suspended several hours ago, there have been behind the scenes discussions. Obviously, the Government wanted to pre-empt the Conference proposals between the two Houses and, clearly, a deal has been done. We will see just what that is and how it works out in due course.

The amendment, which seeks to insert 'the first day of January 1984' rather than 'the first day of December 1983', will at least go some way towards giving financial institutions (the tax collectors for the Government) a chance to get their houses in order before they become tax collecting agencies for the Government. It was quite unrealistic to bring in a major tax measure and expect the legislation to be up and running within 10 days of it going through Parliament. We are still unaware of the final form of the legislation, yet the Government expected financial institutions to be collecting the tax on 1 December. The Liberal Party believes that 1 February would have been a better starting date, because it would have given institutions ample time to prepare to collect the tax. Obviously that time was needed, because the original legislation contained transitional clauses. That is an acknowledgement in itself that there was a problem for financial institutions in that regard. The amendment is obviously a compromise position that has been worked out and, as I said, it will be interesting to see what is the *quid pro quo.*

Members interjecting:

The CHAIRMAN: Order!

Mr BECKER: It is pleasing that the Government has agreed to these amendments proposed in the other place. As I said recently about similar legislation, the Government's proposal to request financial institutions, particularly banks, to act as the collectors of this duty from 1 December 1983 set an extremely difficult task for those organisations. As a matter of fact, it was absolutely ridiculous. I am surprised that the union did not suggest that there should be a black ban on financial transactions attracting f.i.d. There certainly would have been had I been President of the union—I make no bones about that.

The Hon. J.D. Wright interjecting:

Mr BECKER: The Deputy Premier knows that I am not frightened to stand up for the rights of workers. I believe in a fair go, but what the Government was asking banks to do was absolutely unfair. The Government was adding an impost to the costs of financial institutions in this State by making them collect this tax over what is usually a busy trading period. I do not believe that the Government will miss out on the amount of money that it claims it will lose because, in the trading period leading up to Christmas, and during the Christmas period, many of the financial dealings are credit transactions. I believe that the Government will pick up its money in January and February 1984 when the accounts are paid. After listening to and reading the debate here and in the other place, I believe that the Government has not presented to Parliament and to the people of South Australia a true financial impact statement on this proposal. In fact, it is nothing but an educated guess, and that is not good enough.

The CHAIRMAN: Order! It is very early in the morning and I appreciate that members are tired and frustrated, but the honourable member is straying a long way from the amendments before the Chair.

Mr BECKER: The amendment changing the commencement date is realistic because it gives people some breathing space before the duty is introduced. At the same time, I believe that the Premier's claims about what the change of date will cost the State by way of lost revenue are inaccurate. Will the Premier inform the Committee accurately how much the amended commencement date will cost the Government and what financial impact it will have on the Budget?

The Hon. J.C. BANNON: Between $1 million and $2 million. The impact cannot really be judged until we have advanced a little further into the financial year, when we see the actual amount of tax collected. Obviously, the change poses considerable revenue problems for the Government. We will review the matter to ascertain what changes can be made during the year to accommodate it.

The Hon. B.C. EASTICK: I draw the attention of members to page 1669 of *Hansard* of 9 November 1983, as follows:

The Hon. J.C. BANNON: A brief response is called for, although we have probably covered this matter in a number of ways in the earlier part of the debate. I am aware of the problem which the honourable member is raising. It is fair to say that the clause as drawn in this Bill does not adequately meet the problems that it seeks to overcome. I have already acknowledged that, but we are not in a position at this stage to have a formula which will meet the needs of the churches and charitable organisations. That is being worked on at the moment. As I have indicated—I know that this draws cries of horror from members of the Opposition—it can be dealt with in another place, and that is the intention.

It has now been dealt with in another place in a number of quite vital areas, at the invitation of the Premier as recorded in *Hansard.*

The Hon. J.C. BANNON: The extract quoted by the honourable member referred specifically to churches and charitable rebates or exemptions. The Government proposed a rebate system, which was misrepresented and misunderstood.

Mr Ashenden: Mainly by you.

The CHAIRMAN: Order!

