HOUSE OF ASSEMBLY

Wednesday 23 March 1988

The SPEAKER (Hon. J.P. Trainer) took the Chair at 2 p.m. and read prayers.

PETITION: SHOP TRADING HOURS

A petition signed by 5 596 residents of South Australia praying that the House reject any proposal to extend retail trading hours was presented by Mr Allison.

Petition received.

PETITION: STRIP SEARCHES

A petition signed by 216 residents of South Australia praying that the House reject any proposal that allows correctional services officers to strip search remandees and prisoners of the opposite sex was presented by Mr Becker.

Petition received.

PETITION: FIREARMS REGULATIONS

A petition signed by 575 residents of South Australia praying that the House urge the Government to confer with owners of firearms before changing regulations governing their use and ownership was presented by Mr Blacker.

Petition received.

QUESTIONS

The SPEAKER: I direct that the following answer to a question without notice be distributed and printed in *Hansard.*

SCRIMBER PROJECT

In reply to the **Hon. B.C. EASTICK** (2 March).

The Hon. R.K. ABBOTT: The rate of extraction for the period ended 30 June 1987, was 25 366.4 cubic metres and, to the end of February 1988, 70 000 cubic metres had been extracted. As the rate of extraction is 80 000 cubic metres a year for five years the required level of take will be on schedule for the end of the financial year 1987-88.

AUDITOR-GENERAL'S REPORT

The SPEAKER laid on the table the Supplementary Report of the Auditor-General for the year 1986-87.

Ordered that report be printed.

MINISTERIAL STATEMENT: STATE OPERA COMPANY

The Hon. J.C. BANNON (Premier and Treasurer): I seek leave to make a statement.

Leave granted.

The Hon. J.C. BANNON: I wish to inform the House of the decisions that have been made in recent days regarding the future of the State Opera Company of South Australia, a company established by statute. The Auditor-General's Report on the accounts of the State Opera Company has just been tabled. Members will recall that the Auditor-General was unable to include the annual financial statements of the company in his 1987 report to Parliament.

Although the 1986-87 statements have now been satisfactorily completed, in the course of doing so serious inadequacies were revealed in the State Opera's internal accounting systems. Decisions on the 1987-88 program were made on the basis of inadequate and inaccurate financial information. Following the resignation of the company's Chief Accountant, the State Theatre Company's Finance Manager was engaged to assist the completion of the 1986-87 statements, and to prepare a report on the 1987-88 accounts.

Given the parlous state of the company's accounts, the task of completing the 1986-87 statements and revealing the current financial situation took considerable time and effort. However, it is now clear that the company is likely to face an accumulated operating deficit of $510 000 for the 1987-88 financial year. This deficit, which has arisen mainly from an over-ambitious program, poor box office results, and an inability to adjust workforce members in line with the 1987-88 budget allocation, is unacceptable.

In the absence of urgent remedial action, I made clear that the company would have to be wound up or its operations suspended. The Arts Finance Advisory Committee reported on a strategy that might see the State Opera discharge this liability, and the board has accepted the recommendations of the committee and the department and will take immediate action to reduce operating costs. Because of existing contracts, it has not been possible to cancel or reschedule operas planned for 1988. However, the overall costs of that program will be reduced.

In the first half of 1989, the company will mount only one production, and only one in the second half of the next year. It is worth noting that the Australian Opera is anxious to return to Adelaide and is now negotiating to tour in late 1989. This combined with the State Opera's own productions will see an opera presence maintained. In 1990, the company will mount a festival production, a concert or similar activity, and schedule only two productions for the latter half of the year. By 1991, it should be possible for the company to mount a four-opera season. These changes represent a significant change from the current five-opera season. They will result in savings on staffing and administrative costs, but employment implications are inevitable.

Every effort will be made to redeploy staff within the public sector or find opportunities in other arts companies where they arise. The department will assist in this process. The management of the company will also undergo considerable change. The present General Manager has been asked to consider his future, and the company will be streamlining its administrative structures.

Finally, the chairman and members of the board have offered their resignations to me as Minister in acknowledgment of their ultimate responsibility. I have decided not to accept their resignations, but instead to ask the board to undertake the difficult task of turning the company around. I have, however, decided to appoint a new chairman of the company from within the existing board. Mr Keith Smith, Managing Director of Safcol Holdings Limited, has accepted the position as chairman. The outgoing chairman, Mr Alan Hodgson has agreed to continue as a member of the board to assist in the reconstruction process.

I regret that one of our flagship art companies has been so sadly lacking in its management of public funds. However, I believe that with close monitoring by the AFAC the Department for the Arts, and Treasury, it is possible for

the company to recover its losses. The company is on notice to perform in accordance with its financial targets if it is to continue to attract public subsidy.

QUESTION TIME

The SPEAKER: Before calling for questions, I advise that questions that would otherwise be directed to the Deputy Premier will, in his absence, be taken by the Premier.

MINISTERS' INTERESTS

Mr OLSEN: Has the Premier laid down rules for the declaration of personal or pecuniary interest by Ministers in matters which come before Cabinet, are such rules in writing and, if so, will he table them? If they have been laid down but are not in writing, will he outline to the House the procedures he has established for Ministers, first, to declare their interest to the Premier and the Cabinet and, secondly, having declared an interest, whether he requires a Minister to be absent during discussion of the matter and to abstain from taking part in the Cabinet decision?

The Hon. J.C. BANNON: That is a substantial and complex question, which I will take on notice.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: In order to give an adequate answer to the Leader of the Opposition I will undertake to furnish him with a full report on the situation.

SURREY DOWNS PRESCHOOL

Ms GAYLER: Will the Minister of Children's Services review whether it makes sense to reduce staffing at Surrey Downs preschool at a time when curtains are going up in new houses each week as young families move in? The Children's Services Office has reduced staffing at the centre from 4 to 3.5 members because the number of 4 year olds has fallen by two under the formula required for staffing. They are about to lose three students and to gain 13 new entrants. The preschool is immediately adjacent to the new development area of Surrey Downs, into which new families are moving weekly.

The Hon. G.J. CRAFTER: I thank the honourable member for her question. It is difficult for the staff of the Children's Services Office to predict staffing requirements in new housing estates and, indeed, the staffing of our kindergartens is very finely tuned so that we can distribute staff across our system in the most appropriate way, according to the needs and other criteria that have now been well established in the Children's Services Office. As I outlined to the House yesterday, substantial improvements have been made in this area of Government service to the community and I will ensure that the situation and staffing requirements with respect to projections of growth in the Surrey Downs area are reviewed accordingly.

UNLEY PROPERTY

The Hon. E.R. GOLDSWORTHY: My question is directed to the Premier. If it is true that the Minister of Agriculture made Cabinet aware of his participation in a property auction in his street, why did the Premier not insist that the Minister absent himself from Cabinet deliberations and discussions on the subsequent use of the property so as to avoid a conflict of interest?

The Hon. J.C. BANNON: There are two aspects to that question. First, in discussions with the Minister, I have now satisfied myself that he did make that statement but, as I said yesterday—

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: —I did not hear that statement. If I had, it would have been so recorded. Secondly—and perhaps more importantly—at the time Cabinet was discussing this matter and, in the circumstances of its consideration of this matter, no conflict of interest was present in relation to that particular action. As far as I am concerned, that is the fact. As I said yesterday, there was clear personal interest on the part of the Minister, in that he was resident in the area surrounding this application, but there was also interest on his part as a local member for the area. What was brought before Cabinet was not a submission from the Minister on his behalf, either personally or even on behalf of his constituents, but rather it was a submission from the responsible Minister (in this instance, the Deputy Premier)—

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: —based on the representations made to him by the Minister. That is quite appropriate. I repeat again: I do not believe it is appropriate for local members to be precluded from raising issues whether or not they are in Cabinet. In relation to this residential requirement—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! I call the Leader of the Opposition to order.

The Hon. J.C. BANNON: —it is interesting that we, as members of Parliament, are encouraged or urged to live in the communities that we represent. That is not always the case: it is not always possible. It is interesting that the implication of what the Opposition says is that it is probably in the interests of a member to make sure that he is as far away from his constituency as possible because, if he tries to take up any local issue on their behalf, he will immediately be accused of having a conflict of interest.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: Such interest as was relevant was declared and I am satisfied that what the Opposition has said and the imputations and slurs that it has cast are not warranted.

CHILDREN'S ROAD SAFETY TRAINING CENTRE

Mr M.J. EVANS: Will the Minister of Housing and Construction immediately enter into negotiations with his colleague, the Minister of Transport, to ensure that the Children's Road Safety Training Centre at Elizabeth is not closed on 30 June this year as a result of the high rent demanded for the site by the Housing Trust? The Elizabeth Children's Road Safety Training Centre was established by local Lions Club members over a decade ago as a community service and since then approximately 13 000 children a year have benefited from the training given at the centre by the Department of Transport.

The initial rental charged for the site by the Housing Trust was a very nominal $10 a year and the Lions Club

members who were involved in the original transaction have advised me that this was a deliberate peppercorn rental designed to reflect the unsuitability of the site for commercial purposes, the valuable community service for which the site was being used and the fact that the rent was being paid by another Government agency. Once the centre had been established, the rent was then progressively increased over the years to the current level of $16 000 per annum. The Lions Club allowed control of the centre to pass to the Department of Transport at the specific request of the then Minister, Geoff Virgo, on that basis.

In his response to my recent question without notice, the Minister of Transport, in effect, advised the House that the main reason that the centre is unable to accept further bookings after 30 June this year is the threat of an annual rent bill from the Housing Trust of greater than $16 000 which now hangs over his department. The Lions Club is unable to accept that any alternative site could be developed by this deadline. It sees the decision to refuse to accept further bookings as the same as a decision to close the centre, a decision which would see the trust getting no rent for the site and the children of the northern area denied valuable road safety training.

Members interjecting:

The Hon. T.H. HEMMINGS: I thank the honourable member for his question. There was an interjection from the other side that it was a very good question, and I agree. But one thing rather surprises me. The Children's Road Safety Training Centre is not in my own electorate, although my electorate is near that area. There was a meeting of the Lions Club—in fact, a dinner. I accept quite publicly and quite sadly that, as a corporate body, the Elizabeth Lions do not like me, but I do have a few personal friends in there. However, the member for Elizabeth was invited to be a guest at this dinner, and so he should have been, as he is the local member. Bearing in mind what was on the agenda—one of the Minister's officers, I think from the Road Safety Council, was a guest speaker—surprise, surprise, the member for Bragg was invited, and that therefore explains his very good question.

I am informed that at that meeting both my colleague the Minister of Transport and I were maligned rather badly, and I was told that my ears should have been burning. Perhaps the member for Bragg should have let the meeting know that the rent to which the member for Elizabeth is referring quite correctly started in 1975 at $10 000, was not changed when the Tonkin Administration came in, and has been progressively going upwards. Perhaps the member for Bragg was digging heavily into his sweet when they obviously wanted a reply to that.

In regard to whether I should go into direct negotiations with my colleage the Minister of Transport, I have been doing exactly that. Perhaps the Lions Club should realise that there might be a bit of strength in the local member having a vested interest, as Minister of Housing and Construction, who will be able to consult with his colleague the Minister of Transport to ensure that there is provision for road safety in that particular area.

Perhaps the member for Elizabeth should realise, along with all other members of this House, that the Housing Trust and the Government are facing severe funding restrictions. In relation to the argument put forward by the member for Elizabeth and others when a take-away food outlet wanted to purchase land that we were providing for car parking, my answer was quite correct: we are in the business of providing housing for the homeless.

Mr Becker interjecting:

The Hon. T.H. HEMMINGS: The member for Hanson should realise that. We are in the business of providing housing for the homeless and not to provide car parking for commuters, and the same applies in this instance. We are in the business of getting valuable rent for a property which is valued at $163 000. In discussion with my colleague the Minister of Transport, who is a very compassionate man, as the local member I have been assured—and I did it in the correct way—that the Government has not yet made a decision on this matter. The Government will, however, continue a local safety centre in the Elizabeth area, and because of the cost of maintaining that centre we are looking at alternatives. Such alternatives will embrace the complete area of road safety activities—which involve motor cycle training, etc.—all on one site. So, I think that explains the situation.

First, the Housing Trust is not in the business of giving peppercorn rentals, an activity that ceased in 1975. We are in the business of providing housing for the homeless—and I would have thought that the member for Hanson would have supported that. I would advise the member for Bragg, next time he receives a freebie dinner on behalf of his friends in the Lions, to perhaps see me and elicit my support in talking to the Minister of Transport.

UNLEY PROPERTY

The Hon. JENNIFER CASHMORE: How did the Premier satisfy himself that the Minister of Agriculture did inform Cabinet about his participation in an auction of property on which the Government subsequently attempted to stop development? Yesterday, the Premier told the House twice that he had not even been aware that this property had been auctioned, let alone that the Minister had been a bidder, but in the *Advertiser* this morning, the Premier is quoted as saying he had later checked out the matter and was satisfied that the Minister had in fact declared his interest.

The Premier's memory lapse during Question Time yesterday relates to Cabinet discussions which occurred only just over three weeks ago, on 29 February, the day before a special meeting of Executive Council was convened to block development of this property. Response to radio programs this morning indicates widespread public disbelief that the Premier could have forgotten in such a short space of time that the Minister of Agriculture had made such an important declaration of interest to his Cabinet colleagues.

The Hon. J.C. BANNON: Firstly, the basis of that explanation is quite wrong. I am not claiming a memory lapse; I am simply saying that I did not hear the statement that was made. I did not hear it, so there is no memory lapse on my part. I have since spoken both to the Minister and to the Minister presenting the submission, who assured me that, in fact, this statement was made, thus I have satisfied myself that that was made.

Members interjecting:

The SPEAKER: Order! I call the member for Coles to order.

The Hon. J.C. BANNON: I am surprised that the member for Coles continues to interject in that way. That is what she tried to do when ostensibly debating with the Minister yesterday. I would have thought that if she had listened to what was said then she would not be trying to pursue this matter and wringing everything out of it in this way. I repeat that, in any case, this did not directly relate to a conflict of interest on the submission that was before us, so it is not a question of a memory lapse—nor did I

contend that I had one. I said that I did not recall it being said, I still do not recall it being said, but I am assured that it was said.

ACCESS ROADS

Mr GREGORY: Will the Minister of Transport take such action as necessary so that, first, traffic lights are erected at the junction of Milne and McIntyre Roads, Modbury Heights and, secondly, the portion of stage 2 of McIntyre Road between Milne and Montague Roads, Modbury North, is completed? With the completion of the first stage of McIntyre Road between Bridge Road and Milne Road, residents of Modbury Heights who use Kingfisher Drive as an access road are experiencing extreme difficulty in entering Milne Road during peak traffic conditions, and they have advised me that the situation is dangerous and that they are fearful that accidents may occur.

The Hon. G.F. KENEALLY: I will certainly take up the matter with the Highways Department to have it look at the works program and at what is possible in an area that I acknowledge has increasing traffic strains. The roads mentioned by the honourable member form part of a very important urban arterial road system, which will be of benefit not only to the electors of the District of Florey but also the electors of other districts in the northern and north-eastern parts of the city, particularly to accommodate those motorists who are driving through the area, where the traffic is not generated from within the area. It is an important part of the Highways Department's and the Government's road system for the north and north-east.

It is true that modern planning, which ensures that there are as few access roads to major arterial roads as possible, concentrates traffic in that area, and that needs to be accommodated. I will have evaluated the traffic problems to which the honourable member has alluded. I give an assurance that I will do what I can to ensure that the problems that are identified are overcome as soon as it is practicable and resources will allow.

UNLEY PROPERTY

Mr OLSEN: How does the Minister of Agriculture reconcile his contention that he informed Cabinet of his involvement in the auction of a property near his home with this afternoon's statement by the Attorney-General that, so far as he is concerned, the Minister made no such admission to Cabinet? On the *7.30 Report* last night, the Minister said that he had revealed his interest during Cabinet discussions in which the Premier, the Minister for Environment and Planning and the Attorney-General had taken particular interest. However, in another place this afternoon the Attorney-General has repeated what he told some Legislative Councillors yesterday: that so far as he is concerned, the Minister had not revealed this matter to Cabinet.

The Hon. M.K. MAYES: I am happy to have a look at what was said in the other place, but my position—

Members interjecting:

The SPEAKER: Order!

The Hon. M.K. MAYES: Some of the things that the Leader of the Opposition has said are not very clear at all, but I am happy to reiterate the statement that I made last night on the *7.30 Report*. I may say that I enjoyed greatly the opportunity to debate the issue with Ms Cashmore. The question is quite clear. I made my statement and I can recall the time and the wording, and I made it quite clearly.

Members interjecting:

The Hon. M.K. MAYES: Well, it is not what the Minister for Environment and Planning has said—

Members interjecting:

The SPEAKER: Order! I ask the Minister to resume his seat. I call the Leader of the Opposition to order for the second time. I ask members to bear in mind that it is one of our longstanding traditions that a member should be heard and not drowned out. The honourable Minister.

The Hon. M.K. MAYES: The position is quite clear and I am clear in my own mind as to what I said. I have restated that and I will restate it time and again in relation to the position. I support what the Premier said in regard to the situation. I do not see a personal conflict in representing my local constituents. Obviously Opposition members have a problem in representing their local constituents and obviously Ms Cashmore cannot come to a clear definition in her own mind about how a Minister of the Crown, which she had a brief—

The SPEAKER: Order! The Minister must refer to the honourable member by her correct title.

The Hon. M.K. MAYES: Thank you, Mr Speaker. I will refer to the member for Coles, who has difficulty in understanding the difference regarding a local member both as a representative and as a member of the community. Representing them is exactly what I did in my role. In relation to this issue, because the House rose early last night, I had the opportunity to attend a meeting of residents to discuss this issue. It is fair to say that the residents are outraged with the way in which this has become a vindictive attack, particularly by Ms Cashmore and other members of the Opposition. They continue with this particular line and, knowing their past performance, I am sure that they will. Let me just say that a number of prominent, eminent citizens who live in the area are prepared to indicate to the community and Ms Cashmore and she may have the opportunity in the near future—

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! I again remind the Minister that he must refer to the member for Coles by her title.

The Hon. M.K. MAYES: Thank you, Mr Speaker. The honourable member will have the opportunity to defend—

Members interjecting:

The SPEAKER: Order! I call the honourable member for Coles to order. The honourable Minister.

The Hon. M.K. MAYES: —her position when the opportunity arises in another place at another time. It has been clearly said that at that meeting of residents I made a public declaration that I would advise Cabinet the following day, and I did so. I suggest to the honourable member that she look carefully at her press release of yesterday and consider how she will defend herself when this matter becomes a matter for the courts. I clearly advise her to defend herself because she made a basic error of judgment in not saying in this place what she said outside. If I do not receive a public apology from the honourable member, the matter will proceed in the courts, as I have indicated earlier today. I invite the honourable member now to make that public apology in this Chamber. If she does not accept that invitation, we must assume that she stands by what she said last evening.

I have a clear conscience on this matter. I represented my constituents and I shall continue to do so. I have already stated that were the same circumstance to arise I would do it again because I believe I was acting properly as a local member. Further, I know that those of the honourable member's colleagues who represent their constituents actively

and generously would do exactly the same as I in representing their constituents. Some members, such as the member for Mitcham, might not, because they have a different attitude about how they should represent their constituents. However, I believe clearly that I have represented my constituents very properly, and over the past 24 hours I have obviously received significant endorsement from them on the way in which I have acted. My constituents are infuriated by the way in which they have been subjected to some sort of intellectual denigration by the suggestion that I would incite what I regard as an intelligent electorate into supporting me in some sort of political campaign for my own benefit. If the Opposition thinks that my electorate is silly enough, smug enough, or mug enough to do that, I wonder at the intelligence of members opposite.

INDUSTRY POLICY

Ms LENEHAN: Will the Minister of State Development and Technology say whether there is any conflict between Commonwealth and South Australia industrial policies? An article in the *Weekend Australian* entitled 'Federal-State conflicts in industry policy criticised' states:

> Conflicts between some Commonwealth and State industry policies have inhibited past development of internationally competitive innovative and export-oriented industry says the Department of Industry Technology and Commerce (DITEC). A paper on State industry policies released yesterday and prepared for the Economic Planning Advisory Council . . . states that complimentary and mutually reinforcing Commonwealth and State approach to industry development would offer substantial benefits.

The article goes on to say that possible areas suggested by DITEC include business regulation education and training, transport, State industry incentive policies, business charges and taxes and standards, accreditation and quality control. As there is no reference in the article as to which States have industrial policies that conflict with Federal policies, I ask the Minister to say whether South Australia is one of the States referred to in the article.

The Hon. LYNN ARNOLD: I thank the honourable member for her question. I believe that the headline of that article puts into a wrong context the kind of relations that have existed, certainly in recent years, between Federal and State Governments regarding development of national policies on industrial and other forms of development. Indeed, the body of the article goes on to belie the negative tones of the title of the article. I shall quote again from the EPAC paper referred to in order to show what was really being said; in that paper, in the 'Executive Summary', the following appears:

> Some State policies and Commonwealth-State policy inconsistencies or even conflicts have in the past . . . In recent years, however . . . State and Commonwealth Governments had pursued policy objectives with increasingly common themes . . .

In the past, from 1975 to 1982, we had a Federal Liberal Government and Liberal Governments in some States. From 1982 until now there has been a majority of Labor Governments at Federal forums dealing with development matters. The particular ministerial conference that I attend in relation to these matters (the Australian Industry and Technology Conference) chaired by John Button, has been a very creative and positive forum and has seen the development of a number of united approaches on important development matters affecting this country. It is done in a non-partisan way. The leadership of John Button and the participation of all States in that forum have seen agreements, for example, on State preferences being arrived at, as well as agreements in the area of offsets and a number of other important initiatives.

Whereas there were conflicts in the past because of the incapacity of the then Federal Liberal Government to talk to and get on with the States in understanding their concerns, that has been replaced with the sensitive hearing that John Button gives to these sorts of matters. What we are saying is now being taken into account and policies are being developed accordingly. Whether or not South Australia is one of those involved, in the past we had conflicts from time to time with the previous Federal Liberal Government. We have had differences of opinion with the Federal Labor Government on matters of industry policy, but are confident that we are being heard. As a result, we have some very good examples of co-operation between the Commonwealth and State Governments in these areas in South Australia.