The Hon. J.C. BANNON: Consultation was held, and the churches and charitable organisations indicated that they would prefer an exemption system. The impact on the revenue was nil as between the two systems in its final effect, so to talk about that amendment being accomplished in the Legislative Council has nothing to do with the reference to particular amendments that have a revenue effect.

The Hon. E.R. Goldsworthy: I told you you didn't have the numbers there when you were talking about fixing it.

The CHAIRMAN: Order!

The Hon. B.C. EASTICK: That was clearly inferred by the extract that I read, and that was only one of a number of invitations that the Premier made to the Upper House.

Motion carried.

Suggested amendment No. 5:

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

That the Legislative Council's suggested amendment No. 5 be disagreed to.

The amendment refers to the definition of 'trust' under clause 5(4). It was moved in another place on a recommittal notice and, I would suggest, on the basis of erroneous information. The impact of this amendment would be that any transfers within institutions to different accounts would be duty free, but transfers outside those institutions would not be duty free. Apart from that fact, I will deal with two bases. First, in practical administrative terms, the banks have indicated clearly that they would find it very difficult indeed to handle that proposition. In fact, the telex that the Leader of the Opposition quoted with such relish from the Australian Bankers Association the other day contained a reference to this problem, and the Association is adamant on that point. As something like 90 per cent of transactions duty will be collected through the banks, that must be heeded.

However, there is a further argument related to equity. If this amendment was accepted, it would discriminate against those who have accounts in different financial institutions. If, for instance, one is able to pay a mortgage payment by a transaction within an institution, that transaction would be duty free, but if one is forced to pay that repayment by, say, recourse to a finance company loan or whatever (and this applies particularly to small businessmen and low income earners), it would attract duty. That is not acceptable. It does not apply in the Financial Institutions Duty Act in either New South Wales or Victoria. For the reasons I have mentioned, the Government rejects the amendment.

Mr OLSEN: The Opposition supports the Legislative Council's amendment. We sought to move this amendment in the initial stages, as it as an important ingredient to stop double taxing. I highlighted to the House that a deposit in regard to salary would be taxed once, and, if money was transferred for loan payments, mortgage payments, and so on, there would be a tax on a tax on a tax. The Liberal Party takes the view that that should not be applied to the citizens of this State.

In response to the Premier, I draw attention to the fact that the credit unions and the building societies have clearly indicated that they can identify on their computer programmes transfers of such a nature. I suggest to the Premier that, if he had detailed discussions with the banks, he would know that this practice could be effected on transfers and that the computer programmes could be established for that purpose. This amendment is important as far as the Liberal Party is concerned, and we suggested such an amendment in the initial stages. I understand that the amendment was defeated in the other place, and that the Hon. Mr Milne brought it back later.

The Hon. Michael Wilson: Voted against it and then brought it back.

Mr OLSEN: Yes.

Members interjecting:

Mr OLSEN: We will see what happens a little later. To be consistent, which the Liberal Party is being on this matter, we will continue to support the amendment as recommended by the Legislative Council.

The Committee divided on motion:

Ayes (21)—Mr Abbott, Mrs Appleby, Messrs Bannon (teller), Crafter, Ferguson, Gregory, Groom, Hamilton, Hopgood, Keneally, and Klunder, Ms Lenehan, Messrs McRae, Mayes, Payne, Peterson, Plunkett, Slater, Trainer, Whitten, and Wright.

Noes (19)—Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Chapman, Eastick, Evans, Goldsworthy, Ingerson, Lewis, Mathwin, Meier, Olsen (teller), Oswald, Wilson, and Wotton.

Pairs—Ayes—Messrs L.M.F. Arnold, Duncan and Hemmings. Noes—Mrs Adamson, Messrs Gunn and Rodda.

Majority of 2 for the Ayes.

Motion thus carried.

Suggested amendments Nos 6 to 9:

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

That the Legislative Council's suggested amendments Nos 6 to 9 be agreed to.