I can cite, for example, that the Centre for Manufacturing—a leader in the nation—has already had in its first year of operation over 100 firms coming to it—more than any other equivalent type of organisation in any other State has had. The NIES organisation (National Industry Extension Service) operating in association with the Centre for Manufacturing, is regarded as a beacon for Australia in Commonwealth/State cooperation. Likewise, at the Technology Park Adelaide Corporation we see significant Commonwealth/State cooperation in the Adelaide Innovation Centre and the Microelectronics Application Centre—again well ahead of the national average. Austrade officers have told us that the positive relationship that exists with this State Government to promote the interests of both Australia as a nation and South Australia as a State is ahead of other such relationships in other parts of Australia.

In business migration I can quote similar examples given to us by Federal Government officials indicating that we would not be one of these being referred to as being negative or purposelessly destructive and trying to undermine the national consensus at which we should be aiming. We have differences of opinion, but talk them out. We are confident that we are heard in Federal forums on this matter and commend the second part of the EPAC paper that says that the spirit established by State and Federal Ministers is one of positive development. I look forward to it continuing.

I would regret very much the former Federal Liberal attitudes being reimposed as they were destructive to good relations in development matters such as this. That would be of great concern to the honourable member who asked the question, as she is also very actively involved, in her role as Chairperson of IDC, in matters of promoting the development of this State.

UNLEY PROPERTY

Mr OLSEN: In view of the Premier's admission that he cannot remember the Minister of Agriculture telling Cabinet about his participation in the auction of a property in his street, and the Attorney-General's statement that, so far as he is concerned, the Minister provided no such information, whom does he now believe—the Attorney-General or the Minister of Agriculture?

The Hon. J.C. BANNON: I have already answered the question asked by the member for Coles. With the way that it was framed, it contains the same error as that in the statement of the member for Coles. I have satisfied myself that the Minister did make such a statement. That was confirmed by the Minister presenting the submission. The Attorney-General has said that he did not hear it: that is fine.

Members interjecting:

The Hon. J.C. BANNON: That is fine—he did not hear it. The relevant point in this matter is that I have satisfied myself that the statement was made. The Minister made no attempt to conceal any interest or involvement he had. That was placed before Cabinet and therefore he has not behaved with any impropriety.

MURRAY RIVER SALINITY

Mr KLUNDER: Can the Minister of Water Resources indicate what effect the current dry spell is having on the salinity of water in the Murray River and how this is affecting both agriculture along the Murray River and the quality of the water supply to Adelaide?

The Hon. D.J. HOPGOOD: At this stage, I suppose it is what one would expect for this time of the year. I think that the salinity at Morgan, which is the benchmark from which we tend to take our readings, is about 770 EC. I could be a week out of date with those figures and, if so, it could now be a little higher, and that is about what one would expect for this time of the year. We do not anticipate that there need be too much panic at this stage about pumping from the river.

I think that at present the metropolitan storages are sitting at around 47 per cent of capacity and this time last year it was 48 per cent of capacity, so it is very much on a line ball. Obviously, if the dry hot spell continues for some considerable time, one would anticipate that there would be some pumping and that might have to be at a time when salinity is at a reasonably high level. At this stage, so far as the Riverland is concerned, I do not think that people would be more concerned about the impact of salinity on productivity than is normally the case. There is a concern about that problem and that is one of the reasons behind Governments in the past few years taking the Murray-Darling Basin initiatives, but at this stage I think I can say that, notwithstanding the dry spell, salinity levels are about what we would expect at this time of the year. When we get rain, they decline dramatically.

UNLEY PROPERTY

The Hon. B.C. EASTICK: I direct my question to the Minister for Environment and Planning. What legal advice did Cabinet seek before deciding on 29 February to move to block development of a property in the street in which the Minister of Agriculture resides? Planners to whom the Opposition has spoken today are interpreting the Minister's statement to the House yesterday as an admission that the Government took little, if any, meaningful advice before deciding to apply section 50 of the Planning Act to this development. They are also confused and bewildered that the Minister has now decided not to proceed in this matter on the grounds that there had been 'substantial commencement of the site prior to the proponents receiving the section 50 notice'.

This was a vacant block when it was sold in May last year. The only work that has occurred since then has been the clearing of some shrubs and the erection of a temporary toilet. The Opposition has advice that there are no grounds upon which this can be regarded as a substantial commencement. Rather, planners are asking whether the Government has now backed off because it knows that the use of section 50 was a gross abuse of power and because of the Minister of Agriculture's clear conflict of interest and misconduct in this matter.

The SPEAKER: Order! The honourable member is now commenting. The honourable Minister.

The Hon. D.J. HOPGOOD: I have answered that question twice and I am not going to answer it again. I have made perfectly clear the basis upon which the Government has proceeded and I am not in a position to say to the honourable member more than that Ministers, when they come to Cabinet, are expected to be informed as to the matters that come before them. They can take their advice from many sources. They tend to take their advice from their Public Service advisers as well as from outside sources. I have no doubt that my various colleagues did that on this particular occasion.

EDUCATION DEPARTMENT MUSIC BRANCH

Mr TYLER: Can the Minister of Education tell the House whether the Department of Education proposes to relocate its music branch? If so, can he say whether, when making its decision, the department took into account the effect such a move might have on music students and community groups who currently use the Goodwood Orphanage?

I have been approached by constituents who are involved with the music branch of the Education Department and who are concerned on two counts: first, they do not feel that they have been fully advised about the possible relocation, particularly as to whether they are to move, when such a move will take place, and where the music branch will be located; secondly, it appears that no suitable alternative location has yet been found.

My constituents feel that Goodwood Orphanage is an ideal location for the purpose that it currently serves, especially in meeting the needs of music education. My constituents also tell me that if an alternative must be found they feel it is imperative that the needs of students be taken into account. I am informed that this could be best done by the department's taking the teachers and parents of music branch students into their confidence by discussing the various options with them.

The Hon. G.J. CRAFTER: I thank the honourable member for his question. Let me preface what I intend to say by saying that the development of the music curriculum in our schools is indeed a feature of South Australian schools, and we lead Australia by a long way in this aspect of education in this State. It is for that reason that we have to make the decisions that we are currently making in the department in restructuring our support services to relocate those specialist services that are currently located at the Orphanage and indeed at a number of other central centres into vacant venues at schools, so that they will be located in schools where there are students and teachers active in the music curriculum and where education programs are proceeding, and thus those specialist units will be located in that *milieu* in our education system.

A professional development centre and a resource centre will be established at the Orphanage, where the five central libraries and resource centres will all be located in the one venue, for the convenience of the 16 000 teachers in this State and, indeed, the other people who are employed in the education system. The music branch is only one of a number of groups that will be relocated into school properties. Some groups have already been relocated.

Because it is a larger branch it is taking some time to find a suitable school site at which to locate the music branch. I am sorry that there appears to have been some breakdown in communication with the staff involved in dealing with the precise detail of this transfer. I understand

that there have been meetings in recent weeks with the staff about this matter, and I can assure the honourable member that those discussions will continue. There will be involvement of those staff and indeed other people involved in the music program in this relocation process. The new location should provide for students a better opportunity to benefit from the services that the music branch has to offer, which are very important ones indeed in our education system.

NEW AGE SPIRITUALIST CHURCH

Mr GUNN: Will the Minister of Agriculture confirm that he was actively involved in organising opposition to the proposal by the New Age Spiritualist Church to build a small church in his street?

Members interjecting:

The SPEAKER: Order!

Mr GUNN: On the *7.30 Report* last night the Minister was asked, 'Did you actively seek signatures for the petition from local residents?' He replied as follows:

> No, I didn't take part in that at all; that was conducted by the residents and the petitions were circulated by the residents and collected by the residents.

That statement, of course, is inaccurate. The Opposition has been reliably informed—

The SPEAKER: Order! The honourable member is beginning to debate the matter, and I caution him regarding his explanation.

Mr GUNN: The Opposition has been reliably informed that, in fact, the Minister's electorate secretary doorknocked Palmerston Road and the immediate vicinity, seeking signatures for the petition. Further, the Minister sent out a letter from his own electorate office, under his name, criticising the proposal and inviting people to register their opposition in writing to his office.

The Hon. M.K. MAYES: I am pleased to have this opportunity to respond to the shadow Minister of Agriculture.

Members interjecting:

The SPEAKER: Order! I take this opportunity to again remind the House—

Mr D.S. Baker interjecting:

The SPEAKER: Order! The Chair does not appreciate the attitude being taken by the member for Victoria in this instance when the Chair is attempting to carry out its duty of restoring order to the Chamber. An effort on the part of a member that is disruptive to the Chair's attempts to restore order is highly disorderly. When a Minister is replying to a question, it is accepted practice that the Minister be given the opportunity to be heard. The honourable Minister.

The Hon. M.K. MAYES: I thank the shadow Minister of Agriculture for asking this question. Of course, I would have expected something regarding agriculture to come from him. I have been waiting for several months for a question from the shadow Minister but all I get is questions about agriculture from the member for Flinders. He is the one who raises issues of concern about West Coast farmers. He, not the shadow Minister of Agriculture, is the one who raises concerns about the situation faced by his constituents and those of the member for Eyre. The silence is almost deafening. It is almost as though one could pack up and go home and forget about questions on agriculture from members of the Opposition, because they never ask me any. I sit here in anticipation every Question Time, waiting to answer a question from the shadow Minister.

Mr OSWALD: Mr Speaker, the Minister's reply so far has absolutely no relevance to the question that was asked. I ask you to rule accordingly and ask the Minister to answer the question.

The SPEAKER: Traditionally, Ministers are allowed to construct their replies as they consider appropriate. It would be a very rare day indeed when a Minister of any Government provided an answer which genuinely satisfied members opposite, regardless of which Party was in power. However, I ask the Minister to try to relate his reply to the question that was put. The honourable Minister.

The Hon. M.K. MAYES: Thank you, Mr Speaker. I am relating it, of course, to the person who asked the question as shadow Minister of Agriculture. I thought it very pertinent to do so. I feel that it is important to relate his responsibilities in Opposition to the question. What relevance the question has to his shadow responsibilities I have no idea and, quite frankly, I am disappointed that I do not receive questions from the Opposition, because I have much to say about agriculture and the way in which the State needs to address those issues.

It is a very important economic portfolio but, sadly, I am just not asked those questions. I am not asked about what is happening with rural assistance, development or new strains of development that we are looking at in terms of SAGRIC, the international efforts we are making to retain our grain prices or what efforts we are undertaking in this State, very energetically, to preserve the honourable member's constituents. I am not asked those questions. The member for Flinders has to be the Opposition spokesman on agriculture. Just go and ask the journalists what the situation is.

For four months there was a silence; I measured it. For four months there was nothing from the Opposition with regard to agriculture—absolutely nothing. It is despicable; it is appalling; it is a sad reflection on the state of the Opposition.

Members interjecting:

The SPEAKER: Order! The honourable member for Morphett.

Mr OSWALD: Sir, I refer to my previous point of order on the relevance of the Minister's answer, and I refer you to Erskine May, which refers to oral answers and states:

> An answer should be confined to the points contained in the question, with such explanation only as renders the answers intelligible.

On that basis, I would say that the Minister once again is running off at a tangent. His answer has absolutely no relevance whatsover to the question, and I ask that you, Sir, rule that, instead of flouting your ruling, he get back and answer the specific question.

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! I understand that the part of Erskine May the member is quoting goes on to say that a particular degree of latitude is, however, traditionally extended to Ministers. Nevertheless, I ask the Minister to either conclude his remarks or direct them more closely to the actual content of the question.

The Hon. M.K. MAYES: Mr Speaker, the thread that I was weaving was, of course, that my relationship to my constituents is very direct and I relate my work as a local member very directly to that. I could not see the relationship of the shadow Minister to this question but, more pertinently, to the question at hand—the petition. I restate this—I had nothing to do with the petition. Let us put the record straight.

Members interjecting:

The Hon. M.K. MAYES: The honourable member's time will come to answer those questions. Let us just deal with it—

Members interjecting:

The Hon. M.K. MAYES: I know. Let us just deal with it on the basis of what happened. A very active resident who has lived in the area for many years is concerned about commercial and other encroachment in the North Unley precinct. We wrote (and I think that the shadow Minister for Environment and Planning would agree) a very tepid, calm and gentle letter to people asking for their views. That was sent out to get a response. Nearly 300 people responded to that letter indicating their objection to the proposal. The residents then decided that they would put out a petition.

I am not sure whether one of my electorate secretaries actually participated. She lives in the area, but I do not know what she does. I can quote chapter and verse about who organised the petition. I can go on all day giving details. I am quite happy to share it with members and with my electorate, because I have nothing to hide. My situation was quite clear. The residents organised a petition. They organised all of the detail. They went out and did it. If my electorate secretary happens to be a constituent in that precinct and went out, well and good.

The Hon. Frank Blevins: Good luck to her!

The Hon. M.K. MAYES: Good luck to her! She is obviously concerned about what happens in her area, as any good constituent would be. The fact is that the residents organised it. They did it in one night and had over 195 signatures from residents in the precinct of North Unley. Those people signed the petition, which objected in very simple terms to the proposed development. I am happy to put that on record. I am sorry that the shadow Minister of Agriculture can find only one question to ask me in this sittings of the Parliament, and that is something to do with my electorate and nothing to do with his.

CHEMICAL AMNESTY

Mr ROBERTSON: Will the Minister of Agriculture consider conducting an end of summer amnesty on agricultural chemicals throughout the metropolitan area? A constituent has reported to me that he made four calls to the Department of Agriculture and telephoned three local authorities before finding somebody who would be prepared to take unwanted chemicals off his hands. The constituent is a retired farmer and has assured me that he brought to town with him when he retired to the suburbs a veritable arsenal of chemicals to control weeds and insects in his back garden. He also assured me that he was not entirely aware of the potential hazard when he introduced those chemicals and later wanted to get rid of them. I am told that my constituent is typical of many people who have accumulated a considerable stock of dangerous chemicals in suburban sheds in backyards and who would at this time welcome an amnesty.

The Hon. M.K. MAYES: I am happy to deal with something directly related to my portfolio, and I thank the member for Bright for his question. I am sure that many people in the community are interested in this subject. The chemical collection program that was undertaken regarding organochlorins has been singularly successful, and I thank the farming community of South Australia for their cooperation. Without any doubt, the farming and commercial rural community have cooperated far and beyond the cooperation of other communities in other States in response to State Government legislation.

I also thank the United Farmers and Stockowners, the Agriculture Advisory Board and the Agriculture Bureau for their support. It has been very successful. Over 55 tonnes of chemicals and 5 tonnes of assorted powders such as DDT and various organochlorins such as Dieldrin have been collected. It has been a very successful collection. Those chemicals have been stored at Gladstone and it is hoped to continue negotiations at the international and national level to have those chemicals thoroughly and safely destroyed. It poses a major problem and there are also some funding problems with the Commonwealth. However, it is to be hoped that we can resolve them in the next few months so that the storage of those chemicals does not need to be maintained any longer.

With regard to the honourable member's specific question about garden chemicals, as members are probably aware, household chemicals come under the control of the Minister of Health through the controlled substances legislation. The matter has been referred to his advisory council as to the direction that the Government should take on the control and regulation of these chemicals and their use in the home garden environment and what should be done if we decide that some of them should not be used in that environment.

The major problem concerns their life. As the honourable member could advise us as he is more expert in these things than some of us, the lifespan of the chemicals is the problem and in home garden use that is one of the major concerns of the Minister of Health in another place, as it is my concern and that of my department. We should deal with this matter on a colleague by colleague basis rather than my making an announcement now. Basically, we should consider what it means in terms of the deliberations of the Minister's council and how the problem should be dealt with on that basis.

Individual households returned small lots of chemicals of the organic chlorine variety (DDT and others) as well as chlordane to our depots when we made the general public call for the return of those chemicals, but we have not yet dealt with the overall issue of home garden chemicals in relation to the organic chlorine. I am sure that the honourable member's question extends past those chemicals to the other long life highly toxic chemicals which are available and which can be used on the home garden environment. In fact, I believe that we should probably extend our review of those chemicals in the light of the honourable member's question to see what we can do in the longer term with those chemicals as well and what we can offer to the community regarding whether we have a collection and a moratorium on their use if we decide to ban some of those chemicals from home garden use.

UNLEY PROPERTY

Mr S.J. BAKER: Why did the Premier mislead the House yesterday when he said that the Unley City Council had reviewed its procedures in relation to zoning following the Government's use of section 50 of the Planning Act to block a development in the street in which the Minister of Agriculture lives? A check with the Unley City Council today reveals that there has been no change to its procedures following the Government's unprecendented use of section 50 in this case. The council maintains that it has done everything legally required in this case, contrary to the Premier's claim that the appropriate procedures were not followed. The Premier should refer to his statements of yesterday.

The Hon. J.C. BANNON: I have just checked that, and that is not what I said. I said that I understood that since the decision the Unley council had reviewed its procedures, etc. The decision on the approval—

An honourable member: The decision on the approval?

The Hon. J.C. BANNON: On the approval. That is what I was advised and that is what I told the House.

USED CARS

Mr De LAINE: Will the Minister of Education ask the Minister of Consumer Affairs to review the regulations made under the Secondhand Motor Vehicles Act to allow the display copy of the seventh schedule notice to be affixed to the rear window of a vehicle being offered for sale in lieu of the present legal requirement for the notice to be affixed to the inside of the front nearside window or windscreen? The current legal requirement for the notice to be attached to the inside of the near-side front window or windscreen is causing problems for used car dealers. When a used car is road tested by a potential buyer, this notice is removed from the window or windscreen so as not to obscure the driver's vision to his left. Quite often after a road test the salesperson forgets to return the notice to the window or it is misplaced. This then constitutes an offence. If the notice was affixed to the rear near-side window, it could be left there at all times.

The Hon. G.J. CRAFTER: I thank the honourable member for his question. His suggestion sounds eminently reasonable, and I will have it referred to my colleagle in another place for his consideration.

CABINET MICROPHONES

Mr LEWIS: Does the Premier intend to install microphones around the Cabinet table to ensure that in future the Government is not denied the benefit of the Minister of Agriculture's opinions? While the Minister told ABC television viewers last night that he was the best Agriculture and Recreation and Sport Minister that South Australia had ever had, it appears that his Cabinet colleagues may not be aware of this. In the same interview on the *7.30 Report*, when asked why the Premier may have been unable to recall that the Minister had told Cabinet about his involvement in a property auction in his street, he said:

> Well, you see, the situation is that other people were adding their information as well to the discussion, and I sit right at the end of the Cabinet table and discussion from that end to the other end can be quite difficult at times.

The Hon. J.C. BANNON: That is a fair question. I have not canvassed the domestic problems faced by Cabinet in this respect, but in raising the question the honourable member has hit the nail on the head, in that over a considerable period of time there have been complaints—

Members interjecting:

The SPEAKER: Order! The Chair is having much difficulty in hearing this reply.

The Hon. J.C. BANNON: Over a considerable period of time—

Members interjecting:

The SPEAKER: Order! Because of the amount of conversation that is taking place, the Chair is still having difficulty.

The Hon. J.C. BANNON: Over a considerable period of time complaints have been received from Ministers sitting at the far end of the table that they find it difficult indeed to hear properly the discussion taking place at the other end.

An honourable member interjecting:

The Hon. J.C. BANNON: The Deputy Leader of the Opposition, for instance, might be able to confirm that. Seeing that this matter has been raised, let me explain.

Members interjecting:

The SPEAKER: Order! I am having no trouble in hearing the stentorian tones of the honourable Deputy Leader that I should not be hearing at this moment.

The Hon. J.C. BANNON: The Cabinet room in the State Administration Building is, in my view, manifestly inadequate. It is a long narrow room, unlike most other Cabinet rooms in the country.

Members interjecting:

The Hon. J.C. BANNON: In the case of the Leader of the Opposition, there was not much to hear, either. The Cabinet room is a long narrow room. In fact, since the room was established and the initial table installed, the Cabinet has, I understand, increased by perhaps three members since the early 1970s. When I became a Cabinet member in 1978 as an extra Minister, another leaf was added to the table, and it is certainly true that at times there are problems at that end of the table. Oddly enough, quite unrelated to this matter (indeed, before it had even been raised), I had been prevailing on my colleagues to investigate whether we might not replace the long, narrow table with a round table to ensure that Ministers had a better access to the debates. That is a fact of life. I thank the honourable member for raising this matter, because he is dead on the mark. A number of my junior colleagues, who are confined to the bottom end of the table, will confirm exactly what I am saying. Believe it or not, that is the situation, and I intend to do something about it.

Members interjecting:

The SPEAKER: Order! The Chair would appreciate it if individual members did not try to establish the audibility of their particular voice.

PERSONAL EXPLANATION: ELIZABETH ROAD SAFETY CENTRE

The Hon. T.H. HEMMINGS (Minister of Housing and Construction): I seek leave to make a personal explanation.

Leave granted.

The Hon. T.H. HEMMINGS: In reply to a question from the member for Elizabeth on the future of the Elizabeth Road Safety Centre, I said that the rent set in 1975 was $10 000 a year. This contradicted the honourable member's explanation where he said that the initial rent was $10. I can now advise the House that the member for Elizabeth was correct. The initial rent set in 1975 for a four year period was $10. At the expiration of that lease the Tonkin Liberal Government had discussions with the South Australia Housing Trust. The result of those discussions was that the rent should be $6 300 a year. The lease also provided for a biennial review.

STATUTES AMENDMENT AND REPEAL (SENTENCING) BILL

Received from the Legislative Council and read a first time.

CRIMINAL LAW (SENTENCING) BILL

Received from the Legislative Council and read a first time.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 2) (1988)

The Hon. G.F. KENEALLY (Minister of Transport) obtained leave and introduced a Bill for an Act to amend the Road Traffic Act 1961. Read a first time.