One of these amendments deals with the receipts of money by a pastoral finance company. I guess the important amendment in this group is amendment No. 8, which relates to the change in the manner of treating charitable organisations. The rebate system provision which was contained in the original Bill is now amended to provide for an exempt account system. The arguments pro and con those various systems have been canvassed adequately. While the net revenue effect is nil, charitable organisations feel more comfortable with the exempt system, and the Government is happy to oblige in this instance. Amendment No. 9 relates to the payment of amounts under the Commonwealth Repatriation Act, and these are exempt.

Mr OLSEN: Amendment No. 7 deals with pastoral companies. Again, it is an amendment put forward by the Liberal Party. Clearly, the Liberal Party's homework is showing benefit in improving the legislation. Obviously, we support the amendment because it was raised by the Liberal Party.

The Hon. B.C. Eastick: The Premier is being consistently inconsistent.

Mr OLSEN: Yes. I find the remarks of the Premier as they relate to amendments Nos 5 and 9 totally inconsistent. The Premier has just said that as it relates to inter-branch account transfers within a bank it is impossible or difficult for banks to identify those transfers, yet the Premier has accepted an amendment referring to repatriation cheques.

This is exactly the point that we attempted to establish. Therefore, the Premier's argument is inconsistent to say the least. He is saying that one can identify the repatriation cheques going through the system but one cannot identify any other transfers within accounts. Obviously, this amendment was put up by the Hon. Mr Milne. That seems to be the only reason for its acceptance. The Committee can see the hypocritical and inconsistent approach of the Government yet again in the amendments we are being asked to accept. What an absolute nonsense it makes of the situation through which we are going with this legislation. The amendment having been accepted—proposed by the Hon. Mr Milne—it will be interesting to see what is the trade-off. Obviously, something must be coming down the track in the deal that the Democrats have done with the Government, forcing the Government into such an inconsistent approach.

Members interjecting:

The CHAIRMAN: Order!

Mr OLSEN: I do not know. They have been locked in conference for a couple of hours, and I hope that they got something for their benefit. As the amendment relates to pastoral companies, of course the Opposition will support it, as it is an Opposition amendment, moved originally in this House. The Opposition supports the other amendments, but I point out the totally inconsistent and hypocritical approach of the Premier and point out that obviously he is not in control of the matter.

Mr BECKER: It is pleasing to note that certain amendments proposed in another place are acceptable to the Government. I am especially pleased that charitable organisations are exempt. The original scheme required them to apply for a rebate 12 months after the money had been expended. It was most unusual to ask charitable organisations to pay in advance, thus denying them hard-earned income. It was probably one of the most extraordinary proposals that I have seen in legislation for many years. I am pleased to see that charitable organisations will now be exempt. Can the Premier advise the Committee what financial impact this will have on the legislation?

Members interjecting:

Mr BECKER: It is not a matter of whether I am happy. I believe we should be getting down the track to introducing financial impact statements on all new legislation and policy proposals.

The Hon. R.G. Payne: Don't be so bloody hypocritical.

Mr BECKER: It is not being bloody hypocritical at all. I said that when we were in Government.

The CHAIRMAN: Order! Another outburst like that and the Chair may have to take action. I point out to the member for Hanson that he is straying a long way from the amendment before us and I point out to the Minister of Mines and Energy that he must not interject. The member for Hanson.

Members interjecting:

The CHAIRMAN: Order! That also applies to other members. The member for Hanson.

Mr BECKER: I was consistent in asking for financial impact statements when my Party was in Government.

Members interjecting:

The CHAIRMAN: Order!

Mr BECKER: This is another concession that the Government has now given: the Government has had to forgo a considerable amount of money because each charitable organisation would have been up for $20 at the very least. A concession is given here and I appreciate that. It would be interesting to know whether the Government or the Treasurer has some indication of the amount of money that it will forgo.

The Hon. J.C. BANNON: The $20 maximum would have applied only on an account of $50 000 plus. It was the larger charities that might be paying the maximum. Other amounts would have been very much less than that, but the intention was that an estimate would be made of the revenue so collected under the rebate scheme, bearing in mind that there would be administrative savings under the rebate scheme; that would be recycled to charitable organisations through such devices as the Community Welfare Fund. That is why I say that the overall effect of the change from rebate to exemption is nil. There may be a few thousand dollars either way, but certainly it was insignificant, because that was the intention of the Government in terms of treating anything collected under the rebate system.

Mr BAKER: I refer to Amendment No. 9. I understood from a newspaper report that the intention was to make cheques from the Commonwealth for war widows or t.p.i. pensioners exempt from duty. According to my reading, it says that an account has to be set up by virtue of the Repatriation Act. Does that mean that they each set up their own account specifically for repatriation cheques or that any account they have designated to receive the repatriation cheque is duty free for all moneys received?

The Hon. R.G. Payne interjecting:

The CHAIRMAN: Order!

The Hon. J.C. BANNON: The cheque is not dutiable, no matter what account it is paid into.

Mr OLSEN: If the cheque is not dutiable, but everything else in the account is, how do the banks differentiate?

The Hon. J.C. BANNON: We will see how it works in practice.

Mr MATHWIN: Will the Premier give clarification in relation to charitable organisations for the purpose of investing that money? Does the Surf Lifesaving Association come under that umbrella or how wide does it go in relation to the definition?

The Hon. J.C. BANNON: We explored this matter very thoroughly in Committee when the Bill was before the House. The definition of 'charitable organisation' is drawn very widely. It is governed by various statutory interpretation rules with which the Commissioner of Stamps is familiar. There will always be grey areas, but basically it is an organisation which is established for charitable or benevolent purposes, as the definition describes, and which is non-profit making, and that has to be its primary purpose. I am not prepared in the Chamber to give advisory opinions as to specific organisations, because it would depend on their constitutions, their objects and nature. We went through that at some length in Committee.

The Hon. D.C. BROWN: Can the Premier indicate whether the same simple procedure being applied to amendment No. 9 regarding repatriation cheques could also be applied to other pension cheques?

The Hon. J.C. BANNON: I am not completely familiar with the arguments that were used in support of this provision in another place, but I understand that it was because of the traditional treatment of these particular sorts of pensions for tax purposes. Repatriation pensions, by and large, are not means tested, as I understand it; so a special exception has been created for them. It is an exception, and the exception will be confined to that area.

Mr BECKER: The information that I seek from the Premier relates to amendment No. 9. Has the Government or Treasury had the opportunity since this amendment was proposed to consult the banks to ascertain whether the clause is workable? If the clause is not workable, what action can the Government take? Whilst the intention is honourable—and there is no doubt that the Hon. Mr Milne or whoever proposed this amendment is endeavouring to offer

some benefit to a group of persons (and, fair enough, if the Government can afford it, why not?)—I am a little concerned as to whether the Government has had the opportunity to consult the banks on whether it is workable. If this proposal is not workable, what happens? Parliament is being asked to consider something that perhaps we should not be considering at this stage.

The Hon. J.C. BANNON: There has not been the opportunity to fully consult with the banks in relation to this, but it is believed that a method can be found in respect of this area. If it presents problems and the intention clause is frustrated for some reason, naturally we will have to bring the measure back to the Parliament.

Mr BECKER: It is very unsatisfactory that Parliament is being asked to consider a clause, irrespective of the time, that may not be workable. I do not like the idea. It has happened that errors have occurred in legislation in the past, and the Government, irrespective of which political Party was involved, has had to bring that legislation back in a hurry and have it passed by both Houses to overcome certain problems. Here, we have the opportunity to avoid such a problem. Perhaps we should now consider deferring consideration of this clause until we can consult with the banks, because why have legislation, failure to comply with which incurs very heavy penalties of up to $10 000 and places the organisations in question in a difficult situation, when we have not had the opportunity to give those organisations the chance to see whether the measure is workable? The other situation that we have to consider is the cost being forced on those organisations to provide this exemption. In all honesty and fairness, we should defer consideration of this clause until we can consult the people who are affected—the financial institutions.

Motion carried.

Suggested amendment No. 10:

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

That the Legislative Council's suggested amendment No. 10 be disagreed to.

This amendment is consequential upon an earlier amendment (No.5) relating to clause 3.

Mr OLSEN: I ask the Premier to detail to the Committee the reasons why he has moved disagreement with the amendment and to say why the amendment would be any more difficult to implement than amendment No. 9, which has just been agreed to by the Committee.