The Hon. G.F. KENEALLY: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill deals with the evidentiary procedures in determining the concentration of alcohol in a sample of blood where a person 14 years of age and over who has been involved in a motor vehicle accident, suffers an injury, and is treated or admitted to hospital.

Under section 47i of the Road Traffic Act and the regulations, the medical practitioner who obtains the blood sample completes a certificate giving details as the the name and address of accident victim, name of practitioner and hospital and date and time the sample was taken. The analyst who does the test also gives specific details as to the date on which the analysis was performed, the concentration of alcohol or other drugs found to be present etc. The certificate signed by the analyst which is admissible as evidence in court states that 'at the time of the analysis and at the time and on the day referred to on the reverse side of this notice the concentration of alcohol found to be present in the blood was x rams in a hundred millilitres of blood'.

In the case of *Dunsmore v Krasser*, it was held on appeal to the Supreme Court that the form prescribed by regulation and signed by the analyst cannot relate back to the time the blood sample was taken, the concentration of alcohol in the blood of the accused, as there is no authority in the Act to do so. The intention of the certificate so worded was to simplify evidentiary procedures by removing the need to summon the analyst on each occasion a plea of not guilty was made by the defendant. As a result of this decision it is apparent that the analysts performing the tests could be summoned to appear in court to give evidence, a situation which could strain the resources of the Forensic Science Division.

This Bill will clarify the position by providing that the concentration of alcohol, as disclosed by analysis, will be presumed, in the absence of proof to the contrary, to have been the concentration of alcohol at the time the sample of blood was taken.

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 amends section 47i of the principal Act which provides for the system of compulsory blood tests of persons admitted as hospital patients following motor vehicle accidents. The clause amends the section by adding a new provision which provids that in legal proceedings it will be presumed, in the absence of proof to the contrary, that the concentration of blood stated in the official analyst's certificate to have been found to be present in a sample of blood was present in the sample when the sample was taken.

Mr INGERSON secured the adjournment of the debate.

ELECTRICITY SUPPLY (INDUSTRIES) ACT AMENDMENT BILL

The Hon. R.G. PAYNE (Minister of Mines and Energy) obtained leave and introduced a Bill for an Act to amend the Electricity Supply (Industries) Act 1963. Read a first time.

The Hon. R.G. PAYNE: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Under the Electricity Supply (Industries) Act the State is presently restricted to being able to offer electricity concessions only to those new industries being established more than 42 kilometres from the General Post Office. In recent years the Department of State Development and Technology has been active in encouraging new industry to establish in South Australia. In doing so, they offer a range of incentives, such as land and factory developments.

The price of electricity often emerges as an issue when comparisons are being made with alternative proposals from the eastern states, even though it may not be a major component of the overall project. It is essential that special electricity tariffs be available for all areas of the State so that they could be included in overall packages of incentives being offered to potential new industries.

The Working Party to Review Energy Pricing and Tariff Structures, in Part 2 of their final report, considered there may be justification for negotiating specific tariffs, particularly where state development issues are clearly involved. It is proposed that the eligibility criteria for granting these electricity concessions will include the Department of State Development and Technology endorsing a project as being in the overall interest of the State. It is further proposed that the tariff reductions would normally only apply for a period of up to four years with packages being tailored to suit each individual case.

Clause 1 is formal. Clause 2 abolishes the prerequisite of an industry or industrial undertaking being carried on outside a radius of 42 kilometres from the General Post Office at Adelaide before the Treasurer can declare it to be an approved industry for the purposes of the Act.

The Hon. E.R. GOLDSWORTHY secured the adjournment of the debate.

WORKERS REHABILITATION AND COMPENSATION ACT AMENDMENT BILL (1988)

The Hon. FRANK BLEVINS (Minister of Labour) obtained leave and introduced a Bill for an Act to amend the Workers Rehabilitation and Compensation Act 1986. Read a first time.

The Hon. FRANK BLEVINS: I move:

That this Bill be now read a second time.

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

The SPEAKER: Is leave granted?

An honourable member: No.

The SPEAKER: Leave is not granted.

The Hon. FRANK BLEVINS: On 30 September 1987, WorkCover—a new integrated approach to workers reha-

bilitation and compensation commenced in this State. The new scheme represented a major economic and social reform. Since its commencement the scheme has been kept under constant review and as a result a number of amendments are now considered necessary to improve the general operation of the system. Given the complexity of the Act and the significant nature of the reform, the need for these amendments was inevitable.

As members are aware, the 1986 Act established a sole insuring authority, the Workers Rehabilitation and Compensation Corporation, which is controlled by a 14 person board. The board comprises six employer association nominees, six representatives nominated by the UTLC, a rehabilitation expert and a presiding officer. The amendments contained in this Bill have been recommended to the Government by the board and have its unanimous support. Given the nature of the amendments, it behoves well for the future of the system that such consensus has been achieved. In the main the amendments are of a technical nature, but there are a number of more substantive issues to which I will refer in detail.

The first major area of proposed change is to insert into the Act detailed provisions setting down the benefits for those volunteers acting in the public interest who have been deemed employees of the Crown. As the Act currently stands, there are no specific provisions for the calculation of benefits for those volunteers who are self-employed or unemployed. This Bill makes good that deficiency and is in line with similar provisions under the State Emergency Services Act 1987.

The Bill also seeks to extend the coverage of the Act to all domestic workers. The current Act picked up the same workers compensation coverage of domestics as the old Act. Unfortunately, under the old system the distinguishing line between the categories of domestic worker who were or were not covered was not clear and that defect was carried over into the new Act. This Bill will remedy that deficiency and the WorkCover system will then apply to all domestic workers, whether they are employed casually or otherwise. The Bill also contains a provision to relieve households of the first week's payment and will put beyond legal doubt the ability of WorkCover to indemnify households for any common law actions that may be taken by domestic workers.

The subject of fraud is another area tackled by this Bill. The Bill provides that where an injury suffered by a worker arose from a traffic accident, WorkCover will be entitled to refrain from determining a claim until such time as the accident has been reported to the police under the Road Traffic Act. This type of provision has proved to be effective in Victoria in restricting fraudulent claims. Since the commencement of the new system, it has become apparent that there are loopholes in those provisions of the Act which are designed to restrict the right to pursue common law actions against employers.

To overcome these loopholes the Bill seeks to break new ground by placing limitations on common law actions initiated by workers against third parties. In particular, the Bill seeks to place restrictions on those third party actions that can lead to employers having to make a contribution to all or part of any common law damages payable to workers by a third party. As the Act currently stands, the employer is placed in a situation of double jeopardy, through having to pay a workers compensation levy and yet still be exposed to a common law action from a third party seeking to recover a contribution from the employer for the damages awarded against that third party in respect of a compensable disability. The Bill accordingly provides for a restriction on so-called worker to worker claims except where the offending worker has been criminally negligent and seeks to stop other third parties such as manufacturers of faulty equipment from claiming a contribution from the worker's employer.

One of the more significant deficiences that has been found in the operation of the Act is in the area of return to work. The key to the success of the WorkCover system will be the effective provision of alternative work to disabled workers. The Government is of the view that employers have a duty to provide alternative work to those workers who have been disabled in their employment wherever that is practicable. If alternative work is not provided where it is reasonable to do so, then a considerable and unnecessary drain is placed on the compensation fund. Already there is evidence of dumping by employers of their disabled workers onto the system. The amendments contained in this Bill recognise that in many cases the provision of such alternative work is not practicable, particularly for small employers or where the work available would be unsafe for the worker to tackle.

However, where work can be reasonably provided by keeping an existing job open, or by providing suitable alternative work, the employer should be under a legal and moral obligation to do so. Failure to provide alternative work simply transfers the cost to other employers. Where unreasonable failure to provide work occurs, the Bill also provides for the ability of WorkCover to increase a defaulting employer's levy to reflect that employer's breach of the obligation to retain their workers in employment.

The Bill also requires employers to give 28 days notice to their workers and to WorkCover of any proposed termination of employment where those workers are entitled to benefits under the Act. This period of notice is designed to enable WorkCover sufficient time to intervene and attempt to keep a worker in employment where it is reasonable and practicable to do so.

One of the major areas of reform brought about by the new Act was to the system of appeal. The new appeal provisions under the WorkCover system have thus far been most effective. It is estimated that the amount of litigation and associated legal costs have been reduced by approximately two thirds, thus achieving one of the major planks of the legislation. However, it has become apparent that there is an emerging trend to attempt to circumvent the first level of appeal to review officers. To put a stop to this practice, the Bill proposes a major restructuring of the processes of appeal. As the Act currently stands, the appeal to the tribunal, which is the final more formal level of appeal, is by way of a complete rehearing.

To avoid the parties treating the initial appeal before review officers as a mere preliminary step to the main event before the tribunal, the Bill provides that the appeal to the compensation tribunal shall be in the nature of a 'true' appeal and not a rehearing. This change will compel the parties to put their full cases before review officers or, if not, to then run the risk that they will not be able to produce new evidence before the tribunal. The proposed changes will bring the appeal processes even more into line with the successful appeal system now operating under counterpart laws in New Zealand.

A further area of difficulty that has arisen with the new Act relates to the sharing of costs between the new and the old system. Experience in Victoria has shown that real practical difficulties exist in sharing the cost of those claims which have arisen partly under the new and partly under the old system where the courts have been given the monopoly of deciding what the sharing of costs will be in the first

instance. Under the first schedule of the current Act the sharing of the costs of these so-called transitional disabilities is a matter to be decided by the Industrial Court.

This is now considered to be a far too legalistic and cumbersome procedure and, accordingly, this Bill provides for the corporation to be empowered to determine the appropriate sharing of costs with the old insurers in the first instance rather than the Industrial Court, but with a right of appeal should the old insurers contest the decision of the corporation in this matter. The Bill also provides for the old insurers to pay in advance the amount of their contribution determined by the corporation pending the resolution of any appeal to the Industrial Court.

A further significant amendment is proposed in regard to the exchange of confidential information. The Bill provides for a general enabling provision in this area which will allow the transfer of prescribed information to prescribed Government authorities. An example of the type of problem being encountered with the confidentiality provisions of the current Act is the restrictions placed on WorkCover's ability to provide its lists of registered employers to the Department of Labour in order to facilitate the collection by the Department of Registration fees under the Occupational Health, Safety and Welfare Act.

The Bill also contains a clause which will enable relief to be given to those employers operating in isolated locations where the costs of providing transport to their workers for urgent medical attention would be unduly excessive. As I have previously stated, these amendments have the unanimous support of the full membership of the board of the Workers Rehabilitation and Compensation Corporation. That such agreement was reached is of great significance and shows a real preparedness by employers and unions to look objectively at the needs of the system. I accordingly commend the Bill to the House.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 provides for various amendments to the words and phrases defined by section 3 of the principal Act. The definition of 'employment' is to be amended so that this concept covers all work done under a contract of service (including casual work that is not for the purposes of a trade or business carried on by an employer). Subsection (2) is to be removed, and replaced with a more extensive provision under new section 103a.

Clause 4 amends section 14 of the principal Act to give the corporation a general power of investigation. This provision will overcome any argument that the corporation is restricted to being only able to make such investigations and inquiries as it thinks necessary to determine a claim (see section 53 (1)).

Clause 5 provides that the presumption under section 31 of the principal Act will not apply to a claim made by a worker who has retired on account of age or ill-health and who makes a claim for noise-induced hearing loss more than two years after his or her retirement.

Clause 6 amends section 32 of the principal Act to clarify that the corporation can approve classes of persons under paragraph *(f)* of subsection (2) and classes of costs under paragraph *(i)* of that subsection.

Clause 7 amends section 33 of the principal Act so as to allow employers who incur transportation costs in excess of a prescribed amount to recover the amount of the excess from the corporation.

Clause 8 is an amendment to section 36 of the principal Act to provide specifically that the corporation may recover weekly paymens made to a worker who has in fact returned to work.

Clause 9 alters the prescribed sum under section 43 of the principal Act to the appropriate 1987 figure (being the year in which the operation of the Act commenced).

Clause 10 amends section 46 of the principal Act in two respects. First, it will allow an employer to recover from the corporation the cost of compensation paid under the section by the employer in respect of an unrepresentative disability. Secondly, it will allow the corporation to undertake the potential liability of prescribed classes of employers under subsection (3).

Clause 11 will allow the corporation to dispute with the requirement of a medical certificate in relation to claims that are solely for medical expenses.

Clause 12 will allow the corporation to refrain from determining a claim arising out of a road accident that must be reported by the claimant to the police until the claim is so reported.

Clause 13 amends section 54 of the principal Act in several respects. New subsections will prevent claims in negligence by one worker against another worker (unless the other worker has been guilty of serious and wilful misconduct) and claims against employers to recover contributions from them. Provisions will also address the possibility that a worker might proceed with an action in respect of a compensable disability in a court outside the State. It is proposed that, if a worker were to take such an action and the court awarded an amount in excess of the amount that could have been awarded in a comparable action in South Australia, the corporation would be entitled to recover the excess from the worker. Similar provisions were inserted in the Wrongs Act by the Parliament in 1986 in respect of injuries suffered in motor vehicle accidents.

Clause 14 alters the sum prescribed under section 58 to the appropriate figure for 1987.

Clause 15 introduces two new sections into the principal Act. New section 58a will require employers to notify the corporation whenever a worker who is receiving weekly payments under the Act returns to work, has his or her weekly earnings of work altered, or has his or her duties at work altered. A worker who returns to work with another employer will also be required to notify the corporation of that fact. New section 58b will require the employer of a worker who has been incapacitated for work to attempt to find the worker suitable employment when he or she is able to return to work. An employer will also be required to give the corporation and a worker who has suffered a compensable disability at least 28 days notice before the employer terminates the employment of the worker.

Clause 16 amends section 60 of the principal Act so that the corporation will be able, on an application by an employer for registration as an exempt employer, to take into account the record of the employer in providing suitable work to workers who suffer compensable disabilities, and the effect that the registration would have on the Compensation Fund. It is also proposed that it be expressly provided that the list of matters in subsection (4) does not affect the corporation's absolute discretion to decide an application for exempt status as it thinks fit.

Clause 17 makes minor amendments to the list of actions in respect of which delegations are made to exempt employers.

Clause 18 amends section 65 of the principal Act so as to allow the grouping of related employers under Division IV of Part V.

Clause 19 amends the section under which levies are to be determined. The Act presently provides for the imposition of levies against employers according to the work carried on by their respective workers in the various classes of

industries. It is proposed to alter the Act so that the employers are classified according to the industries in which they are engaged and are then levied accordingly.

Clause 20 extends the matters that the corporation may take into account when considering whether to grant a particular employer a remission of levy or whether to impose a supplementary levy.

Clause 21 amends section 68 of the principal Act to provide that the levy payable by an exempt employer is a percentage of the levy that could have been payable by the employer if the employer were not registered as an exempt employer and must be fixed so as to recover a fair contribution towards administrative expenditure, rehabilitation funding, appeal proceedings, and the liability of the corporation to make payments of compensation if an exempt employer becomes insolvent.

Clause 22 makes a consequential amendment to section 69 of the principal Act and recasts subsection (4).

Clause 23 will ensure that the board of the corporation has a complete discretion to decide whether or not an employer may appear before it when it is considering an application by the employer for a review of a levy.

Clause 24 will allow the corporation to appoint various people who will be able to require employers to produce evidence of their registration under the principal Act.

Clause 25 inserts a new provision that will expressly provide that a levy payable under the Act (and any penalty interest or fine) is a debt due to the corporation.

Clause 26 sets out various matters for which the President of the tribunal may make rules. It will also be provided that, as a general rule, the hearing of appeals before the tribunal will be heard in a place open to the public.

Clause 27 corrects a printing error in section 84 of the principal Act.

Clause 28 will specifically allow a review authority to refer any technical or specialised matter to an expert, and will require a review authority to act as expeditiously as possible.

Clause 29 revises subsection (2) of section 89. In particular, in conjunction with a later amendment that will delete the requirement that an appeal before the tribunal is to be conducted by way of rehearing, it will no longer be the case that a party to an appeal before the tribunal has the right to call evidence on an appeal (that right being inconsistent with proceedings that are appeals 'in the strict sense').

Clause 30 will ensure that a member of a medical review panel who examines a worker on an appeal cannot be subsequently called as a witness.

Clause 31 will have the effect of ensuring that a medical review panel always provides a statement under section 93 of the principal Act.

Clause 32 is related to another amendment that will provide that an appeal by an employer who is dissatisfied with a decision of the corporation on an application for registration as an exempt employer will be direct to the Minister.

Clause 33 makes various amendments to section 97 of the principal Act in relation to appeals. Most of the amendments are related to the decision to repeal subsection (4) of section 97 so that appeals will not be by way of re-hearing. New subsection (8) will also allow the tribunal to stay the operation of a decision of a review officer that is subject to an appeal.

Clause 34 enacts a new provision dealing with the right of appeal against a decision of the corporation on an application for registration as an exempt employer. The appeal will not proceed through a review officer but will instead be direct to the Minister. If the Minister finds in favour of the appellant, the Minister will be required to furnish a statement of his or her reasons to the corporation.

Clause 35 enacts a new section 103a relating to persons who voluntarily perform work of benefit to the State. The provision is far more sophisticated than the approach that is presently contained in the principal Act and is consistent with other provisions relating to specific classes of volunteer workers that have already been passed by the Parliament.

Clause 36 revises section 105 of the principal Act. In particular, the section will extend to employers who are not required to be registered because of an exemption under the regulations.

Clause 37 inserts a new provision that expressly provides that a payment by the corporation or an employer to a worker does not constitute an admission of liability or estop a subsequent denial of liability.

Clause 38 will amend section 112 of the principal Act to allow the disclosure of information that is statistical and the disclosure of information in accordance with the regulations to prescribed agencies of the Crown.

Clause 39 makes various amendments to section 113 of the principal Act relating to noise-induced hearing loss.

Clause 40 will make it an offence to make a statement knowing it to be false or misleading in a material respect in connection with making a claim under the Act.

Clause 41 is an evidentiary provision.

Clause 42 clarifies the ambit of section 122 so as to ensure that criminal proceedings cannot be taken against the corporation, or any person acting on behalf of the corporation, when acting in the enforcement or administration of the Act.

Clause 43 makes a technical amendment to the regulation-making provision of the principal Act to allow matters to be determined at the discretion of the corporation.

Clause 44 amends the first schedule to the principal Act in relation to the procedure that is to be followed when the corporation is faced with a transitional disability.

Mr S.J. BAKER secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (1988)

Adjourned debate on second reading.
(Continued from 22 March. Page 3384.)

The Hon. G.F. KENEALLY (Minister of Transport): I thank the House for allowing me to continue my remarks. Yesterday, I thanked the members who had participated in this debate. It is a very complex and important Bill. It is true to say that it has been thoroughly debated in another place, where many of the issues involved were canvassed very widely and in great detail. I do not propose to go through all the second reading debate in response. However, I believe that one or two matters require my response.

In doing that, I acknowledge that the members of this House indicated broad support for the bulk of the Bill, but very little support was expressed for the minimum rate aspect, although that was not necessarily a part of the second reading debate. However, it presupposed what the Government would do. I want to say one or two things about the minimum rate, and there will be time during the Committee stage, which is a more appropriate vehicle for this debate, to take that issue further. The Government is not standing firm on the minimum rate issue out of sheer bloody-mindedness, which one would assume if one believed some of the comments that have been made.

The Government has repeatedly raised and detailed the problems associated with the minimum rate and sought a reasonable compromise with local government. Faced with the unwillingness of local government to address the issue, Parliament now has to determine whether there should be a minimum rate. I believe that that is a principle with which members of this House would agree. There is no doubt that the minimum rate is being applied in a way in which Parliament never intended, as was verified by the then Secretary of the Municipal Association (Bertram Cox) who negotiated the provision with the Playford Government. Some members have already acknowledged that this is a difficult area. However, I think that if people were to research this debate they would see clearly that minimum rates as they are applied today are not as they were intended when minimum rates were introduced.

From the Government's point of view the justification that has been put forward for the minimum rate is rather unconvincing. For example, if everyone should pay a basic amount, why should it apply only to owners of low valued properties? That is what minimum rates do, whether or not that is the intention. There are council areas in South Australia where the minimum rates are in excess of 80 per cent of the assessments, and that clearly spreads the burden of raising the revenue over the poorer sector of the community. Quite clearly, that is the case. I do not know whether that is the intent.

In my own electorate, over a number of years, I was aware that the Chief Executive Officer of the Port Augusta city council of the time (who was, I believe, one of the most efficient raisers of revenue for councils that South Australian local government has had, and in doing so he has done a remarkably good job for Port Augusta) very clearly saw the benefit of a high minimum rate as a revenue raiser for Port Augusta. I think that the member for Elizabeth addressed this point when speaking about his electorate.

I think that all members, or those who have been involved in local government, know that the Grants Commission takes into consideration in applying its grants that some council areas have sections of low rate generating capacity, and the Elizabeth council area may well be one of those, as is Port Augusta, because of the high incidence of Housing Trust double units, and so on—although not only because of that. In Port Augusta, particularly, there are a number of old assessments which do not relate to Housing Trust houses but to houses of very low value. They all pay a very high rate in my electorate, as I expect they do in others.

What happens is that councils (and I hesitate to use the words) are double dipping: they are getting money from the Grants Commission on the one hand and raising it through rate revenue in their own council areas on the other hand. Local government has a capacity to assist, but the Grants Commission's task is to look at councils which have a very poor rate raising capacity and to provide additional funds to make up for it. That seems to be the way in which councils who have difficulties in raising revenue can address their problems.

A couple of matters were raised which have no direct relevance to the Bill. Many others do, of course, and we will deal with those during the Committee stage. The members for Mitcham and Davenport referred to local government boundary changes. The Bill has no impact on local government boundaries at all. I was disappointed to hear the member for Light make what I would regard as disparaging remarks or disguised inferences as to conflict of interest prosecutions. I have stated before in this House—

An honourable member interjecting:

The Hon. G.F. KENEALLY: Yes, and I hold to the view that the member for Light always displays a very reasonable attitude towards debate and legislation except when (as we all do at times in Opposition) given questions that, with a free choice, we may not ask, but we do it anyway because we are part of the team. Normally, I do not have a great deal of difficulty with the attitudes that the honourable member adopts. I have some difficulty with his politics (as he does with mine) but not with his general attitude. It has to be understood that there can be no political interference in conflict of interest prosecutions. These matters are, in the first instance, dealt with by the Department of Local Government but, primarily, they are dealt with by the Crown Solicitor and not by politicians. Any reflection the honourable member wants to place would need to be placed on the Crown Solicitor, and I do not expect that he wants to do that.

Having made those few comments, I want to thank members who have spoken for their contributions. It is a complex Bill, a Committee Bill. A large number of amendments have been put on file, and I think the best thing we can do is get into Committee so that we can deal with them.

Bill read a second time.

Mr M.J. EVANS (Elizabeth): I move:

That it be an instruction to the Committee of the whole House on the Bill that it have power to consider new clauses relating to the Local Government Advisory Commission.

Motion carried.

The Hon. B.C. EASTICK (Light): I move:

That Standing Orders be so far suspended as to enable it to be an instruction to the Committee of the whole House on the Bill that it consider each proposed new section contained in clause 10 as separate questions.

Motion carried.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. B.C. EASTICK: Can the Minister advise when it is intended to proclaim the Bill, subject to passage? I note that under clause 2 (2) it is possible for the proclamation to be staggered. What does the Government contemplate in relation to this measure? It is not unusual; it is used frequently, but it would be of interest to know what the Government has in mind. I mention that against the background that a strong view has been held by a number of local governing bodies that, even if the legislation were passed into existence tomorrow, they would not be able to make effective use of it until the 1989-90 financial year for rating purposes.

That being the case, it may well be that the Government has already decided that it will be necessary to defer any change until some time after 1 July or, perhaps, until 1 September, because councils will need to have determined their budget in respect of the 1988-89 year within the limitation of 31 August as applies under another section.

The Hon. G.F. KENEALLY: The honourable member has raised an important point. He is correct in saying that there may well be difficulties for local authorities in determining their 1988-89 budget if this legislation is not proclaimed in time for them to make appropriate decisions. The Government's position is that discussions will be held with local government when the Bill passes through Parliament. There has been a mixed response from local government to the discussions already held, and further discussions will take place to determine what is possible. If it is possible to have the legislation proclaimed in time to enable local authorities to adequately arrange their budget, that will be done. If that is not possible, the proclamations will be staggered and the provisions will carry over into the next

financial year so as to provide the appropriate vehicle for individual local authorities.

The Hon. B.C. EASTICK: It will be all in or all out. Given that this Bill contains repeal provisions, it will not be possible for some councils to proceed along the lines of the new endeavour while others cannot. Because of the delay in bringing this Bill before Parliament, I imagine at this stage that it will not effectively be in place for the 1988-89 financial year. Many councils, some with senior executive officers, have made very clear that the lead time for stationery in particular would make it impossible for them to react to this measure for 1988-89.

The Hon. G.F. KENEALLY: It is possible to proclaim some provisions of the Bill and not others. The Government will not proclaim any provision that would allow some councils to act differently from other councils. As the honourable member said, it is all in or all out. The provisions relating to councils will be consistent so there will not be different methods for councils to work out budgets.

Clause passed.

Clause 3—'Repeal of s. 3.'

The Hon. B.C. EASTICK: This clause repeals section 3 of the principal Act, as does the first provision of the schedule. Obviously, if section 3 is repealed by this clause, it cannot be repealed by the schedule. It is a matter of procedure whether clause 3 remains in the Bill or whether the first item in the schedule is taken into consideration, so I seek your guidance.

The CHAIRMAN: It is a duplication, and I am prepared to take debate on clause 3, because it appears first. The reference in the schedule will be deleted.

Clause passed.

Clause 4—'Interpretation.'

Mr M.J. EVANS: With reference to the definition of 'company', I wonder whether it is intended that it should include a cooperative under the Cooperatives Act since that is another form of incorporation which seems to me to have similar benefits or problems, depending on one's perspective, for companies under the Companies Act. I would appreciate some guidance from the Minister whether it is intended to rule out cooperatives as well as companies or whether he sees them as being the same thing in that context.

The Hon. G.F. KENEALLY: My advice is that this provision is intended to apply not to cooperatives but to companies only.

Mr M.J. EVANS: I have some difficulty with that, because it seems to me that a cooperative carries with it the difficulties that the Government has identified in relation to companies. Perhaps the Minister will look at it in greater depth. I do not know that I fully agree with the Government's rationale in relation to ascribing companies. If a corporate structure is appropriate, why should it be prevented when there are other alternatives such as unit trusts and cooperatives? In the context of this Bill, the Government has made a case to which Parliament should accede. Down the track, it may well be that local government can make a case to broaden the perspective but, if one area is to be eliminated, other equivalent areas should be examined. We do not want local government to shift from one area to another to escape the Government's action in the principal area.

The Hon. G.F. KENEALLY: If there proves to be a problem with councils moving into cooperatives, that matter will be addressed. I will refer the honourable member's comments to my colleague the Minister of Local Government for her attention and action as necessary.

The Hon. B.C. EASTICK: I have a question concerning paragraph *(f) (c)* on page 2 which states:

> Any person who has arrogated to himself or herself (lawfully or unlawfully) the rights of an owner of the land . . .

Is the Minister really asking us to condone an unlawful act by making an unlawful act lawful? It could be called plain English.

The Hon. G.F. KENEALLY: In no sense can this provision be interpreted as one having unlawful ownership. There is no sense of giving recognition. This is a legalistic point so I ask members to be patient. We must get it right. In future, when lawyers and judges read this debate, they will need to be absolutely certain that it is right. In no sense does this give any recognition to anyone who unlawfully arrogates ownership to himself.

The Hon. B.C. EASTICK: I shall not pursue the matter because, if I did, both the Minister and I would finish up going round in a circle. Paragraph *(h)* introduces a new definition of 'project'. Projects are taking a much higher profile in the totality of the Local Government Act. When this Bill was introduced in another place and before much surgery was done on it there, this provision caused me great concern, as it did many councils, because it enabled the Minister to delegate right down through her department the requirement that to commence a project a council had to obtain permission.

A council pointed out to me that it had sought to make available $3 000 as a loan to a tennis club within its area and it applied to the Local Government Department for permission under the current legislation. It took many telephone calls and five months to obtain an answer to that simple request. I do not raise this matter as a criticism at present, because I believe that the amended provision from another place will solve many, if not all, of these problems. Can the Minister in charge of the Bill give an undertaking that the Minister of Local Government and the officers of her department recognise the important part that they must play in giving permission, where such permission is required, as expediently as possible? After all, it could be said that five months to obtain permission to lend $3 000 was not expedient.

The Hon. G.F. KENEALLY: I can give the honourable member the undertaking that the Minister and her department will move expediently in dealing with any such applications. The example raised by the honourable member may not have been without attendant problems and it is acknowledged that the delay was extensive. I understand that with the passing of this legislation the workload on the department will be reduced, so matters of this kind can be expected to be dealt with more quickly.

Clause passed.

New clause 4a—'Insertion of new ss. 25a and 25b.'

Mr M.J. EVANS: I move:

Page 3, after line 25—Insert new clause as follows:

4a. The following sections are inserted after section 25 of the principal Act:

25a. *Form of Proceedings.* In the hearing of proceedings before the Commission—

(a) the procedure of the Commission will, subject to this Act, be as it thinks fit;

(b) the Commission will not be bound by the rules of evidence and may inform itself on any matter as it thinks fit;

and

(c) the Commission will act accordingly to equity, good conscience and the substantial merits of the case.

25b. *Annual Report.* (1) The Commission must, by 31 March of each year, present a report to the Minister on its activities during the previous year.

(2) The Minister must, as soon as practicable after receipt of a report under this section, cause copies of the report to be laid before both Houses of Parliament.

New clause 4a, which enacts new sections 25a and 25b, and new clause 4b, which I will move subsequently, form a group of amendments that relate to the Local Government Advisory Commission, which will report to the Minister on changes of local government boundaries. This subject matter is not principally dealt with in this set of amendments. However, for some time I have considered that changes are necessary at the technical level in relation to the commission so that it can discharge its duties more effectively. At this stage I do not seek to enter into an extended discussion on the success or failure of the commission in discharging its duties, because this is not the appropriate time to do that.

However, these amendments would assist the commission in the discharge of its duties. They would certainly allow the commission to act more generally and with less regard to the legalistic side of its undertaking than it can at present. When Parliament first debated the original provision, for better or worse it did not intend that the commission be bogged down in legalities, but rather that it focus on the principal merits of questions concerning amalgamation and annexation, and that the provision would be the means of avoiding technicalities, especially legal technicalities, that have in the past thwarted attempts to change local government boundaries.

Very few subjects concerning local government or State Government in Australia are more vexed than those involving local government boundaries. Such issues generate much emotion and rarely is there overly much logic in the discussion of them. Of course, people are entitled to put their views forward and to have them heard, but it should not be possible for those who would seek to frustrate the course of action that might be recommended by the commission to block the processes of the commission by reference of legal aspects to superior courts. After all, the commission is simply an agency to sift the merits or otherwise of proposals, to hear evidence on those proposals, to formulate modifications designed to improve those proposals, and to make recommendations to the Minister.

It seems only appropriate that the commission should be able to do that without reference to the normal rules of evidence or to the lack of evidence. For example, the bodies in the planning area, the Residential Tenancies Tribunal and the Commercial Tribunal, each hear evidence on the merits and the good conscience of the cases that come before them and they should not be so bound. I have therefore provided this set of amendments, not to imply a permanent endorsement of the commission or to restructure the basis of the original legislation, but rather to make minor modifications so that the commission can get on with its work and so that in future this Parlaiment can judge it on its attempts to amend local government boundaries.

New section 25b requires the commission to report to the Minister annually on its activities during the previous year. It further provides that the Minister must cause copies of such a report to be laid before both Houses of Parliament. Only rarely does it happen that an instrumentality need not submit a report through the Minister to Parliament. Indeed, that was an unfortunate omission in the first set of proposals. I do not put this amendment forward as either an endorsement or a criticism of the commission but purely and simply as a means of facilitating its work, and I hope that the Government accepts it on that basis.

The Hon. G.F. KENEALLY: The Government will oppose the amendments and in so doing it is not saying that some points made by the honourable member have not warranted consideration. I assure him that the Minister of Local Government will be looking at a further review of the Local Government Act later this year and at those provisions that relate to the commission.

The Hon. B.C. Eastick: Before or after consolidation?

The Hon. G.F. KENEALLY: I will need to take advice from the Minister on that question. The reason the Government is not prepared to accept these amendments is not only because we would disagree with many (although we sympathise with some) but because this Bill relates to the financial matters and powers of local government and not in any respect to issues of the structure of local government. The Bill has been the subject of considerable consultation with local government, and the proposed amendments do not relate to the primary purposes of the Bill and have not been the subject of consultation with local government and others. However, in giving the honourable member my assurance that his comments will be drawn to the Minister's attention, I should reply in some detail to his amendments. He may wish to respond in correspondence or personally to the Minister of Local Government if he sees fit, that is, if the Committee does not see fit to support the amendments.

It is clear that a range of amendments to the legislative provisions relating to the commission would be desirable. In some respects the legislation has not operated as it had originally been intended. In other respects, the use of the provisions has highlighted the need for some changes or additional legislation. A record is being kept of the various problems which emerge, and some work is required to devise the most appropriate legislative solutions. In addition, these solutions must be the subject of prior consultation with local government before their introduction. The matters dealt with in the proposed amendments have not been highlighted as particular problems either by the commission or by local government.

Whilst on that point, I disagree with the honourable member, who I understand has found that the commission has not served a very useful purpose. It is my view, as a former Minister of Local Government, that the commission has indeed served a very useful purpose. I had hoped that more could be achieved in the time, but it has a very difficult task. Given the right legislation and support, it will continue to provide a very essential service to local government in South Australia.

I refer to new section 25a. The proposed amendments do no more than describe the current situation. Since the Act does not currently prescribe the procedures to be followed by the commission in any way, then clearly it is able to act 'as it thinks fit'. There seems no good purpose, therefore, in saying so. In the absence of any provision to require it, the commission is also not bound by the rules of evidence. It is quite superfluous to say it will act according to equity, good conscience and substantial merits. If it did not do so, that would be grounds for its dismissal. Such a clause could be seen as insulting to the commission and may be taken to imply that the commission has not so acted in the past, a proposition which cannot be sustained.

In response to the honourable member's amendment concerning the annual report, no particular reason exists why the commission could not present such a report, although it is not clear what good purpose is served by it. It would not need to be very much longer than the few paragraphs currently included in the department's annual report. If it was intended to be a large document, it becomes a further administrative task for the executive officer and chairman and must therefore reduce the commission's productivity.

They are our reasons for opposing the amendments. However, I give an undertaking to the honourable member that his proposals will be forwarded to the Minister for her

consideration. Before the end of this year I understand a further review will take place incorporating the comments that the honourable member has made and he will have further opportunity to respond to my comments in Committee.

Mr M.J. EVANS: I thank the Minister for his detailed response to the amendments. Certainly, if the Government is planning a total review of these proceedings, that is perfectly reasonable. I was a little surprised by some parts of the Minister's response because, if one takes them at face value, the Government itself has insulted a number of bodies, including the Planning Appeal Tribunal, the Commercial Tribunal, and many other agencies it has established over the past five years, in saying that they must act in accordance with good conscience and with the rules of evidence. There must be many insulted commissions that have been established by this Parliament. The Government itself, in its Government Employment and Management Act recently passed by this Parliament, insisted that every administrative agency of Government provide an annual report for this Parliament.

We should not allow the commission, by some quirk of legalistic and legislative fate, to escape those good intentions of the Government in requiring every agency, every instrumentality and every Government management unit, no matter how august, to report to the Government and this Parliament—and therefore the community of South Australia—on its affairs. No matter how long or how short the commission sees fit to make its report, it will be judged accordingly, and that is only fair and reasonable. If some provision can be incorporated in the department's own report on an extended basis to cover the same matters, that is perfectly acceptable, and I find that a very useful suggestion.

The Hon. B.C. EASTICK: I am happy to consider the material placed before the Committee by the member for Elizabeth. He has provided in his explanation a broader understanding of what it is he hopes to achieve and has in his subsequent remarks very clearly drawn attention to the fact that a Government that believes in consistency is not exactly being consistent by not taking this direction, although that may be happening down the track.

A number of representations are being made undoubtedly to the Local Government Department and to members where some facets of the activities in the areas of involvement of the advisory commission are in need of review. It is not unreasonable, three or four years down the track when a commission has been breaking new ground, that a review be undertaken and the best possible tools placed in its hands so that it can achieve a result for local government. It was put there to be an achiever and, if we can or need to assist it, that should be the case. The suggestions initiated by the member for Elizabeth, either in this form or some similar form, may well be the answer.

The request made of me as recently as today by a council in relation to its reference of ward boundaries to the advisory commission concerned the fact that the advisory commission cannot allow the creation of a ward with greater than four members of council, whereas in some considerations involving a number of councils presently, with centres of interest or centres of population around particular larger country towns, they can achieve an exact requirement of the Act on a five and a four basis in two different parts of what would be a nine councillor council.

They are prevented from doing so and at the moment they cannot achieve the result or go to the advisory commission to achieve a result which would be in the best interests of the whole community. The Minister has indicated that we may look at various other amendments later in the year and I believe that that matter should be considered.

I know that it was rude of me to interrupt the Minister while he was talking and to ask him whether the proposed amendments were to be introduced before or after the consolidation, but I think that we all appreciate that, no matter what we do in respect of the consolidation of the Local Government Act, it will not be very long before we have a whole host of other paper work which goes beyond the consolidation. That seems to be inevitable with local government, but let us hope that in the future we can achieve the consolidation with less fuss than has been the case in the past.

Mr S.G. EVANS: I do not support the amendment at the moment. I do not have strong views on certain aspects, except that I support the provision relating to the annual report. I think that any body that is set up by this Parliament and carries out the sort of activities of the advisory committee should report to Parliament. I do not know why such a provision was not inserted originally. I accept part of the blame for that, but I think a principle is involved and it should be adhered to in the strongest terms. It amazes me that the Government says that it will at least accept that part.

Without reflecting on the incumbents, I raise concern about the composition of the commission. I wonder whether the Minister will refer this matter to his colleague. I believe that the personnel who sit on that commission should be determined by, say, 75 per cent or two-thirds of Parliament agreeing to such a composition, because local government is an important area of our Constitution and the operation of our country. It is very easy for a political Party, regardless of philosophy, to have on that advisory commission people who can make recommendations which are then very hard to defeat in the debating arena later. Councils can be destroyed and they cannot be re-established perhaps for the purpose of doing away with State Parliaments and having a regional and Federal Parliament. I believe it is dangerous for such a commission to have these advisory powers. The news media will blow up this story and say, 'This is a great idea, because the commission has brought it down' and the counter arguments are hard to win. I hope that the Minister will consider what I have said.

I think that society is tired of the power wielded by political Parties and that it looks for a balanced sort of view. I believe that we should start saying that in some areas a bigger majority of the Parliament should be necessary in making decisions and, in particular, as to who the personnel will be who will serve on some of these important areas for the protection of both or all philosophies of people in the community. It is one strata of government—State Government—saying to local government, 'You will do this, because we all know the sort of criteria that can be laid down.' In my second reading speech I referred to the difficulty in which the Mitcham council has been placed as a result of a Minister advising the advisory committee to go on, and permitting it to go on, with insufficient material. The submission did not even conform with the requirements. I oppose the amendment, because I believe we should go further before we start tackling this area, except for that part relating to reporting to Parliament, which I think should be included.

The Hon. G.F. KENEALLY: I will pass on to the Minister the comments made by the member for Davenport. I am surprised that he seems to believe that the present commission has a political component attached to it.

Mr S.G. Evans: I didn't say the present one has—I said 'any one'.

The Hon. G.F. KENEALLY: Yes. I was the Minister who appointed the first committee. Representative groups had to provide the Minister with their nominees and the Minister would appoint those people to the commission. The most recent appointment to the commission is an ex-chairman of one of the South-Eastern councils. I am pleased that the honourable member has said that he does not suggest that the present commission has a political makeup—I misunderstood him. I think he is saying that there is a potential for that to occur. I think that governments have to be accountable and, when a committee or a commission is established which has very grave responsibilities in relation to local government, it does not seem to be good sense to appoint to the commission members who would immediately cause tension. Whoever the Minister is, one has to be very careful that there is an appropriate balance on the commission and I think that that has been struck. I am fairly confident that that will continue to be so if the membership is as representative as it is now. However, I will pass on the comments made by the honourable member.

New clause negatived.

New clause 4b—'Reference of proposals to the commission.'

Mr M.J. EVANS: I move to insert the following new clause:

4b. Section 26 of the principal Act is amended—
(a) by inserting after subsection (10) the following subsection:
(10a) An alternative proposal recommended under subsection (10) *(b)*—
(a) may involve a council not affected by the original proposal;
(b) may deal with matters on which the Commission has previously reported (even if the previous report was made within the three year period referred to in subsection (3));
and
(c) may include any other matters the Commission thinks fit to include;
and
(b) by inserting after subsection (11) the following subsection:
(11a) Where the Commission recommends an alternative proposal, no member of the Commission who was a party to that recommendation is disqualified from acting as a member when the Commission acts further in relation to the alternative proposal or the matters out of which it arose.

I have moved that this new clause be inserted for reasons similar to those relating to earlier amendments. I will not canvass all those again, except to say that the first part of the amendment would allow the commission somewhat greater flexibility, whereas I believe that the second part is a legal technicality. I was appalled to hear at one stage that the primary or principal members of the commission may have been under some pressure to disqualify themselves from hearing an alternative proposal and that their deputies had to come forward to do that.

That suggestion was put to me as an example of what may occur, and I believe that that should not take place. Given the Minister's existing statement, I assume that he will examine that aspect of it also, but I would certainly appreciate his comments in the interim, in case I have misunderstood that particular application of the Act. I believe that these amendments are designed simply to facilitate and are not of themselves substantive changes to the functioning of the commission. They are facilitative amendments on an interim basis pending such review as the Minister has discussed earlier.

The Hon. G.F. KENEALLY: The Government will oppose this amendment but, to further the debate, I will make some comments for the benefit of the Committee and of the member for Elizabeth. The current legislative provisions may restrict more than necessary the commission's ability to put forward an alternative proposal. However, this constraint is not negative in every respect, since it tends to reinforce the responsibility of local government and local areas to identify appropriate boundary solutions.

The commission has yet to put forward an alternative proposal and, with its current thinking, it is disinclined to do so. Nonetheless, there is probably a case for some extension of the powers of the commission to put forward alternatives. This needs careful consideration so that it provides greater flexibility without giving the commission such wide powers that the essential responsibility of local government to identify boundary solutions is too severely diluted. Once the commission has such powers, there will be continual pressure for it to use them. In this respect, the proposed amendments are too broad.

For example, the amendment would appear to allow a proposal for a minor boundary change between the district councils of Lameroo and Pinnaroo to be used to implement the 1974 royal commission report. Subsection (10b) is inconsistent with subsection (5). It is not clear why the commission should be able to overturn a prior decision within the three year period when a council is not able to make a proposal to that effect. In relation to the second part of the amendment, subsection (11a) is unnecessary, since it is already clear that a commissioner is not disqualified from acting in matters where an alternative is recommended. The commission simply adopted this practice in the interests of being seen to be fair. No good purpose is served in stating the existing situation.

The current proposals by the member for Elizabeth should be deferred at this stage and considered as part of a more thorough review of these provisions in line with the information I have already given to the Committee. It is proposed to do this on the basis of the commission's advice on desirable reforms and to include any amendments in a housekeeping Local Government Bill to be introduced in the next session.

New clause negatived.

Clause 5—'Nature and general powers of a council.'