The Hon. J.C. BANNON: The Committee has already considered this under amendment No. 5. This is consequential on that. I explained under that clause the reason for the disagreement to the amendment made by the Upper House. This is a consequential amendment, and as the earlier one was disagreed to, it follows for the same reason.

Mr OLSEN: I ask the Premier why he recommended amendment No. 9 for acceptance by the Committee as being a reasonable and operative amendment when he says this one is not.

The Hon. J.C. BANNON: Amendment No. 9 was carried by another place as a reasonable exception in its view, and the Government has accepted that. It does not see that principle extending any further than that contained in amendment No. 9.

Mr OLSEN: Does the Premier agree that we are talking in banking terms about the same procedures within the institutions to identify both those areas?

The Hon. J.C. Bannon: No.

Mr OLSEN: If he does not, I suggest that he is rather naive in terms of basic accounting. I think possibly the difference is that one amendment was moved by Mr Milne and the other by the Liberal Party.

The Committee divided on the motion:

Ayes (21)—Mr Abbott, Mrs Appleby, Messrs Bannon (teller), Crafter, Ferguson, Gregory, Groom, Hamilton, Hopgood, Keneally, and Klunder, Ms Lenehan, Messrs McRae, Mayes, Payne, Peterson, Plunkett, Slater, Trainer, Whitten, and Wright.

Noes (19)—Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Eastick, Evans, Goldsworthy, Gunn, Ingerson, Lewis, Mathwin, Meier, Olsen (teller), Oswald, Wilson, and Wotton.

Pairs—Ayes—Messrs L.M.F. Arnold, Duncan and Hemmings. Noes—Mrs Adamson, Messrs Chapman and Rodda.

Majority of 2 for the Ayes.

Motion thus carried.

Suggested amendments Nos 11, 12 and 13:

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

That the Legislative Council's suggested amendments Nos 11, 12 and 13 be agreed to.

One of those amendments relates to the charitable organisations and another to proceedings under the Act. However, I draw attention to No. 11, which amends clause 8 of the Bill. At line 16 a formula is provided for calculation. It states:

(a) where the person is a registered financial institution (not being a person entitled to make application under section 32 for approval of an account as a short-term dealing account)—

That formula is $\frac{A}{10B}$. The amendment is to make the formula $\frac{A}{12B}$. This matter was considered in another place and the Government has taken it into consideration. It seems to be a fair basis of calculation and is therefore acceptable.

Mr OLSEN: I ask the Premier to detail the net cost effect of that amendment.

The Hon. J.C. BANNON: I am advised that it is between $100 000 and $200 000 more favourable under this amendment for the duty paid.

Mr BAKER: If in fact South Australia only contributed some 8½ per cent of the short-term money dealings in Australia, why in the original Bill did the Premier require one-tenth to be the dutiable amount?

The Hon. J.C. BANNON: It can be only an estimate, because at the moment we are not contributing anything in round terms and it is very hard to calculate, because these are national transactions. One-tenth was the rough rule of thumb figure used The amount of 8½ per cent is somewhere less than that—perhaps it relates to population share or share of the national transaction. It really has to be an estimate. Certainly, the higher or lower one puts it has an effect on the revenue so derived. However, we are prepared to accept the 8½ per cent formula.

Motion carried.

Suggested amendments Nos 14 and 15:

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

That the Legislative Council's suggested amendments Nos 14 and 15 be disagreed to.

Amendment No. 15 is consequential. No. 14 refers to a new subclause defining a charitable organisation and relates to the exemption clause. The reason that this has been disagreed to is that it is picked up more effectively under amendment No. 21, as amended. I will be moving that in an amended form by adding some words to it which picks up effectively and more appropriately the intention of No. 14, and therefore I move that that be disagreed to because when we reach amendment No. 21, I can move it in an amended form by inserting it into the amendment proposed to clause 34.

Motion carried.

Suggested amendments Nos 16 and 17:

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

That the Legislative Council's suggested amendments Nos 16 and 17 be agreed to.