The Hon. B.C. EASTICK: This clause amends section 36 of the principal Act, which provides:

(3) A Council—
(a) shall be a body corporate with perpetual succession and a common seal;
(b) shall be capable in its corporate name of acquiring, holding, dealing with and disposing of real and personal property;
(c) shall be capable of acquiring or incurring any other rights or liabilities and of suing and of being sued in its corporate name; and
(d) shall have the powers, functions and duties conferred on it by or under this or any other Act.

The amendment picks up the majority of those points: proposed new subsection (3) provides:

A council—
(a) is a body corporate;
(b) has the powers, functions and duties conferred on it by or under this or any other Act;
(c) subject to this or any other Act—

(i) may acquire, deal with and dispose of real and personal property (wherever situated), and rights in relation to real and personal property;

(ii) may sue and be sued;

and

(iii) may enter into any kind of contract or arrangement;

and

(d) has power to do anything else necessary or convenient for, or incidental to, the exercise performance or discharge of its powers, functions or duties under this or any other Act.

Then further proposed is a new subsection (4), which provides:

No contract with a council is void by reason of any deficiency in the council's juristic capacity but this subsection does not prevent an action to restrain a council from entering into such a contract.

Is the Minister able to indicate to the Committee why the terminology has been altered in what appears to be a fairly minor form? Does this relate simply to drafting, or has a deficiency been noted in the past? Further, in dealing with proposed subsection (4), can the Minister tell us whether the term 'juristic capacity' happens to be the flavour of the month? It is a fairly new term, certainly in the Local Government Act, and I am interested to know whence it came.

The Hon. G.F. KENEALLY: In a sense the answer, I think, is 'Yes' and 'Yes'. Firstly, it is to make the drafting more understandable to those reading the legislation and, more particularly, it is to do with the whole problem of council acting *ultra vires.* It is to express the powers of the council in the widest possible way to ensure that the council is not acting *ultra vires.* So, in a sense, it is to clarify the language while, secondly and more importantly, it is to provide council with powers in the broadest sense that would enable it to act legally and appropriately.

Mr S.G. EVANS: I again seek from the Minister some indication of whether the Government is prepared to pick up an area of interest that I, and I believe many others, have. We speak of the council as being a body corporate, which in a sense is different to a body that is incorporated. 'Body corporate' means that each and every property owner of a council area is liable for any debt the council incurs, whereas with an incorporated body it would be only those who were elected to council, the staff, in all probability. They would be the only ones liable. That may be a bit difficult to do, and I am not suggesting that we do that.

However, through other legislation in relation to the Electricity Trust we have attempted to limit the liability of the trust when it is sued. This clause provides that a council may sue and be sued. In limiting the liability, as has occurred in the case of the Electricity Trust, consumers of the Electricity Trust are protected from any huge claim that might be made against the trust in the future, such as was the case in relation to the bushfires of recent times, and a debt that may be unreasonable. In such cases people who own land and make a claim might in many cases have been just as negligent as the Electricity Trust itself by not taking any action to protect their own property in a proper manner. If we did the same for councils, in making them corporate bodies as we have done with the Electricity Trust, we could save the possibility of a massive burden being placed on a group of people.

For example, if a council was negligent in not taking action to unblock a creek or a major stream for which it is responsible and some towns were flooded out, it is possible that an ensuing debt could be so high that a council either would have to borrow a massive amount of money and pay interest on it or increase its rates to such an extent that the value of properties in a council area would deflate immensely and, automatically, in order to get back into the game of being economically viable the council would have to increase its rates substantially or borrow more money, and so the process would go on. That could occur if a Government could not afford to get that council out of such a situation—and we know that both State and Federal Governments are short of money at the moment.

Many ratepayers, that is, individuals and owners of property, do not realise that they are liable, separately and collectively, for a debt arising from any action taken by councillors or staff in making decisions or taking actions. I believe that there is a major problem nowadays where people are prepared to sue for anything. So, I put to the Minister two things that I would like him to discuss with the Minister in the other place, as I realise that this cannot be amended today: either we seek to limit the liability, as we have endeavoured to do with the Electricity Trust, tying it to the property where the problem may have started, or we look to overall change of the law, to specify that a court has to take into consideration the amount of negligence each property holder might have contributed by not taking the necessary precautions themselves resulting in the eventual outcome and damage done.

Taking the example of what happened with the Electricity Trust, in relation to some of the properties that were burnt, in fact, the owners of those properties might have been more negligent than the trust in the way that inadequate precautions were taken to protect their properties. They may have done nothing and have presented a fire hazard to themselves and to their neighbours. If a fire starts and goes on to a neighbouring property where there is a massive fire hazard the danger is thus transferred on to the next property again, where the owner might have taken some precautions. Therefore the middle person is negligent, but the court does not look at that, and maybe we need to change the law in that area—and I suppose that would be overall in common law, or we might change the law to limit liability. I ask the Minister to look at that aspect, because I think that in some cases the consequences would be frightening.

The Hon. G.F. KENEALLY: Yes, liability is a very complex and difficult area, to such an extent that the Minister of Local Government, on her own initiative, took up this matter with her colleagues, the other State and Federal Ministers of Local Government, at the last Local Government Ministers conference. As a result of that, a Federal inquiry into the area of liability (brought about, I might say, by her concern at the high level of damages set by the court) is proceeding and, hopefully, within a reasonable time the results will be available to the Minister, whereupon she will be better able to adjudge the recommendation she should make to the Government as to what it should do. I will pass on to the Minister the comments of the honourable member which, I am sure, will be of interest to her, and she can consider them in light of the report she receives.

Clause passed.

Clause 6 passed.

Clause 7—'Provision relating to contracts and transactions.'

The Hon. B.C. EASTICK: I move:

Page 4—

Line 12—After 'by' insert 'a member of the council, or by'.

Line 13—After 'agent' insert 'of the council'.

After line 14—Insert new subsection as follows:

(2) An authorisation under subsection (1) *(b)* should, whenever reasonably practicable, be given to a member of the council, and preferably to the mayor or chairman of the council.

My amendment is very similar to that which was proposed by my colleague in another place, but has been altered slightly. The amendment has been prepared because of the

fears of a number of close watchers of local government (including a number of elected persons) that the role of the elected member of a council is being usurped somewhat by fairly efficient—sometimes officious and sometimes overzealous—employed officers of the council. I am not suggesting that those people who rate as I have indicated are necessarily against the best interests of the council, but they do cause some internal problems by going ahead and doing things of their own volition, then seeking subsequently to get clarification or acceptance of their actions.

My experience with local government over a long period of time has been that, because it is close to the people and because it is necessary for the elected persons to go to their electors from time to time and explain their actions, or be able to give advice to their constituents on the part that the elected members have played in actions within council, members are sometimes embarrassed by saying that things happened by a stroke of a pen behind the council's back and, whether the person be the mayor, an alderman or a councillor, they did not have a chance to participate. It has been the norm, wherever practical, for a senior member of the council to participate in the signing of contracts, etc.

I seek here to make it clear that it is still the intention of Parliament that it be understood by those who work for local government that the elected members of council, where it is practical to do so, will play a vital or effective role in important issues of council. The amendment to page 4, line 13, inserting 'of the council' after 'agent' may be something of an overkill, but it is there nonetheless. I think that most councils would undertake to give the authorisation, as listed in my third amendment, where there is good harmony and a good relationship between the elected members and the member of staff, because there is a tremendous advantage, in selling a project which might be creating questions in the minds of some people, with the hype that goes with the signing of the contract or the very fact of the project being given public prominence if the council itself is looking for additional funds from the community, if they can utilise the presence of the mayor, the chairman or some other member in their overall presentation to the public.

Occasions have been drawn to my attention (and I do not intend to name names, but I believe it is quite freely known where some of those problems have arisen) which are not in the longer term best interests of local government, and I commend the changes to the Minister on behalf of his colleague in another place. They do not in any way destroy the total intent of the original Bill or of the amendments which the honourable Minister has brought to this place. They just add a dimension to the proposition which, I believe, is in the longer term best interests of local government.

The Hon. G.F. KENEALLY: I acknowledge the argument the honourable member has used to support his amendments, but the Government is opposed to the amendments. We agree that members of councils should play as wide and as constructive a role as they can, and we feel that the existing provisions allow them to do so. The wording changes to paragraph *(a)* are unnecessary. This is the advice given to the Government by that worthy group of people to whom I am unable to refer in Committee. Suffice to say that our legal advice is that they are unnecessary.

The term 'agent' would encompass an elected member, and it is clear that the officers or agents are officers or agents of the council. I am not competent to argue the legal definition. I was almost so rude as to say that people who are paid more than I are better equipped to do so, but I do not think that that would be an appropriate comment to make in this place, particularly at the time of the 4 per cent increase! Regarding proposed subsection (2), the first point to note is that it is always the whole council which determines whether or not the council will be bound by a contract. It does so either by resolving as a council to enter into a contract, in which case the contract is entered into under seal, and the affixation of the seal is attested to by the mayor or chairman and the chief executive officer; or by resolving as a council to give either a general or specific authorisation to an officer, employee or agent, and it could authorise anyone, including an elected member as an agent, to enter into a contract on its behalf.

For a wide range of contracts, such as for cleaning and other services, supply of goods, tenancy agreements, etc., the most efficient way to proceed is for the council to set the policies and parameters and for appropriate staff members to enter into the contracts and carry out the associated administrative work. A chief executive officer and his or her staff are there to execute council decisions. This is not the role of individual elected members, and there are few circumstances in which it would be appropriate to have individual elected members acting as agents of that council in the way proposed.

The Hon. B.C. EASTICK: We will not be going to the wire on this one, but it appears to me that there would be an element of discrimination against an elected member. If it has been, as in this clause, the nomination of an officer of council, an employee or an agent, then what I would term the most important person in the whole council complex, the elected person, ought at least to rate a nomination in his/her own right.

When the Minister declined this amendment in another place, she indicated that, because it had not been promoted to her by the Local Government Association, she felt quite happy that she could walk past it. That is the thrust of what the Minister said. In actual fact, the Local Government Association had seen the amendment and, although it might not have promoted it specifically, it indicated that it was not opposed to the premise of the amendment. Be that as it may, it appears that I will not sway the Minister who speaks for another Minister. However, the offer to correct the legislation accordingly was in the best interests of local government.

Amendments negatived; clause passed.

Clause 8—'Delegation of powers of council.'

Mr M.J. EVANS: Can the Minister give an indication of why proposed new subsection (6) is being inserted? It states:

> A council may not make a delegation under this section to an advisory committee.

I notice from the principal Act that the power of a council to delegate authority would be limited in any event by the requirement that, in relation to expenditure on moneys and works and the operations of the council, the delegation must be in terms of a budget which has been previously approved by the council. Any delegation to an advisory committee would be solely on the basis of a previously approved council budget. Given that the council had previously approved the detailed budget, I am not particularly certain why a committee which the council itself had appointed in relation to a matter could not receive a delegation from the same council in relation to that previously approved budget. What is the Government responding to in introducing this new limitation on delegations?

The Hon. G.F. KENEALLY: My advice is that under the provision it was assumed that a council could not make a delegation to an advisory committee or an outside body. In this new subsection, the Government spells out in more specific terms what has always been understood by local

government throughout South Australia to be the case. The Government is not writing into the legislation anything new as such but seeks to clarify a provision that already exists in such a way as it has been understood to operate.

Clause passed.

Clause 9 passed.

New clause 9a—'The voters roll.'

Mr M.J. EVANS: I move:

Page 5, after line 3—Insert new clause as follows:

9a. Section 92 of the principal Act is amended by striking out subsection (2a) and substituting the following subsection:

(2a) Where the address of the place of residence of a person is suppressed from the electoral roll of the relevant district under the Electoral Act 1985 the chief executive officer must also suppress the address from the voters roll.

This amendment is consequential on another that comes somewhat later in the series of amendments. Unfortunately, the consequential provision appears first, so to speak, so I will make my principal argument on the consequential provision and use it as a test case for the subsequent primary provision. I hope that the Minister will forgive that unfortunate juxtaposition of the amendments. Subsequently it can be considered in relation to the assessment book.

Given the procedure established in the Electoral Act under which an elector may apply to the Electoral Commissioner to have his address suppressed from the roll, it is unreasonable to expect all of the chief executive officers across the State to make a separate judgment about the merit of that claim when the Electoral Commissioner has already adjudged it to be valid. One could end up with the absurdity of the Electoral Commissioner's approving such a claim and a chief executive officer's rejecting it so that the name would be suppressed from the Electoral Act but would appear on the council's electoral roll or assessment book. Alternatively, the Electoral Commissioner may not suppress it, and a chief executive officer would not agree with that decision.

There should be some certainty in this process. Where a person is entitled to suppression and the Electoral Commissioner as a single point of authority accepts that argument, that suppression carries through to all of the related documents. Each of the 120 chief executive officers would not be called upon to make a separate judgment on each case when the Electoral Commissioner is most able to decide the particular merits of individual applications. The Committee should consider the option of linking the two so that, where a decision is taken to suppress the address under the Electoral Act, it carries through to a council's electoral roll and subsequently, as in the primary amendment later in the Bill, to the assessment register. In that way a person can have complete confidence that, having argued for and obtained a suppression, it will be carried through to all relevant documents.

The Hon. G.F. KENEALLY: The Government opposes the amendment. Whilst I listened carefully to the honourable member's reason for moving it, I noticed that he did not indicate whether he is aware of any occasions on which the circumstances that he related have occurred. My advice is that it has not occurred. I advise the Committee that existing section 92 (2a) of the Act gives a chief executive officer the power to suppress an address from the voters roll where its inclusion would place at risk the personal safety of a person entitled to be enrolled, a member of that person's family, or any other person. The honourable member has acknowledged the need for that from time to time, as we all do. The honourable member's amendment would make it mandatory to do so when a person's address has been suppressed from the State roll under section 21 of the Electoral Act 1985. The words of the Local Government Act mirror precisely the words of section 21 of the Electoral Act, except that they take account of non-residential addresses.

The Government is not aware of any instance in which a chief executive officer has refused to maintain the suppression of an address by the Electoral Commissioner, and, therefore, the amendment seems unnecessary. The Electoral Commissioner does not supply such addresses to councils, in any event. However, the 1987 election review working party, which is meeting currently, could look at the necessity for the honourable member's amendment, and I would be happy to refer it to that committee to enable it to do so.

Mr M.J. EVANS: It seems to me that the Minister has said that he is not actually opposed to the amendment but, because the procedure has not yet broken down, he will wait until it breaks down until he will accept an amendment to fix it up—that he is waiting for an error to occur or for a chief executive officer to disagree. While a separate judgment must be made on each case, the potential exists for that to occur. It seems to me that the process for the voter concerned should be simplified so that he or she does not have to make the case three times over as the legislation now provides, because the Act requires the chief executive officer to make a judgment in relation to the voters roll and to satisfy himself that adequate grounds exist.

It then requires, further on, the chief officer to make a judgment and to satisfy himself that adequate grounds exist under the assessment book. It also requires under the Electoral Act the Electoral Commissioner to adjudge each case and to examine the merits of each case to make that judgment. It seems absurd to provide for three separate cases to be considered, for the merits to be judged in each case, and for the way to be left open for 120 different policies to be applied of this concept when in fact Parliament would want to see only one such policy applied and would allow the voter a one stop shop, so to speak, on this important matter. After all, mistakes in this area could have most unfortunate consequences for the voter.

I would rather not wait for a mistake to occur but rather, since the legislation is before us in any event and related provisions are before the Parliament in any event, one might as well simply obtain the best result feasible and secure the simplest administration feasible rather than await an unfortunate event at some future stage when one could look back and say that perhaps we should have done it then.

I regret that the Minister will not accept the course of simplifying the administration of this controversial question and I am a little amazed that the Electoral Commissioner suppresses those names to the council because, if the chief executive officer disagreed with the Electoral Commissioner's interpretation and considered that it was not a matter of safety, he would be obliged to print the electoral roll for the council with the address included and he would require an application from that person stating the address. If the chief executive officer formed a different judgment from that of the Electoral Commissioner, how would he avoid printing the address. It would not be possible. He would be derogating from his own duty under this Act, clearly and separately expressed. That is why I sought to combine them in a single provision and I should have thought that the logic of that would have been reasonably clear to the Minister of Local Government.

The Hon. G.F. KENEALLY: The one part of my reply to which the honourable member did not refer was the last part. The Minister of Local Government will be making a further review of the Local Government Act and a Bill will be introduced in the next session of Parliament before the next local government elections. I have told the Committee that the honourable member's amendment will be referred

to the 1987 Election Review Working Committee, which is currently meeting, so that it may consider his arguments. I have undertaken to do that, especially if the honourable member's amendments are lost.

The prospect of legislating for every eventuality seems to me horrifying, because we would have statute books about three times as large as they are now. It is not a matter of waiting until the legislation breaks down before the Government is prepared to move. My advice is that a breakdown, in the form of a difference of opinion between an electoral officer and the chief executive officer, has not happened and is unlikely to happen. That is the Government's view and we differ from the honourable member on that.

It is best to have our respective positions checked by an independent body and the Electoral Review Committee can do that. Then, if necessary, legislation can be prepared for introduction in the Parliament during the budget session. However, I have once again to advise the Committee that the Government opposes supporting this amendment today.

New clause negatived.

Clause 10—'Repeal of Parts X to XV and substitution of new Parts.'

The CHAIRMAN: In accordance with the decision of Parliament, I am obliged to put each new section separately.

Preamble.

The Hon. B.C. EASTICK: Clause 10 reduces the number of sections in the current Act; indeed, I have a note stating that the reduction is from 134 to 48. The clause also picks up a number of unused section numbers: for instance, sections 152 to 163 do not exist in the current Act as they were phased out earlier. It is commendable to see that the Act is to be reduced in volume and that this pre-consolidation goes well with the fact that local government will be looking forward to the consolidated version if this Bill passes (or even, I hope, if it does not pass).

The Hon. G.F. KENEALLY: It is important to advise the committee and the shadow Minister (the member for Light) that the department has done an enormous amount of work on consolidating the Act. Indeed, that consolidation has progressed until the introduction of this Bill. Whatever results from Parliament's consideration of this Bill, the resultant Act will be incorporated and, as the next production of the Act will be in loose leaf form, that should facilitate the inclusion of amendments. We are moving efficiently in the direction that the honourable member proposes.

Preamble passed.

New section 152 passed.

New section 153—'Borrowing.'

The Hon. B.C. EASTICK: The announcement by the Chairman of the Local Government Finance Authority to the annual general meeting that the authority will monitor closely and provide funds only for projects that have been subjected to a proper feasibility study and found to be viable was heartening and timely. After all, some councils believe that this legislation will open Pandora's box and that the lid will never be put on it. However, councils will be competing for funds in a fairly limited market and will be required to show accountability. From the point of view of biennial elections, council members and their staff will need to show that their wisdom has been worth following and not something that might otherwise be described as 'hairy'.

With the introduction of this Bill and the hype that went with some of the promotional information, some people in local government thought that there would be no end to the things that they could do and that there would be no real day of reckoning. However, anyone adopting that attitude was going beyond the realms of reality and wiser counsels will prevail and indeed may have already prevailed. For the Local Government Finance Authority to say publicly what I believe needs to be said was good on its part and augurs well for the proper approach to these new sections in due course.

New section passed.

New sections 154 to 156 passed.

New section 157—'Investment.'

Mr M.J. EVANS: I move:

Page 7, lines 4 and 5—Leave out 'and must then obtain the consent of the Minister'.

This provision in some way epitomises the concern that I expressed in my second reading contribution that, rather than, as the Minister stated in his second reading reply, this involving laying down standards and monitoring the activities of councils, we see here not a monitoring but a case by case decision-making process—a right of veto, if you like—in each case, where the council is seeking to make a longer term investment (obviously not a short-term investment with a bank or whatever) of surplus funds perhaps of a reserve fund, in circumstances where, if the council were a trustee, it would be required to obtain the advice of an independent expert. The council then goes out, as required by the Act, and quite properly obtains the advice of the independent expert. I certainly do not have any qualms with that requirement; it is a very sensible precaution. But the council must then, having obtained the advice of the independent expert, go out and seek also the consent of the Minister in each case.

Therefore, once the council has a resolution to the effect that it wishes to invest these surplus funds, it chooses some mechanism of investment, obtains independent financial advice from a reputable person nominated and licenced under the Securities Industries Act 1979 and then, having gone through all of that process of obtaining advice that it is a good and worthy investment, it must take that advice to the Minister, and on an individual case by case basis gain approval again for that investment. Moreover, the Minister may give approval on conditions as the Minister sees fit, and on a case by case basis the Minister has a veto power over the individual investments of councils. While I accept that councils are being given extended power here, I believe that the strategy outlined in the second reading explanation was correct, namely, that the Minister's role is to lay down guidelines and policies and then to monitor the performance of councils against those policies and standards. If councils were to make a mistake (such things do occur and State and Federal Governments also make mistakes)—

Mr S.J. Baker interjecting:

Mr M.J. EVANS: Their mistakes have more zeroes on the end—that's the only difference as we move up the line. In regard to councils, the Minister could lay down by regulation, instruction, proclamation or even within the Act a set of standards and guidelines by which investments are to be made and by which their performance will be judged. The Minister subsequently may, if a council defaults in adhering to the requirements of the Act or regulations, take action against that council, as the Minister is adequately empowered by this Act to do. The council can be judged accordingly by its own electors as this Government is judged and as the Federal Government is judged.

To require invididual case by case analysis and approval by the Minister is an unfortunate trend. Moreover, we also have the question ultimately of who we blame if the investment goes wrong. If some years ago, as some councils in Victoria and New South Wales have done, a South Austra-

lian council had made an investment in the Nugan Hand Bank (that now notorious but then relatively reputable institution—although there were some question marks, obviously it was not originally held in such ill repute as it subsequently came to be) and it had been approved by an independent expert and by the Minister on a case by case basis, to whom would we look to hold accountable for such a decision? Would we look to the council, to the independent expert or to the Minister who had given it final approval? It seems that, under the provisions at which we are looking here, we do not have a case of the Minister laying down a standard and then acting where the standard is not adhered to but rather a case of the Minister giving individual approval to decisions.

Therefore, it would not be unreasonable, if the investment went wrong, for the council to turn around and say, 'But the Minister approved it.' Of course the Minister approved it, and in my view that makes the Minister responsible for and accountable for the decision. If that is the position that the Minister wishes to be in, well and good, but it seems to me that it is the individual councils which should be held accountable for any failures on their part and, of course, which should be credited with any success. I would not wish to see the Minister held accountable for councils' inappropriate investment decisions, even if they are made on the basis of expert advice. It is for that reason that I seek to strike out the words 'and must then obtain the consent of the Minister', as I would much rather see the Minister lay down the guidelines, enforce the standards and hold the councils accountable for their decisions, rather than the other way around.

The Hon. G.F. KENEALLY: The Government opposes the amendment. In explaining his amendment the honourable member acknowledged that there has been a considerable widening of the commercial investment capacities of councils. However, the honourable member takes it a quantum leap further. When a Government is providing these sorts of powers of investment to other bodies, it is wise to be somewhat cautious about it. The honourable member has complete confidence in local government, and that is not unreasonable. It may well be that, in the light of experience, some future Government may wish to accept the amendment suggested by the honourable member. I am not sure that they will, but that may well be the case after a number of years experience with the system that the Government seeks to introduce.

The honourable member questioned where liability would lie if the Minister approved a local government investment, on the advice of a council's investment adviser, acting in a commercial way. He suggested that it may well be arguable in law that the Minister approving of the local government authority taking such action is a *prima facie* approval of what they do. I would argue that that is not the case at all. The responsibility rests with the council and the judgment on the council would be made by the electors. The investment adviser would have some liability cover, I would expect, so the council might want to take some action against its investment adviser. But I think it is stretching the bow to some extent to suggest that by the Minister approving that a council could act in a certain way he or she necessarily approves of what the council does. A difference does exist there.

The Bill extends councils' investment opportunities by allowing them, with ministerial approval, to invest in companies listed on the Stock Exchange, in prescribed finance companies and in non-trustee investments. Regarding the companies listed on the Stock Exchange and prescribed finance companies, before trustees can invest in these companies they must, in addition to obtaining independent financial advice, consider such matters as the nature and purpose of the trust and equity between trust beneficiaries. These matters do not translate exactly to the situation of councils and it is appropriate for the Minister to make the judgment which would be equivalent, that is, compatible with the nature and purposes of the Local Government Act; for example, new section 880b of the Act will (subject to s. 157) prohibit councils from participating in companies. It would be inconsistent if councils were prevented from participating in companies as a mechanism for carrying out projects, but could achieve the same end by acquiring a controlling interest in a company ostensibly for investment purposes.

Non-trustee investments obviously have a greater degree of risk attached to them. The Minister's approval can be either general or specific to one council, depending on the investment in question. Regulations are not the appropriate mechanism if a quick decision is required. It is on that advice that I, on behalf of the Government, oppose the amendment.

Mr M.J. EVANS: Unfortunately, I think that the Minister misunderstood the word that I used. I did not use the word 'liability'; rather, I used the word 'accountability', and I think that there is a difference. At no time did I suggest that the Minister would actually be held liable in the legal sense and therefore would be required to pay money in a court in a damages suit. I think that it is valid to point out the difference between the two words, because this Parliament and the electors will look to the final approving authority and, since the decision is given on the basis of fully informed consent, I fail to see that the Minister could not be held accountable, not in the legally liable sense but, rather, accountable at the political level for that decision. After all, what is the point of a fully informed final consent if that person cannot be held accountable for that decision? Are we to say that the Minister is to receive all this information and then take a decision to grant approval, but then not be held accountable for that decision?

That is an unfortunate extension of the question of ministerial responsibility in the area of local government. While, as the Minister says, I have confidence in local government, that does not mean that I believe they will be right on every occasion. I certainly do not believe that, as I mentioned during the second reading debate. I allow, as does the Minister, for the possibility of mistakes being made. I believe that the right person should be held accountable for that mistake, and that is where the Minister and I part company in relation to the philosophy of this decision. The Minister addressed the question of the regulation, but I have not yet actually moved that part of the amendment; I will move that subsequently.

The Hon. G.F. Keneally interjecting:

Mr M.J. EVANS: No, I think that they are separate questions, and I have an entirely different argument to mount in relation to the third part of the amendment.

The Hon. G.F. KENEALLY: I take the point made by the honourable member that I discussed 'liability' as opposed to 'accountability' and, in particular, political accountability. I suspect that any Minister who is prepared to be politically accountable will be very careful in the judgments that he or she makes, so I do not know that we really part company in relation to 'accountability' or 'liability'. I take the point made by the honourable member. He believes that it would be foolish for a Minister to take that responsibility and thus be politically accountable. I wonder why he objects to this if a Minister is prepared to accept that responsibility. He may feel that it is wrong in logic, ethics

or principle (and I suppose that that is the greatest bit of tautology that this Committee is likely to hear in this debate) rather than to consider whether or not the Minister herself is prepared to be so accountable. Nevertheless, we have a difference of opinion as to whether or not this amendment should be supported.

The Hon. B.C. EASTICK: My colleague in another place questioned the Minister about some aspects of this matter. A number of amendments to section 157 which were included in another place provided a better appreciation in relation to the investment of funds and removed an existing problem. I believe that they may have encountered problems, for example, even in depositing and withdrawing funds from a bank. Be that as it may, the Hon. Diana Laidlaw questioned the Minister—

The CHAIRMAN: I must caution the honourable member that he must not refer to debate in another place.

The Hon. B.C. EASTICK: I know what you are saying, Mr Chairman. Assurances have been given that at the moment no guidelines exist to direct how local government will respond to the department and how the department will respond to local government. The area has broken new ground and discussions have taken place along the lines that it is perhaps a 'suck it and see' situation. Once the councils interface with the department, the department interfaces with the councils, and the Minister has given assurances that the members of the department will give keen consideration to the requirements of local government, it may be necessary to lay down criteria and time scales. That assurance having been given, I am quite happy to accept that, with the best will in the world on the part of the department and the councils, we will achieve a result.

I am quite sure that this Parliament, the department and the Minister involved will hear very loud objections if there are any problems. I alluded to one problem earlier, and the Minister's advisers acknowledged that this had occurred through misadventure. Somebody waited five months before receiving acceptance of a $3 000 loan. Those sorts of matters always surface, and I am quite sure that they will surface in relation to this matter. It may well be that, if experience shows that regulations or amendments to the Act are necessary, those matters will be resolved. I am happy to accept the position as it exists at the moment, and I look forward to commonsense prevailing on both sides.

Amendment negatived.

Mr M.J. EVANS: I move:

Page 7, lines 6 to 9—Leave out subsections (3) and (4) and insert new subsection as follows:

(3) A council may invest in any other prescribed form of investment.

The Bill allows for investment approval to be given by the Minister on a council by council and case by case basis. As the second reading explanation mentioned, I believe that it is the Minister's role to lay down standards and guidelines and not to involve himself or herself in the day to day decision-making processes of the council itself. I believe also that, in this process, what is good for one council is good for another, provided that they are in the same general class of council with respect to size, rate base, and professional expertise.

It seems much more appropriate that, instead of dealing with individual councils on individual investment decisions, because there are some 120 councils in the State it would be much more appropriate for the Minister to lay down regulations which would then approve for all councils or for classes of councils the type of investment which would be permitted. I do not contemplate that this would be the basis for individual decisions on investment responses. Regulations are too slow to be used as the basis for approving individual investments, but that mechanism is well established in new subsection (2), which in its wisdom the Committee has not amended and which still requires the individual approval of the Minister. This amendment does not relate to laying down individual decision-making processes but, rather, it establishes uniformity and equal opportunity among councils.

I believe that, for what would be a secret process (and not secret out of any intent to deceive or hide but secret simply because it will be conducted on the basis of individual correspondence between individual councils and the Minister), other councils will not be aware of the decisions which the Minister has made in respect of investment approvals; they will be unaware of the opportunities opened up by the Minister. So, I believe that, given the individual powers contained in new subsection (2), new subsection (3) should not allow the Minister to make decisions on a council by council basis; rather, it should refer to overall decision-making processes or, as the Minister said in the second reading explanation, to lay down standards and to set guidelines. That should therefore be done by regulation so that Parliament and every council in South Australia will know that councils in the same class can be treated in the same way.

The Hon. G.F. KENEALLY: For the sake of consistency, I oppose the amendment. The member for Elizabeth is rushing ahead faster than the Government is prepared to go. At this stage the Government does not have in mind a list of investment proposals that it may support. So, it is early days yet. The Government intends to leave open all potential investment possibilities, and in the light of experience, after, say, two or three years, it may then wish to lay down a prescribed form of investment. My advice is that different councils have different needs and they are certainly likely to have different investment intentions. I am sure that the honourable member would not disagree with that. I just think that the honourable member is moving a little faster than the Government is prepared to go. I am not too sure that there is a tremendous difference in policy, although perhaps there is a different emphasis in timing.

I have listened very closely to what the honourable member has had to say and I will pass on his comments to the Minister of Local Government. But it is her intention to try to ensure that councils can contemplate all sorts of proposals and to bring them to her for her approval or otherwise. After a period of time I am sure that it will settle down and that the more desirable forms of investment will be more clearly understood, and then if the Government wishes to prescribe forms of investment for council that could be done, coming from that experience. However, at this time Government is not prepared to accept the honourable member's amendment.

Amendment negatived; new section passed.

New section 158—'Accounts and reserves.'

The Hon. B.C. EASTICK: Proposed subsection (5) provides:

A council must establish a reserve to cover its liabilities in relation to the long service leave entitlements of its officers and employees and, after a day fixed by the Minister for the purposes of this subsection, the amount of the reserve must be sufficient to cover the council's liabilities for long service leave . . .

I am completely in accordance with the establishment of that reserve. Can the Minister identify a projected time schedule for the implementation of that fund in total? This area has caused a great deal of concern to a number of organisations in relation both to long service leave and, certainly, superannuation. For example, in one organisation which I have a deal to do with the liability in respect of

long service leave accumulated is almost $750 000 and liability in relation to superannuation is assessed at $8 million. On relatively small annual incomes it will take a long time to build up funds to meet that commitment. I am sure that some councils will want to be given a very clear indication of how long it will be before the axe falls because, in effect, they are on notice that they will either have to raise funds or stand aside funds.

If they stand aside funds they will be in the position of not being able to provide services, and if they raise funds at a time when the raising of funds is not popular then other problems will occur. I suspect that this day is likely to be down the track rather than coming immediately. If it is intended that that will be within the next three years I think that we would have a lot of disgruntled councils and bankrupt councils and a lot of very serious discussions would be undertaken on the floor of Parliament and elsewhere in relation to the matter.

I note further that new subsection (6) provides that money which is being held can be drawn upon by the council for other purposes. I am quite happy for councils to borrow from themselves, and it has to be repaid by a given date. I would suggest that this is just one area where the real pressure will be on the auditor to the council in determining that a council is covering itself in the operation of drawing on its reserves. It is a matter that the Minister of Local Government would want to monitor very closely, to ensure that people operating in this way are aware that there is a day of reckoning to be met. There is a grave responsibility to workers in the matter of long service leave, and if it was extended to superannuation the same thing would apply. I would like to believe that the Minister will take up the intent of this clause and perhaps draw to the attention of those who are going to be registered as auditors in this area that she believes that councils will require a very particular report.

The Hon. G.F. KENEALLY: The honourable member is right in raising this matter. He would be aware, of course, that any council which moves money in or out of its accounts must ensure that those accounts are properly funded at the end of the financial year, and I am sure that the auditor would be disposed to ensuring that that takes place. In respect of new section 158 (5), which provides that the council must establish a reserve to cover its liabilities in relation to long service leave entitlements, the Local Government Accounting Committee of 1984 established the date of, I think, July 1990 was being the time when all local governments should be in funds to do that.

We understand that some local governments have made no provision at all and, quite obviously, they will not have established the reserve by that time. This matter will be referred to the new Local Government Accounting Committee, which is in the process of being established, to identify an appropriate date to ensure that local government authorities do meet that requirement. The honourable member is right in that if they were required to meet the current date many of them might find themselves in some financial difficulties. I recall—and I suppose this is pertinent but not necessarily *apropos*—that one council was in terrible trouble when its chief executive officer retired because his entitlements were more than the rate revenue of the whole council, and that council certainly had some problems. I might say that the difficulties that some small councils face from time to time—

The Hon. B.C. Eastick: One or two small unions have had the same problem.

The Hon. G.F. KENEALLY: I cannot recall that that is the case; the honourable member has me at some disadvantage, but I certainly can recall at least one council. So, the matter will be referred to the as yet to be constructed Local Government Accounting Committee, for it to establish a more appropriate time for those councils who have as yet not moved towards providing that they have funds to cover superannuation and long service leave entitlements.

Mr M.J. EVANS: Can the Minister indicate whether new subsection (6) also applies to the long service leave fund? Is it intended that this concept of councils borrowing funds from themselves, as the member for Light expressed it so well, will apply in relation to the local government long service leave fund? If it does, it almost seems to me to defeat the purpose of the provision, because, although the auditors may well look at it, the fact that the money comes out, goes back at the end of the year, but can be repaid from other funds of the council and then taken out again on 1 July almost seems to negate the purpose of a special fund. Although the auditor may look at it and draw attention to it, the reality is that either we are insisting on a special fund or we are not. I think that a special fund is reasonable, but it does seem to me that if new subsection (6) applies to the long service leave fund as well then there is some problem. I note that, although the Minister did draw attention to a certain council, I think that he implied that that council, in fact, ultimately paid the officer concerned his long service leave. I wonder whether the Minister knows of any council that has in fact defaulted on its long service leave, or could it be said that the Government was legislating in advance of the need?

The Hon. G.F. KENEALLY: I knew I would be in trouble by relaying to the Committee some anecdotal experiences, and I do not think that it would assist the debate if I continued to do that. Yes, new subsection (6) would enable councils to borrow from the long service reserve. The auditor at the end of the year, as the honourable member has pointed out, can trace the money very easily from one account to another. I think that the bottom line is that all accounts should be in funds; that there should be sufficient funds within the council to cover all its liabilities, and they may be transferred back to appropriate funds at the end of the financial year and then into different accounts after the financial year.

I think that the auditor would report as such, and that report is then available to the electors. I think that any council that was playing around with funds in the way in which some of the less ethical accountants are alleged to do would probably fall into disregard with its electors, who may take the appropriate action. I think that the protections are there. However, the point which the honourable member makes may well be valid. I suspect that any sensible council would be very careful not to act in that way.

New section passed.

New section 159—'Estimates.'

Mr M.J. EVANS: I move:

Page 8, line 2—Leave out 'The chief executive officer' and insert 'A council'.

In fact, I have on file three identical amendments to lines 2, 19 and 21. I do not intend to proceed with the amendments to lines 19 and 21, and that may assist the Minister in his consideration and discussion. The first of the amendments relates to the preparation of the estimates of the council's income and expenditure for each financial year. Looking at these sections, I have come to the personal conclusion that one should examine those areas where the chief executive officer is simply fulfilling a statutory duty to undertake certain clerical and accounting functions, and those areas where he might be considered to be discharging some kind of policy function.

I think that, quite properly, new section 159, where the chief executive officer must have prepared estimates of the council's income and expenditure for each financial year, requires the CEO to indulge in a little potential policy making function, because to prepare an estimate of the council's income and expenditure for a forthcoming period requires one to make assumptions about income from fees and charges, about income from new projects, about expenditure on projects which the council may or may not wish to make; so I believe it would be far preferable if that provision read that the council must cause to have prepared estimates of income and expenditure.

Obviously, that would be undertaken by the CEO and his staff, but it then clearly would be the province of the council, the elected members, to set the parameters. When we come to those other amendments which I no longer wish to move, they clearly relate to accounting functioning and are simple clerical duties, and I do not believe that it is inappropriate for the Bill as presently worded to stand as presented. In relation to this first item, I believe that it is more appropriate that it is quite clearly stated in the Bill where the parameters must be set down. It is not the CEO who makes the decision about prospective income and expenditure but the council.

The Hon. G.F. KENEALLY: These are fairly difficult debates, because I think that the member for Elizabeth sees here a principle which is not readily apparent to me. The Government is trying to keep separate the policy and administrative functions. The policy responsibility rests with the elected members of council. The administrative function rests with the chief executive officer and the staff who report to him. It is the Government's view that the CEO, as always, is responsible to the council. All matters obviously are subject to the council's oversight, and it is the Government's view that it is quite appropriate for the CEO to ensure that things such as the preparation of the estimates of council's income and expenditure should be completed to the council's satisfaction.

Frankly, I do not understand the honourable member's concern, although I have listened to his explanation. All I can say is that the Government is trying to keep separate the policy and administrative functions. The administration work is necessarily that of the CEO. I think that we all know of councils where there is conflict between councillors, particularly, and the mayor and the CEO, where each seems keen to do the other's work. That is not very helpful to the proper running of a local government authority.

If we are able to keep them separate, I think that that has an advantage. It is purely for that reason that the Government has worded the provision as it has, and it is not persuaded by the honourable member's argument that we should change 'the chief executive officer' in new section 159 (1) to read 'the council'.

Mr M.J. EVANS: I completely agree with the Minister that those areas must be separated. It is obvious that we only disagree about how that separation should take place and where that line should be drawn, and it is my view that to prepare estimates of income and expenditure one must make policy decisions. Does one include the new aged care centre? Does one include fee increases for the swimming pool? Does one include a proposed lease to a football club of an oval and the doubling of that amount? Those decisions are clearly all policy decisions.

It is a simple matter to accumulate last year's wages bill and the like, but if the council is contemplating, for example, increasing or decreasing its employment work force, that is clearly a policy decision, whereas new sections 160 and 161 have strict administrative connotations, in my view, new section 159 deals with the preparation of the budget—and I am sure that the State Cabinet works very hard on its budget.

Members interjecting:

Mr M.J. EVANS: I am not unaware of the details of such things, and it seems to me that while the Public Service puts forward fundamental guidelines and details to Cabinet, the document that emerges from the Cabinet discussions is quite different. However, those people act under the day-to-day direction of Ministers, and that is a little different from a council which meets at night once a month. That is where the difference in policy arises, but it is certainly not an issue to which I am overly committed. It is simply a case that we have the choice of the words 'chief executive officer' or 'council'. In this case, my view is that, since it is a policy matter, it should be 'the council' which appears rather than 'the chief executive officer'.

The Hon. G.F. KENEALLY: I want to make the point that it would surprise me if the chief executive officer of any council of which the member for Elizabeth was mayor would prepare a set of estimates of income and expenditure which was not subject to very stringent review by the honourable member, by the mayor and his council. That is what is expected to happen here. I thought that there was some confusion in the honourable member's mind as to how Cabinet works and as to the recommendation that goes to Cabinet; he knows very well how that system operates and how it operates in local government. I take the point about the continual overview that Ministers have of their departments as opposed to the intermittent overview that a council has. Many mayors have an almost excessive overview of what goes on, over the council and, as has been pointed out, one or two of them even seem to move in.

It is the intention of section 159 that the chief executive officer must have prepared these estimates. It is really up to the council to make the final decision on them. A council should do something about a strong chief executive officer who may overly influence it. On the other hand, there is no point in a council having a chief executive officer who does not have some influence and who cannot make appropriate recommendations. A council should get rid of those who cannot make decisions and in whom it does not have confidence. Ultimately, it remains council's responsibility as to the policy decisions that flow from income and expenditure accounts.

Amendment negatived; new section passed.

New section 160 passed.

New section 161—'Financial statements.'

The Hon. B.C. EASTICK: I move:

Page 8, after line 38—Insert new subsection as follows:

(5) A member of the council is entitled, at any reasonable time, to inspect the financial statements of the council prepared under this section.

This might be termed, and was considered in another place, as being unnecessary and overcautious. However, let me be quite straight about it. Some chief executive officers deny vital information to members of council on the basis that certain records do not exist or they are not permitted to make that information available to council. Short of starting major arguments and not always having the support of other members of council, if they were to undertake an argument, councillors are prevented from getting the sort of detail that they need to best represent their people.

As the Minister would be aware, under the Local Government Act, a number of schedules must be submitted by the chief executive officer to the Department of Local Government. One of those schedules is a list of the property owned by a council. That schedule is required to be considered by the auditor and shown to be correct; yet some

councillors have never seen or been able to obtain a copy of that schedule. In refusing that material, a chief executive officer is right out of line. The amendment that I have moved may be overkill but it is desirable in the sense that it will be a clear direction to a chief executive officer that he may not deny that information to a councillor.

In working hours, members of the public can seek particular information relative to council records. However, they may be prevented from seeing documents that they have a right to see. The Ombudsman has referred to a number of cases when he had to draw to the attention of local governing bodies the fact that they have a responsibility to make information more widely available than some executive officers or other staff members have been wont to make available. On that basis, I ask the Minister to reconsider the provision. It does not alter the thrust of the legislation; albeit if it is overkill, at least it will give a clear direction to an executive officer that a member of council has the right of access to that material. As a result, a member of council will not have to make a fuss, go to the Ombudsman or create problems on the floor of council in trying to ascertain that information. It is a worthy amendment that can only assist a better understanding in the council arena.

The Hon. G.F. KENEALLY: The cautionary note expressed by the honourable member is correct. The Government's position is that it does not believe that it is necessary to write the provision into the legislation, except perhaps as a statement of principle. If it is written into the Act, by specifying that the documents should be available, there may be an argument that some documents are not available. I am not sure whether the Government would face that predicament. While I have some sympathy with the views of the honourable member, by just writing it in as a statement of fact would not change the legislation. Councils should be provided with that information, by right.

My advice is that it is redundant. Regulation 3 (2) of the local government accounting regulations 1979 provides that on or before 1 November each year, the CEO must cause the audited financial statements in respect of the previous financial year to be laid before council. Schedule 1 of the prescribed financial statements contains a statement which the Mayor or Chairman and CEO are required to sign to confirm that the financial statements have been laid before the council. On balance, I will follow the instructions given to me by my colleague, which is to oppose the amendment. If it were to be included, it would be merely a statement of principle which would confirm what should happen within councils by right. On that basis I will respect my colleague's advice and oppose the amendment.