Amendment No. 16 is a verbal modification of the clause to bring it into conformity with other language used. Amendment No. 17 relates again to the matter of pastoral finance companies which we have already dealt with earlier under amendment No. 7.

Motion carried.

Suggested amendment No. 18:

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

That the Legislative Council's suggested amendment No. 18 be disagreed to.

Again, this amendment is picked up in the addendum that I intend to move to amendment No. 21. For the purpose of reading the Act, that is a more appropriate place for it, so, while deleting it from here, under amendment No. 17, I give notice that I will be reinserting it at amendment No. 21.

Motion carried.

Suggested amendments Nos 19 and 20:

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

That the Legislative Council's suggested amendments Nos 19 and 20 be agreed to.

These are consequential on the exemption clause that has been adopted earlier.

Motion carried.

Suggested amendment No. 21:

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

That the Legislative Council's suggested amendment No. 21 be amended as follows:

Leave out paragraphs *(c)* and *(d)* of new clause 34 (2) and insert paragraph as follows:

(c) a charitable organisation is eligible to have any account kept in its name approved as a special account.

Leave out '*(c)* or *(d)*' from new clause 34 (5) *(b)*.

After clause 34 (5) *(b)* insert paragraph as follows:

(c) an amount shall not be paid to the credit of such an account kept in the name of a charitable organisation unless that amount represents moneys to which the organisation is exclusively entitled.

That wording has been circulated to honourable members and they can examine it. However, effectively it picks up those two earlier amendments which were separated and to which I referred when we came to them. They were disagreed to and they are being inserted into a new clause 34 (2) which is their most appropriate place. Of course, they are part of the establishment of the exemption system for a charitable organisation.

Mr OLSEN: The Opposition accepted the recent deletions to which the Premier referred to support this amendment proposed by the Legislative Council with the additions, that is, the amendments proposed by the House of Assembly to be referred to another place. Amendment No. 21 picks up yet another area proposed by the Liberal Party in relation to trust accounts and ensuring that those areas are exempt from the duty and those accounts that do not have a value added to them. However, the Liberal Party believes that those accounts being held in trust for another person is a matter of principle and that moneys held in such accounts ought not be subject to duty. The acceptance of the amendment before the Committee achieved that amendment as put down by the Liberal Party.

Mr BECKER: I agree with the proposals, but I wonder whether it tidies anything up. The only thing I object to is that, whilst charitable organisations are exempt, they would have to go through the humbug of having to apply for exemption. I was hoping that that could be avoided. Has the Premier considered whether or not this issue can be simplified? When the Federal Government introduced its new tax system, charitable organisations were advised of the situation by their respective bankers. I do not recall seeing publicity inviting charitable organisations to apply for exemptions from the Federal Government tax. I understand that several organisations were late in applying for the exemption. Further, it took the department handling the applications some time to process them and the banks only acted upon receipt of a certificate.

It would be welcomed if some simple way of handling this matter in relation to charitable organisations could be arrived at. The problem is that the Government would have to spend money if it advertised to draw this matter to the attention of charitable organisations. Perhaps a general announcement could be made urging charitable organisations to contact the Department after a certain time and a simple form could be used to record the necessary information. The form could be checked by the Chief Secretary's Department, because I think that charitable organisations are registered with that Department. (So it would be in the best position to record the exemptions).

I find the words in the final part of the proposed Government amendment interesting. They state:

An amount shall not be paid to the credit of such an account kept in the name of a charitable organisation unless that amount represents moneys to which the organisation is exclusively entitled.

The Premier may be aware that some years ago I brought to the attention of Parliament the fact that a tax avoidance scheme was operating whereby members of the legal profession were arranging for straw companies to be opened and closed on 30 June. The scheme involved charitable organisations, which were used to gain substantial tax benefits for the sponsor's organisation. For instance, a straw company would be opened with a $100 000 donation and the charity involved would issue a receipt for that amount. The company making the donation would obtain a full tax benefit but, being a straw company, was then wound up on the same day. The charitable organisation would be offered 10 per cent (say $10 000, of the $100 000) and the balance would then be refunded to the original donor.

I drew this matter to the attention of the Federal Treasurer, because he promised to close legal loopholes of this kind involving taxation avoidance. I am not aware whether the loophole was closed. Because I drew the scheme to the Federal Treasurer's attention, nobody has been game to bring any similar scheme to my attention. The Treasurer would be aware that many similar schemes operate from time to time and use charitable organisations in the way that I have described. I hope that this may be one way of avoiding that happening, because the straw company system is used from time to time. At the same time, money is deposited with charitable organisations for specific purposes such as research grants. That money may find its way into the general fund after a certain time. Will the Premier provide a detailed explanation of the reasons for this measure? If it closes any tax avoidance schemes, I will be delighted. There are two proposals involved: one is a simple form for registering charitable organisations as exempt bodies and the other will stamp out possible tax avoidance schemes.

The Hon. J.C. BANNON: One of the advantages of the rebate system, which also involved application for rebate, was that it provided much greater control over possible avoidance schemes and systems surveillance because of the nature of manual application. However, an exemption system certainly opens up some of the problems to which the honourable member has alluded. In New South Wales, I understand that the institutions determine which bodies qualify as charitable organisations. They are not very happy about that. It is certainly a simpler procedure, but it also means that they must make judgments and there is a suggestion that it is much more difficult for a financial institution to police and judge what is or what is not a proper charitable organisation account than having it done centrally through an exemption list.

Therefore, we have not imposed that burden on financial institutions: it will be done by application to the Commissioner. Application is necessary to allow assessment, but, bearing in mind the problem raised by the honourable member in relation to the time taken to apply and possibly process such applications, the transition provisions allow in the initial stage a charitable organisation to effectively be given an interim exempt account by a financial institution, and over that transition period it can be quickly assessed and either confirmed or rejected. In most cases I imagine that confirmation would be appropriate because, as the honourable member suggested, it is fairly clear that charitable organisations are aware of their status. So, in the interim period I think we will avoid the problems that the honourable member suggests and then, of course, any organisation wishing to operate an exempt account can do so.

The Hon. B.C. EASTICK: The Opposition will not oppose the action that the Government is now taking, because we take the view that the matters have been heavily canvassed in another place. Further, if the Government has an alternative that it wishes the other place to consider, we do not believe that we should prevent that from occuring. That is not to suggest that we totally support the end result, because there is an inherent fear that trustee accounts will be knocked out and, as a result, the ongoing difficulty that was resolved, by the manner in which the Bill was first put to the other place, may be something that it would want to question, and question very seriously. However, as a result of recent discussions, we believe that it is only right that further consideration take place in the Council rather than here. Our support is conditional on that basis.

Mr BAKER: Some amendments delete, and others insert something entirely new. The Premier has not referred to paragraphs *(c)* and *(d)* in regard to trustee accounts under the Legal Practitioners Act and business agents and land brokers legislation. Does the Premier intend that these matters will not be included under the special account provisions?

The Hon. J.C. BANNON: It is the intention that those accounts be dutiable, as is the case in both New South Wales and Victoria, and later amendments relate to that area.

Motion carried.

Suggested amendments Nos 22 to 37:

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

That the Legislative Council's suggested amendments Nos 22 to 37 be agreed to.

These consequential amendments provide, for example, language alterations to bring them into conformity in regard to amendments already made, such as in regard to the clause that we have just considered. Some relate to amendments that were moved in another place and accepted there by the Government, such as the amendment in regard to an assessment or decision, for instance. These amendments have been made for purposes of clarity. For example, in regard to No. 27 a provision concerning 'decision of the Commissioner' is also included.

Amendment No. 37 concerns an extension to the period of operation. This relates back to amendment No. 1 in regard to the original alteration to the period of operation. Amendment No. 37 is consequential upon the original amendment and provides different dates consequential upon making 1 January the operative date for filing of returns and various other procedures.

Mr OLSEN: The amendments before the Committee clarify the position and generally tidy up the Bill. As the Premier indicated, amendment No. 37 is consequential upon the amendments already passed by the Committee. The Opposition supports the amendments.