The Hon. B.C. EASTICK: I have demonstrated that a number of people are not getting the information as of right and what I have proposed is a worthwhile crutch for people to obtain that information without further dispute. It is clearly a right within the Local Government Act and that regulation has been flouted in some circles.

The Hon. G.F. KENEALLY: I am prepared to change my mind. The honourable member's additional point is a valid one, and I accept his amendment.

Amendment carried; new section as amended passed.

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

New section 162—'The auditor.'

Mr M.J. EVANS: I move:

Page 9, line 16—Leave out 'Minister otherwise determines' and insert 'council appoints an auditor in accordance with this section (although if a new auditor is appointed, the Auditor-General will, if the Minister so determines, complete an audit that has already been commenced by the Auditor-General)'.

The point that I am seeking to make here is that where a council has failed to appoint an auditor in the normal course of events and the Minister has quite properly appointed the Auditor-General to audit the affairs of the council, the council should then be in a position to rectify itself the failing of the system to appoint an auditor in the normal course of events, and the Auditor-General should be removed from office in the way that any other auditor would if the council had appointed its own auditor in the first place. So I am simply seeking to regularise the procedure because I do not really believe that it is any different in this context to the normal change in auditors. In any event, I understand that the Auditor-General himself does not, in his own branch, so to speak, as Auditor-General, conduct the audit but that he usually appoints a private firm anyway. Therefore, in this context I think it is perfectly reasonable that the council itself should have that authority.

The Hon. G.F. KENEALLY: I guess the honourable member would not be too suprised if I say the Government opposes this amendment. The Bill simply retains the existing provision of the Act. There is no change. The honourable member does refer to the Auditor-General. It is true that the Auditor-General is not terribly keen to be involved in auditing local government authorities—in a sense. I guess one could say that he may be seeking to withdraw. But what the Government has done is to merely continue the existing provision. I do not believe there is any reason why we should change. I acknowledge the matters raised by the honourable member. All I can say to him, as I have said before, is that his comments will be referred to the Minister for her consideration, but certainly for the purposes of this debate at least the Government is opposing the amendment.

Amendment negatived; new section passed.

New section 163—'Offices to assist auditor.'

Mr M.J. EVANS: I move:

Page 10—

Line 4—Leave out 'The chief executive officer' and insert 'An officer or employee'.

Line 7—Leave out 'The chief executive officer' and insert 'An officer or employee'.

Both the provisions to which this relates establish an offence in relation to documentation required by an auditor, and while it is certainly true that the chief executive officer is responsible for the normal operation of the council, the fact is that we are contemplating a provision where an auditor is seeking to demand such a document, and clearly the person is perhaps not cooperating with that process, otherwise we would not be needing the offence provisions to be established here. I think that the obligation should not just be on the chief executive officer but on all officers and employees of the council to produce information.

The chief executive officer can hardly be held criminally liable if, in fact, it is some other officer who is failing to produce that information. So, I believe that the whole of the staff should be required to cooperate with the auditor. While normally, in 99.9 per cent of cases, you would expect that that would be done with perfect openness and willingness, and I am sure that that is the case, this section is only about those situations where that is not the case. Therefore, I think it is only proper that it should extend right throughout the structure of the system.

The Hon. G.F. KENEALLY: The Government opposes these amendments and I hasten to add that we are not just rejecting them out of hand. I believe that the honourable member has given considerable thought to his amendments and because of that I will be urging the Minister and her department to give further consideration to the points that he has made, particularly as they relate to the roles of the

chief executive officers, the council staff and the elected members.

There may well be some merit in further consideration. I can only say that, on the evidence currently available to me, the Government opposes this amendment. The chief executive officer bears the responsibility but, obviously, other staff will be involved and, if they refuse to cooperate, the chief executive officer must take appropriate action. If the chief executive officer does all that is reasonably possible to assist the auditor as required, he or she will not be penalised under the offence provision.

It is the chief executive officer who is collecting a salary commensurate with those responsibilities, not the accounts clerk, and it is quite clear that the chief executive officer is paid to take the responsibility, and that is appropriate. However, I just want to reassure the honourable member, who has obviously gone to a lot of work and effort to prepare a series of amendments, which we are opposing, one by one, that it is my intention to ask my colleague the Minister of Local Government to further consider them. If there are matters that need to be addressed in a housekeeping Bill, as we term it, in the next session of Parliament later this year, they can be introduced.

That is in no way saying to the honourable member that I feel that my colleague may be persuaded, but I rather think that more consideration ought to be given to the amendments than I have been able to give in the reasonably short time that the amendments have been available to me. Therefore, I will give the honourable member that undertaking but, in the meantime, I am not able to do what he would like me to do and support the amendments. The Government opposes the amendments.

Amendments negatived.

The Hon. M.J. EVANS: I move:

Page 10, line 10—Leave out 'A chief executive officer' and insert 'An officer or employee of a council'.

I understand that the Minister's reasons will be the same.

The Hon. G.F. KENEALLY: I can assure the Committee that the reasons are the same.

Amendment negatived.

The Hon. B.C. EASTICK: My reading of new section 163 indicates that, if a chief executive officer failed to perform and was fined up to the maximum of $10 000, that would be a direct charge against the chief executive officer and not against the council. That is necessary, as no council should have to pay for the transgressions of officers who have failed in their duty to the council.

The Hon. G.F. KENEALLY: I assure the honourable member that the penalty is that which would apply to the chief executive officer and not to the council. It is appropriate that the honourable member should have raised this matter so that Parliaments' intention is clear.

New section passed.

New section 164—'Reporting of certain irregularities.'

Mr M. J. EVANS: I move:

Page 10—
Line 19—Leave out ', if the auditor thinks fit,'.
Line 25—Leave out 'chief executive officer or'.

My amendments would require the auditor to refer to the chief executive officer and the council any irregularities in the council's accounting practices or in the management of the council's financial affairs. It seems to me clearly that although an auditor who identifies a minor and insignificant irregularity will simply bring that to the attention of the immediate staff, whether the accountant, the deputy town clerk, or the chief executive officer, such a minor matter will be resolved immediately by negotiation and agreement.

However, if we are at the point of a statutory action by the auditor, where he is formally referring to the chief executive officer an actual irregularity in the council's accounting practices or in the management of the council's financial affairs, we must have good regard to the two words: irregularity in the council's accounting practices and management in the council's financial affairs. In this case, the council is entitled to know of the existence of such irregularities and, clearly, if the council views them as being of no consequence or it is satisfied with the auditor's response and negotiations with the chief executive officer, the council will take no further action.

However, given that it is the council's financial affairs and the council's accounting practices that are deemed by the auditor to be irregular, it is for the council to know that and to ensure that the chief executive officer has properly corrected the practices; the council can then use its own powers of oversight of its own staff to properly understand the practices. If that is not the case then, under subsection (2) *(d)*, it could be the case that the auditor has referred to the chief executive officer an irregularity, the chief executive officer has not corrected that irregularity to the auditor's satisfaction, and the auditor must then report that to the Minister.

At no time is the auditor actually obliged to report that irregularity to the council itself. It is possible under the Bill, as drafted, for the chief executive officer to fail to correct a management practice and for the auditor then to be obliged to refer it to the Minister without having ever having been obliged to refer it to the council. That is unsatisfactory and a derogation from the council's clear responsibility to be held accountable for its own financial affairs. If the matter is minor, it will never get to that formal stage, but once it is formally referred by the auditor the council must have it drawn to its attention, and what action is taken and what consequence the council places on it is entirely its own affair.

The Hon. G.F. KENEALLY: The Government opposes these amendments and I shall canvass briefly the ground canvassed by the honourable member. True, it is not necessary for the council's time to be taken up with minor procedural or technical irregularities that can be rectified administratively, and the honourable member made that point. Minor format errors in the compilation of the schedules that make up the financial statements do occur and these simply need to be drawn to the attention of the administration.

Auditors are highly qualified professional experts who are well aware of the extent of their duty of care and they will not risk failing to report significant matters to the council. The Government relies on the professional ethics of the auditor in auditing the council's accounts. If the auditor thinks fit, the matter will be referred to the chief executive officer. If the auditor thinks fit, irregularities can be referred to the council. If no action is taken, the auditor can refer the matter to the Minister. That seems to be an appropriate and workable system.

Having said that, I give the honourable member the assurance that I have given him on other clauses concerning a second look at these amendments. Again, however, I must say that the Government opposes these amendments.

The Hon. B.C. EASTICK: I believe that there is a need for a close watch in this regard. I am not averse to the general principle that has been laid down by the member for Elizabeth, because I am aware of a case in which vital information was deliberately withheld from a council even though the documents relating to the transgression had been directed to the attention of the presiding officer of the council but were taken over by the chief executive officer

under a loose arrangement and the information withheld, in this case, from the mayor.

That sort of thing leads to all kinds of problems and, although the new system with the auditors becoming aware of their task and their responsibility to the council should ensure that no such transgression occurs, this should be watched. Indeed, it would be in the first line of amendments that I should be pleased to support, whether moved by the Government or the member for Elizabeth, when the practice of the new legislation becomes a matter of fact.

Amendments negatived.

The Hon. B.C. EASTICK: Subsection (3) provides that a report need not be made under subsection (2) in respect of a "minor irregularity or breach". In this regard commonsense will be expected to prevail. The existing legislation, in respect of urban farmlands, provides that there shall be substantial income from urban farmland. What is 'substantial'? That has been argued in the courts over a long period. When Mr Virgo was Minister of Local Government, I drew to his attention an action taken by a tobacco company over a parcel of land held in the Marion council area when he was a member of that council. Subsequently a judge in the lower courts found against the council and in favour of the plaintiff on a looser interpretation of 'reasonable' than was otherwise being put forward by the council.

There have been numerous arguments around the council table whether 'substantial' means at least 50 per cent or, if it does not, then how much? I merely use that as an example, because I see the decision as to what is a minor irregularity becoming a problem for the auditor and possibly for other advisers.

I would suspect that the auditors in the first instance will take every breach as being of importance and, by practice over a period of time, come to grips with what might be deemed to be minor rather than what is no offence at all. I just draw attention to it; I do not attempt to provide any change of words, albeit on my first reading of this clause I was fearful that it would become a lawyers' paradise. I hope that that will not be the case—time will tell.

New section passed.

New sections 165 to 167 passed.

New section 168—'Ratability of land.'

The Hon. B.C. EASTICK: I draw attention to the fact that in more recent times this is an area where there has been some concern and some variation of interpretation by individual councils as to what should be the case relative to rating of dormitories in colleges, in particular. Not so very long ago St Peters College was in some dispute with its council. Subsequently the action taken by the council was reversed in favour of the college. I have had it checked out. As best I can understand it, the *status quo* will remain. There may be some slight variations with some parcel of land that had been given a concession in the past not rating for concession in the future. I hope that we do not have arguments of interpretation in respect of it, but it ought to be noted that the possibility of difficulties was raised during passage of the Bill.

The Hon. G.F. KENEALLY: My advice is that the Government has tried to retain the same concessions that were apparent in the previous legislation. As far as possible we have tried to retain the same terminology so that the intent of the Bill is clear.

The Hon. B.C. EASTICK: I refer to subclause (5) which provides that:

> Rates may be assessed against—
>
> *(a)* any piece or section of land subject to separate ownership or occupation
>
> or
>
> *(b)* any aggregation of contiguous land subject to the same ownership or occupation.

I draw attention to aged cottage home arrangements in particular, whereby presently the relief available to *bona fide* aged people under concessions made available by Government is not available to the non profit-making organisations that conduct these aged cottage homes, whether they be as individual cottages, conglomerates, high-rise or low-rise. A discrimination exists against the same class of people in society, in the broad sense. I am not certain whether the Government deliberately looked to alter the situation or whether it is of the view that the alternation will provide for that advantage to be given to people who live in this type of development. If I may allude to the fact, Mr Chairman, the matter is fairly close to your heart and one on which you have made representation in times past.

The Hon. G.F. KENEALLY: I was slightly distracted, but I repeat that we have tried to retain in this Bill the same procedures, concessions and rate structure that was apparent in the previous legislation. Whilst I note that the honourable member is not proposing to take issue with the provisions, he wishes to make some points that he believes are essential and I give him the undertaking that I have given other members of the Committee, namely, that his comments will be referred to the Minister for her consideration. New section 168 is drafted as close as possible to the Act maintaining the concessions, rate structure, terminology, and so on.

The Hon. B.C. EASTICK: As I understand it, no concession exists under the present Act. I believe that was the intention of the Government to make such concession. Is it going to undertake it in a different way or precisely where are we at present in the representations that have been made by a number of members of Parliament? Having regard to the concessions the Government did make in respect of land tax for similar type establishments, it would be consistent with the attitude that the Government showed on that occasion that provision be made so that people resident in these structures and organisations would be able to benefit like people of the same age and stature anywhere in the community.

The Hon. G.F. KENEALLY: The honourable member makes a valid point. I am sorry that I did not clarify the point when speaking because I was saying very much the same thing. Local government will have the power to provide concessions to people such as the honourable member has mentioned. Being realistic, one would believe that this is more a matter for the State Government to look at. I am sorry that I have to say that I am not aware of the present state of any consideration, if in fact any consideration has been given, to concessions in the area mentioned by the honourable member. That would be a Government decision and I am sure it would be a matter to be looked at in the budgetary process. I would imagine that I cannot give any information to the Committee currently, but I do not know whether the matter is being seriously considered. I will have to obtain such information from my colleague.

New section passed.

New section 169—'Basis of rating.'

The CHAIRMAN: I point out a clerical error on page 13, line 28. The line should read 'the fixed charge cannot be imposed against land that' instead of the words 'can only'. It is a fairly significant change. I want the Committee to be aware of it.

The Hon. G.F. KENEALLY: It is fair to say that we are getting to the crux of the debate that has been and will be held this evening on this Bill and that is the basis of rating. I move:

> Page 13, lines 22 to 43—Leave out subsections (2) and (3).
> Page 14, lines 4 to 8—Leave out subsection (5).

These amendments remove the provisions allowing for a fixed charge based on administrative expenditure to form a component of general rates which were inserted in another place. I think I ought to say that the Government does not oppose this concept in itself. The system was devised and promoted by my colleague the Minister of Local Government, and was the subject of an independent study by the Centre for Economic Studies commissioned by the Minister. However, the fixed charge or administrative levy proposal was developed and recommended only as a replacement for the practice of setting minimum rates which would compensate council for the revenue lost and would be less regressive in its effect.

In effect, the Minister had a proposal that this might be an option at which local government could look as an alternative to the minimum rate. However, local government rejected that, and then the decision was taken in another place and the Government was suddenly faced with both the minimum rate and an administrative charge. The Government is not prepared to allow the use of this fixed charge as an additional option in the absence of any provisions which address the problems raised by minimum rating, so the Government moves those amendments for the reasons that I have outlined.

The Hon. B.C. EASTICK: I do not intend to enter into lengthy debate on what we might call the pivotal sections—other members may wish to do that—but I will vehemently oppose the Government's view to the point of calling for a division on each issue as it comes forward. In relation to this measure—

The CHAIRMAN: In view of what the honourable member has just said, I will clarify the situation. As I understand it, the Minister is moving those two amendments as one and I am prepared to accept that.

The Hon. G.F. Keneally: New subsections (2), (3) and (5).

The Hon. B.C. EASTICK: This provision has been canvassed widely, almost to the point of being accepted. In fact, at one stage it was a new initiative proposed by the Minister and then, at another stage during the consultation process, it suddenly disappeared from the agenda. As I understand the situation, the amendment made in another place was to the effect that the council could use the provisions of this proposed section, or it could use the minimum rate, but it could not do both. I think that that statement differs from the comment which was made recently by the Minister, and I draw attention to that fact.

We should appreciate that the Bill does not provide (and I do not promote the view) that council may have two bites at virtually the same cherry—it is 'either' 'or'. On that basis, I believe that this measure, which was introduced in another place by the Hon. Mr Gilfillan after he canvassed it fairly widely in the community and with local government, should be retained in the Act as part of the flexibility which the Government claims it wants to provide to local government. On that basis, we will oppose the Minister's amendments and, accordingly, I will call for a division.

The Committee divided on the amendments:

Ayes (26)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Blevins, Crafter, De Laine, Duigan, and M.J. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally (teller), and Klunder, Ms Lenehan, Messrs McRae, Payne, Peterson, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Noes (16)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, and Blacker, Ms Cashmore, Messrs Chapman, Eastick (teller), S.G. Evans, Goldsworthy, Gunn, Lewis, Meier, Oswald, and Wotton.

Pairs—Ayes—Messrs Bannon and Mayes. Noes—Messrs Ingerson and Olsen.

Majority of 10 for the Ayes.

Amendments thus carried; new section as amended passed.

New section 170—'Value of land for rating purposes.'

The CHAIRMAN: The member for Elizabeth has an amendment in relation to proposed section 170 and the Minister also has an amendment in relation to that section. In order to safeguard the putting of this amendment, I will put the question in relation to the amendment by the member for Elizabeth only up to the point where the Minister's amendment would take effect. If that question is passed, the Minister's amendment is lost and the remaining part of the member for Elizabeth's amendment will be put. If the first part of the member for Elizabeth's amendment is negatived, his amendment is lost and the Minister's amendment will be put. The first question therefore will be that all words on page 14, lines 9 and 10, that is subsection (1) of proposed section 170, be left out.

Mr M.J. EVANS: I move:

Page 14, lines 9 to 18—Leave out section 170 and insert new section as follows:

170. (1) Subject to this section, a council may use the capital value, annual value or site value of land (or a combination of two or three of those values) for the purpose of rating.

(2) A council may only use annual value or site value in relation to a particular piece of land if—

(a) the council declared rates in respect of that land on the same basis in the previous financial year;

or

(b) the council declared rates in respect of that land on the basis of capital value for the previous two financial years.

(3) If a council, in relation to a particular piece of land, decides to declare rates on a combination of values, it must use that combination for at least two financial years.

I thank you, Mr Chairman, for your wise counsel, but I think that there is very little risk that we will need to trouble ourselves with the more convoluted aspects of this. This is perhaps one of the more important—

The CHAIRMAN: I would ask the Committee to come to order. It is very hard to hear the speaker.

Mr M.J. EVANS: This is one of the more important items that will come before us this evening because, like the previous amendment relating to the question of the basket of items and the future point on minimum rates, this amendment relates to what type of valuations are to be used in determining those rates. The Government is particularly keen to ensure that all local government moves towards capital value. That might have the attraction of simplicity, but it seems to me to deny the councils the very real option of choosing between a range of valuation options. What I am putting before the Committee this evening is an extended range of options. It is my view that councils should have unfettered freedom in relation to the type of valuation system which they adopt.

An honourable member interjecting:

Mr M.J. EVANS: The honourable member clearly has absolutely no confidence in local government, far less even than his Minister, because if he seriously believes that any council would be so irresponsible as to change its valuation system year by year by year in rotation, as if that were some kind of joke it could play on its own electorate, I do not share his lack of confidence in the lack of responsibility of local government.

Members interjecting:

The CHAIRMAN: Order! I would ask members who are not taking part in the debate to sit down. This is a very serious matter. We are talking about millions and millions of dollars, and I ask the Committee to come to order. The honourable member for Elizabeth.

Mr M.J. EVANS: Currently in this State, under the present Local Government Act, we have the option of two valuation systems, both of which have been applicable for many years. In fact, very few councils have adopted the practice of shifting from system to system. It has not been my experience that that has ever been a problem in this State. Certainly, there have been changes in valuation, which changes have occurred as a result of polls validly held by citizens who were concerned about the method of valuation and who chose to exercise their rights accordingly. Some councils have, for reasons known to themselves, decided that they would prefer an alternative valuation system, and have moved to that system. Sometimes the electors have forced them to retreat from that view, and sometimes they have endorsed it.

I am sure that the member for Light could inform us in much more detail of recent polls in Gawler and the effect of site value *versus* capital value, where the electors clearly opted for a site value principle. If that is the wish of the council and its electors, that is a reasonable position for this Parliament to accept. All of the valuations, of course, are determined by the Valuer-General, and I have quite reasonable confidence that those values are properly determined. That should be the concern of this Parliament. Given that those values are determined by independent and reputable organisations such as the Valuer-General or a licensed valuer, and given that the council adopts that system in accordance with reasonable policies, I do not see why this Parliament should prevent any of those systems being adopted.

Members will notice that my amendment explicitly prohibits, as does that of the Government, chopping and changing from valuation to valuation, because the council is required to have the valuation for at least two financial years, and it would be quite irrational of the council to vary that decision on a random basis or an irresponsible basis. I do not think that there is any evidence in this State that such practices occur.

I also believe that it is a useful option for councils to have to mix and match those valuation systems so that more than one can be used in compiling the total valuation. This system is used in the United States in some cities, with considerable effect. I am sure that all members are familiar with the theories of the Henry George League in relation to site values, and I do not propose to canvass those this evening. I do not support them totally in their theories, but I believe that they have a reasonable view to put forward and I believe that it is not unreasonable that this Parliament should allow individual councils the option of including in their assessments a component of site value and a component of capital value. In that way they can influence economic development in their region as they see fit.

One thing of which we should not lose sight is that each council in the State has different circumstances and different needs. I do not believe that it is feasible in a matter such as valuation principles to lay down one law for all councils and to require them to adopt that *ad infinitum*. It is quite reasonable that we should propose a series of choices and, providing the method and mechanism are controlled and regulated as they would be under this Bill, I think that councils are validly permitted that freedom.

While I believe that it is quite reasonable for the Government to take an alternative viewpoint to that, I put forward this viewpoint as perhaps before its time, and I acknowledge that the Minister will probably say words to that effect. I think that this mechanism is perhaps a little early for some sections of the Government and of the local government industry in the State. I think that one day the time will come when the merit of a more sophisticated valuation system will be perceived, and I am sure—

An honourable member interjecting:

The CHAIRMAN: Order! I hope that the member for Newland is not interjecting when she is out of her seat. The honourable member for Elizabeth.