Mr BAKER: I point out that a number of amendments are contained in this group. I do not think any of us have had the time to consider them. I do not know how the Committee can agree to those amendments under these circumstances. For example, there may well be errors contained in them because of transposition. I simply want to indicate my dissatisfaction with the system which requires that we examine amendments from the Upper House which we really have not had time to have a good look at.

Members interjecting:

The CHAIRMAN: Order! The member for Mitcham has the floor.

Mr BAKER: Certainly they may improve the legislation, but we have the right to be able to relook at the legislation as amended. A group of 16 amendments is to be agreed to without anyone having had a chance to look at them. I find this system totally unsatisfactory and point out that it would have been appreciated if some time had been put aside to enable us to have a look at the amendments.

Motion carried.

Suggested amendment No. 38:

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

That the Legislative Council's suggested amendment No. 38 be disagreed to.

This matter is picked up under amendments Nos 47 and 48, which I will be moving that we agree to. Therefore, this matter is covered under those amendments.

Motion carried.

Suggested amendments Nos 39 to 48:

The Hon J.C. BANNON: I move:

That the Legislative Council's suggested amendments Nos 39 to 48 be agreed to.

Amendments Nos 39 to 46 relate to the date of operation. Amendments Nos 47 and 48 are the two clauses in the schedule to which I referred a moment ago.

Motion carried.

The following reason for disagreement was adopted:

Because the amendments would prejudice the operation of the Act.

[*Sitting suspended from 5.18 to 6.40 a.m.*]

FINANCIAL INSTITUTIONS DUTY BILL

The Legislative Council intimated that it had agreed to the amendments made by the House of Assembly to its suggested amendment No. 21, and that it did not insist on its suggested amendments Nos. 5, 10, 14, 15, 18 and 38.

STAMP DUTIES ACT AMENDMENT BILL (No. 2)

Returned from the Legislative Council with the following suggested amendments:

No. 1. Page 1, lines 14 and 15 (clause 2)—Leave out 'first day of December, 1983' and insert 'first day of January, 1984.'

No. 2. Page 1, line 21 (clause 3)—Leave out 'first day of December, 1983' and insert 'first day of January, 1984'.

No. 3. Page 2, lines 13 and 14 (clause 7)—Leave out 'first day of December, 1983' and insert 'first day of January, 1984.'

No. 4. Page 2, line 17 (clause 8)—Leave out 'first day of December, 1983' and insert 'first day of January, 1984'.

No. 5. Page 2, line 22 (clause 9)—Leave out 'first day of December, 1983' and insert 'first day of January, 1984'.

No. 6. Page 3, lines 3 and 4 (clause 10)—Leave out 'first day of December, 1983' and insert 'first day of January, 1984'.

Consideration in Committee.

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

That the Legislative Council's suggested amendments Nos. 1 to 6 be agreed to.

The amendments are consequential on the change of operation date of the Financial Institutions Duty Bill and, by bringing it into line with that, substitute for 'the first day

of December 1983' the words 'the first day of January 1984' in the appropriate parts of the Stamp Duties Act Amendment Bill.

Mr OLSEN: The sell-out is complete. We see before us an amendment from the Legislative Council that dovetails quite clearly into the deal that has been done behind closed doors to subvert the processes of this Parliament—a deal done between the Democrats and the Treasurer to rescue a faulty money Bill before the Parliament. This amendment before us completes the sell-out—the pact, the deal, done between the two of them. What a way to run a Government! What a way to run Parliament! What a way to introduce the first tax measure introduced in this Parliament for 10 years! What a sorry situation it has been!

The Hon. B.C. Eastick: There has not been once since 1974.

Mr OLSEN: The first one for 10 years, indeed. It is a very sorry situation when we see a measure on which obviously the Premier had not done his homework. There are more holes in it than you could drive a bus through. The amendment before the Committee dovetails clearly in with the date for the financial insitutions duty because we were waiting two hours while the Premier screwed Lance Milne's hand a little more tightly behind his back to bend him over a little further. Quite clearly, the Democrats might as well be Australian Labor Party members.

Motion carried.

ADJOURNMENT

At 6.48 a.m. the House adjourned until Tuesday 29 November at 2 p.m.