Mr M.J. EVANS: I will not refer to that interjection, as you would not have me do. Of course, Margaret Thatcher has nothing to do with this debate and nothing to do with my amendments. There is nothing even remotely like a poll tax in this amendment. It is not even contemplated, nor would it be supported by me. My amendment, if the member for Newland would care to read it before rejecting it, says nothing about poll taxes. Of course, Margaret Thatcher had nothing to do with the drafting. I doubt whether she would even support it, so that would well recommend it to the member for Newland, I think.

In summary, I commend to the Committee the option before it to extend the system of valuation beyond the very limited one proposed by the Government, and I believe that over the next decade or so local government will certainly value the option, the availability of alternative systems, so that those systems can be best tailored to the needs of their individual districts, and I commend the amendment to the Committee on that basis.

The Hon. G.F. KENEALLY: The Government opposes the amendment moved by the member for Elizabeth. in concluding his remarks he pointed to the possibility that I would say just that. I think that this provision is fundamental to the whole debate; the Government does prefer a system of capital values, as do a number of groups for whose views the Government has some regard. That is not to say that we do not have regard for the Local Government Association and its components; we certainly do. The Government's intent is to guide local government towards capital values, and to accept the honourable member's amendment would be to move away from that. He may well be right in saying that within a decade local government will have this flexibility in rating. I guess that, if that is the case, I may be on a beach somewhere reading about it, hopefully as fit as a fiddle. He may well be right.

For the purpose of this debate and this piece of legislation, the Government's preferred position is capital value and we will seek to draft legislation to assist in that aim. The honourable member feels that it would be unrealistic for the Government, the Minister of Local Government, or me to believe that his proposition might allow for frequent changes within the rating system. That is always a prospect and I do not believe it would be good for the stability of local government. It would run counter to the Government's very strong position on rating purposes. I oppose the amendment moved by the member for Elizabeth and, in due course, I will move the Government's amendment.

The Hon. B.C. EASTICK: Members who have been in this place for some time will recall that a former member used to stand in this same position and quite often start his speech by saying, 'It is a bit like the curate's egg: good in parts and not so good elsewhere.' The late John Coumbe often used that statement about the advantages and disadvantages of particular pieces of legislation.

I would not wish this particular proposal of a combination of rating methods on any council. As the honourable member would know, at amalgamation, the Gawler council faced a number of problems. The portions received from Barossa, Light and Munno Para were rated on capital value; the portion in Gawler had, for many years, been rated on site value. They were married together on the basis that some time somewhere down the track a common level could be

found. An attempt was made to bring them all to capital value by a councillor whose name can remain unsaid and who made decisions on behalf of the council and the community without passing on that information. When a poll was called, the retention of site value was carried by approximately 2 600 to 92 votes. The councillor who had sought to force the old section of Gawler on to capital value completely missed the importance of communication with the community, of appreciation by the community of what they had come to know, and of the existing relativity. Subsequently, the whole corporation was changed over to site value and many of the difficulties have been overcome, although some problems are associated with industry in some areas.

I make that comment because the importance of this legislation, which we want to be clearer, demands that councils have only one form of rating, not a combination of several. This proposal would get councils into a considerable amount of trouble and various local governing bodies that had been forced into that situation have expressed it in those terms. I understand the principle and I appreciate the flexibility of the proposal that the honourable member offers to the Committee. However, flexibility can go only so far before it becomes completely impracticable and I suggest that, in this day and age, it would be impracticable to give consideration to one council having as many as three rating methods concurrently in different parts of the local government area. One can see difficulties with differential rating, but I will not go into that argument at this stage. The virtues would be minimal compared with the importance of giving local government a tool that will allow it to go into the next century on a fairly even keel.

Mr M.J. EVANS: I agree with the member for Light that if what I suggested is what he canvassed it would be unbelievably impracticable. However, in some ways, he may find what I have said to be worse. My intention in moving this was that a council would have an option, not of having site value in Gawler North and capital value in Gawler West, but that in relation to individual assessment, for example, two-fifths could be capital value and three-fifths site value, or whatever proportion council deemed to be suitable. I do not contemplate a mixture across a local government area but a uniform method that is derived from a combination of both.

That method has been used elsewhere, principally in Philadelphia in the United States. The technique has worked quite successfully in relation to reinvigoration of inner city areas by encouraging development of more expensive buildings by having two-fifths or three-fifths of the assessment based on site value but with the component of the capital value. It was found that it had the effect of drawing more capital intensive construction into inner city areas because, in effect, people received concessions on the basis of capital valuation. I intended that that freedom might well be available to councils here so that they could adjust the proportions of their rating mix to that which is ideal for their circumstances.

Bearing in mind modern computerisation of rating and assessment, such a thing is not particularly difficult and although it might be slightly complex, it is not beyond the wit of councils and their computing staff. I do not know whether they would wish to do that. I simply place the option in this amendment before the Committee. I believe that it will be looked at again in years to come. It is not an appropriate response to simply narrow the options time and time again but rather to broaden the options available to local government. On that point the Minister and I have a different philosophy, and in the context of this debate I am prepared to accept his will.

Amendment negatived.

The Hon. G.F. KENEALLY: I move:

Page 14, lines 11 to 18—Leave out subsection (2) and insert new subsection as follows:

(2) A council may declare rates on the basis of the annual value or site value of land if the council declared rates in respect of that land on that basis for the 1987-88 financial year and each subsequent financial year (if any).

This restores the Government's original wording providing for one-way movement to the use of capital values for rating purposes. As the section stands, it allows the council to change back and forth from capital to site or annual values every two years, making valuation systems a potential issue at every periodic election. Given that voting is not compulsory at local government elections, local well organised lobby groups can ensure that the valuation system is in a constant state of disruptive change. That is certainly possible and likely. As local government elections become volatile as more people take an interest in local government, it becomes even more likely. Of available systems, capital value is preferred by the Government and expert bodies such as the Australian Institute of Valuers and the Real Estate Institute of Australia. The Government argues that the advantage of capital value is that, unlike site value which is hypothetical when applied to any improved land, it measures something real and verifiable and represents the current market value of the property in the state in which it exists. Consequently, it is better understood by the public. Further, it gives a better indication of an owner's capacity to pay tax.

In a sense, the Government was given the views of at least the member for Elizabeth on this matter. I am sure that the Opposition will also want to voice an opinion. It was widely canvassed and argued in another place and I will respond as necessary. However, the Government's arguments are clear and well understood, if not agreed with by members of this House.

The Hon. B.C. EASTICK: We oppose the action that is sought to be taken by the Minister and I issue a challenge to him: please seek to demonstrate to the Committee where any council anywhere in South Australia has seesawed all over the place with its method of valuation and method of charging on a yearly, biennially or even more than once in probably every 10 or 15 years. It does not exist. There has been a great degree of stability. An increased number of councils have moved over to site value, across the board, rather than capital value, albeit that the city councils, in the main, are capital value. But the sort of circumstances the honourable Minister offered as a part of his defence for doing what the Government seeks to do I suggest, with all due respect, does not stand up.

The Hon. G.F. KENEALLY: As part of this package the Government has taken away the poll provisions, which would certainly increase the potential for volatility in relation to rating changes. The whole issue of rates is now a very widely recognised one and, increasingly, it is becoming a well understood one within local government. I think for many years local government just went along in its own quiet way and people accepted the rating systems that were applied and, by and large, accepted what local governments did. For many years, what they did was a very simple set of functions indeed.

The nature of local government is changing dramatically and this legislation will assist in that change. People will become very much more aware of what it is that local government does for them, how local government raises its revenue, and what local government does with that revenue.

People would become increasingly aware, if the options were given to them, that local government bodies could be changed through well organised lobbies on rates. There is no doubt that the hip pocket nerve is a very sensitive one; hitherto it has been applied at Federal and State elections. Thankfully, to some extent it perhaps has not been an overwhelming consideration in local government elections, but it will be.

I know the argument that it is okay in State elections and okay in Federal elections, so surely it is okay in council elections. The State Government has responsibilities towards local government. We have the statutory responsibility in legislating for local government and in exercising that responsibility the Government believes that we should be moving to a capital value rating system. That is what we will be doing.

I have mentioned the potential volatility because I believe that that is a realistic concern. However, I am not able to give the honourable member any examples of what has happened in the past. I just hope that the potential is not there for it to happen in the future, and the Government's amendment seeks to go some way towards ensuring that.

The Hon. B.C. EASTICK: The Government preaches flexibility for local government but offers local government less than flexibility.

Mr S.G. EVANS: First, I would like to ask a question of the Minister to make sure that I am interpreting his proposed amendment correctly. I interpret it to mean that in relation to whatever the method of rating a council used in 1987-88, that is this year, it is bound by that *ad infinitum.*

The Hon. G.F. KENEALLY: The amendment means that they can continue with the rating system they had in 1987-88 so, I guess, if it was an unimproved rating system, they can continue their current rating system indefinitely, but if they move towards a capital value rating system, then they could not move from that. The movement will be one way and the Government is seeking to apply a capital rating system. It would be contradictory for the Government to allow a movement back from the preferred system. So, if you have a rating system now, you can continue that system but if you move away from that towards capital valuation then you cannot move back. That is the intent of the amendment.

Mr S.G. EVANS: That convinces me that I should oppose the amendment because what the Government is really trying to do is to apply, in a sense, a political philosophy to the Local Government Act *ad infinitum* until another part of it changes sometime down the track. Knowing that the makeup of the Legislative Council is not likely to be in the hands of either major Party for many, many years under the present system we have, that means that in all probability we would be virtually fixed into this system.

The argument in relation to capital value, which the Government uses, is based on the misconceived idea that because a property has a large capital investment in it the person who owns it as far as title is concerned also has all of the equity in it. Under that system we frighten people off from developments by borrowing money to create the development, and if ever a State has been in a position of needing to encourage people to take some risk in creating developments right throughout the community, this State is in that position now—and possibly this applies to Australia as a whole.

The Premier tells us that there is a shortage of funds and that we need to encourage people to come here to invest. I point out that what we are saying is that if a person owns a piece of land and it is worth $100 000 and they want to build a million dollar project on it and they can borrow $800 000, the council will rate on the $800 000, which rates must be paid on top of the interest repayments, while, in fact quite often the amount of service they receive from the council might be a lot less than what another household receives with 20 people hanging around.

I just make the point that on that basis alone we are trying to bind councils for all time to move towards the capital value system, but knowing the balance of power in the other place, I oppose it strongly because the argument cannot be used that it can be changed some way down the track. It cannot be easily changed. I would ask the House to strongly oppose the Minister's amendment, because it is another method of taxing the people on the debts they have got, not on the asset that they have.

The Committee divided on the amendment:

Ayes (24)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Crafter, De Laine, and Duigan, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally (teller), and Klunder, Ms Lenehan, Messrs McRae, Payne, Peterson, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Noes (16)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, and Blacker, Ms Cashmore, Messrs Eastick (teller), M.J. Evans, S.G. Evans, Goldsworthy, Gunn, Lewis, Meier, Oswald, and Wotton.

Pairs—Ayes—Messrs Bannon and Mayes. Noes—Messrs Ingerson and Olsen.

Majority of 8 for the Ayes.

Amendment thus carried; new section as amended passed.

New sections 171 to 175 passed.

New section 176—'Basis of differential rates.'

The Hon. G.F. KENEALLY: I move:

Page 17, lines 25 and 26—Leave out paragraphs *(b)* and *(c).*

By deleting the power to rate differentially according to the locality of the land or according to a combination of locality and land use, this amendment returns the section to the form in which it was introduced in another place. These powers were considered but ultimately rejected by the Government for two reasons: first, more effective and visible means are provided for councils to adjust the rate burden; and, secondly, because of the necessity to make legislative rating provisions which are capable of being applied with absolute certainty by councils.

In relation to the first of these two propositions, councils should have valid criteria for adjusting the rate burden and should use methods that are effective, justifiable and explicable to ratepayers. In relation to perceived differences in ability to pay, increased or decreased capacity to pay will not be entirely uniform in one locality. This is a clumsy way to categorise ratepayers. Where ability to pay is related to land use (for example, rural or residential), it is more appropriate to differentiate by land use. Otherwise, the Bill provides that remissions can be offered at the council's discretion to any individual or class of ratepayer.

Concerning perceived differences in benefits received, all the services provided by councils, whether to property or persons, improve the quality of life in a district and are reflected in the value of property and therefore in the general rates payable. If a specific service is provided to one locality only and the council believes that the benefit is not adequately reflected in property values or it wishes to demonstrate that it is funding the services exclusively from rates generated from that locality, the appropriate tool is the new separate rating power in new section 175.

Alternatively, if the council can apply a true user-pays principle by funding some services either wholly or partly from the fees and charges under the new broad powers in new section 195, it can more fairly recover from those who

want and use the service. The new rating and service charge provisions in new section 177 are also available to fund essential services such as the provision of a water supply or common effluent disposal. As a tool to reinforce development policies, planning zones and localities are about potential and not actual uses. To achieve development aims it is much more effective to levy a differential rate or offer a rebate on the basis of the actual use of the land, both of which the Bill provides for.

One reason for introducing prescribed land uses was to qualify the openendedness of a mere reference to use and to give councils certainty when differentiating by category of use rather than continuing to expose them to legal challenges relating to each council's specific definitions. Locality is similarly a general term and each locality would have to be clearly and comprehensively defined by council.

If differential rating by locality was desirable, the terms of the present Act would be preferable. It refers to wards, planning building zones, and whether the property is situated inside or outside a township. However, for the reasons that I have mentioned, the Government cannot see the need to retain these categories, especially wards that are solely electoral units. Differential rates can be declared without the consent of the ratepayers and may be expended without restriction or limitation. It is reasonable to limit the possibilities for their arbitrary application to the detriment of minorities. Therefore, I seek the support of the Committee for the Government's amendment.

The Hon. B.C. EASTICK: The Oppostiion does not support the Minister's amendment. Over a long time the strength of local government has been its practicality. The theory most recently expressed by the Minister in a number of aspects of the prepared statement just does not and would not stand up. I do not intend to go into a lengthy debate other than to say that the position is not negotiable. Indeed, local government has said that it is not negotiable.

We toyed with the idea of seeking to define parameters within which differential rates might apply. That is the intention in the regulations that will flow from the passage of this Bill. We understand and know that the basis on which some of those criteria will be drawn is the Department of Lands Valuation Division land use code, which runs to 25 pages. Obviously, it is not practicable to insert those 25 pages into the legislation, albeit that the general thrust should be and may eventually later be in the Act.

Be that as it may, we are not intending to act in that regard presently, giving the department opportunity to prepare regulations which give proper consideration to the implementation of this measure. As has been offered on previous occasions when making a major change in the legislation, albeit towards a simpler and, dare I say it, more flexible piece of legislation, it has suddenly been found that there are certain constraints. We will be quite happy to look at any necessary changes. At this juncture we believe that we are fulfilling the requirement of local government as expressed in dozens of letters which I could make available to the Minister and which I know in many cases have been made known to his department as I have a copy of the letter that went to the department or the Minister, as the case may be.

Local government has, in my view, shown a very even-handed and commendable attitude to many aspects of the Bill. It has been prepared to nail its colours to the mast and make the information generally available to those persons who have a genuine interest in their destiny. I say that in relation to the Democrats in another place and to various independent members in the Parliament. Information has been available and we respond to the requirements of local government. I oppose the Minister's amendment.

Mr S.J. BAKER: I support my colleague. This matter is fundamental to local government. I remind the Minister that as far as differential rates in the city of Mitcham are concerned, a 1c differential operates between the Hills and the plains. That is due to different development time frames and more costly servicing of those areas. Nobody has ever complained about the differential that exists. If the Minister believes that we cannot have a difference in rating for a whole lot of reasons, he must assume the responsibility for extra charges being placed on particular development areas rather than the cost being shared evenly and equitably. I support the remarks of my colleague the member for Light.

Mr S.G. EVANS: I also oppose the amendment. Not only has Mitcham in the Hills a differential rating but also Happy Valley has a rural as well as an urban differential rating. We are trying to eliminate paragraphs *(b)* and *(c)* with this amendment. Paragraph *(a)* relates to the use of the land and it reads all right in regard to rural land. However, automatically within the urban sector of Happy Valley there is rural land. If we are to put into operation the Happy Valley system, we would have to retain paragraph *(c)*, because it relates to the locality of the land and its use. If we declare areas such as Cherry Gardens, Kangarilla and Clarendon—which is part residential and part rural—and give some sections of them a differential rate, we are looking at locality as well as use. If we go back to only use and refer to 'rural use', some land in other parts of the Happy Valley council area, isolated properties, would have to be considered under a differential rate. The options made available in that area should remain in the Bill as presented to this place and I therefore oppose the Minister's amendment.

Mr LEWIS: Of all the clauses in the Bill about which several district councils I represent in the electorate of Murray-Mallee have concerns, this is the one that causes greatest dissent. I could describe more accurately the feelings of the members of those councils if I said 'anger'. They do not understand nor do I why the Government must be so bloody-minded as to insist that its view is right and that nobody else can possibly have any wisdom with respect to this matter. How can it be that we have had responsible local government, where the system has made it possible for district councils to opt for either and change according to what they see as the best interest up to this point in time, yet the Minister insists that henceforth it cannot work? It is beyond me! I simply put to the Committee the view that has been put so strongly to me and for which I also have personal support, because I see the logic and democracy in it. I do not understand why the Government has to cling to its philosophical hang-up about this matter.

The Committee divided on the amendment:

Ayes (25)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Crafter, De Laine, Duigan, and M.J. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally (teller), and Klunder, Ms Lenehan, Messrs McRae, Payne, Peterson, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Noes (15)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, and Blacker, Ms Cashmore, Messrs Eastick (teller), S.G. Evans, Goldsworthy, Gunn, Lewis, Meier, Oswald, and Wotton.

Pairs—(Ayes)—Messrs Bannon, Blevins, and Mayes. Noes— Messrs Chapman, Ingerson, and Olsen.

Majority of 10 for the Ayes.

Amendment thus carried; new section as amended passed.

New section 177 passed.

New section 178—'Chief executive officer to keep assessment book.'

Mr M.J. EVANS: I do not propose to proceed with the amendment to page 20 about the suppression of names, because the test case for that was much earlier in the debate.

New section passed.

New section 179—'Alterations to assessment book.'

The Hon. B.C. EASTICK: I draw attention to new subsection (7), which provides that, where a person who is dissatisfied with the decision of the council on a review, they may apply to the Supreme Court for an order for rectification of the assessment book. I believe that a Supreme Court judge hearing this kind of matter is too high up in the scale of the judiciary. I hoped that it would be possible for such a matter to be heard even as far down the scale as in the Magistrates Court and certainly at the level of the District Court. If we are genuinely interested in people being able to have access to the processes of local government and to exercise their rights in relation to matters that cause them concern, we ought to provide for them to do it for the least amount of cost. One recognises that, to get one's foot into the door of the Supreme Court, along with the required representation, is a fairly costly business. I draw that matter to the attention of the Minister.

The Hon. G.F. KENEALLY: I acknowledge the point made by the honourable member. I suppose that, if it was possible, the Government may have looked at this kind of matter being heard in the Magistrates Court or the District Court. Both those jurisdictions have very defined responsibilities and anything outside those defined responsibilities inevitably finishes up in the Supreme Court. The Supreme Court has been included in the legislation as an acknowledgement of that fact, because inevitably that is where it would end up anyway.

I acknowledge the point made by the honourable member about the cost involved when an individual pursues what they consider to be justice. The costs involved in a case before the Supreme Court would be fairly expensive but, by including the Supreme Court, the Government was doing no more than accepting the inevitable, because that is where such actions would end up anyway.

New section passed.

New sections 180 to 183 passed.

New section 184—'Payment of rates.'

The ACTING CHAIRMAN (Mr Duigan): In terms of the member for Elizabeth's first amendment, I think that we could treat that as a clerical adjustment which can be made and, depending on the outcome of the member for Elizabeth's next amendment, namely, the proposed amendment to lines 11 to 15, we can then make the adjustment proposed for line 7. I will therefore ask the member for Elizabeth to speak to his amendment to new section 184, lines 11 to 15.

Mr M.J. EVANS: Perhaps we could combine lines 31 to 36 in that amendment, because I think they are both the same concept.

The ACTING CHAIRMAN: I am happy for the honourable member to speak to them both at the same time, although we may have to vote on them separately.

Mr M.J. EVANS: I think that they reflect the same concept. I move:

Page 22—Lines 11 to 15—Leave out all words in these lines.

I seek to remove from the Bill the trapdoor provision which allows councils to pass through but not back. It is obvious that the Minister would be most reluctant to grant approval to vary the basis upon which the rates are to be paid to allow a single instalment. Again, like assessments and valuations, I believe that these decisions should be made at the local level and that the councils ought to be held accountable to their local electorate for those decisions. If the local electors are dissatisfied with the procedures adopted by the council, they should make their views known at the ballot box.

I do not really believe that there is any point in Parliament insisting on this process. I think that we should provide the councils with the flexibility to have a reasonable regime and the precise number of instalments which they wish to choose, whether it be one, two or four, but we give them the option of the three and they choose. I think that, if they act irresponsibly, their own electors will judge them harshly. I assume that they would act quite responsibily and there is no reason to constrain them with this trapdoor technique in the way that we have. I have moved those amendments together, because I think that they reflect the one concept and the Minister may wish to respond accordingly.

The ACTING CHAIRMAN: I point out to the Committee that the Minister also has on file an amendment in relation to proposed section 184. Again, as the Committee has been advised earlier in this debate, in order to safeguard the putting of the Minister's amendment, I will put the question in relation to the member for Elizabeth's amendment only up to the point at which the Minister's amendment would come into effect. If that question is then passed, the Minister's amendment is lost and the remaining part of the member for Elizabeth's amendment will be put but, if the first part of the member for Elizabeth's amendment is negatived, his amendment is lost and the Minister's amendment will be put. I now ask the Minister to respond to the member for Elizabeth's comments in respect of the whole of new section 184.

The Hon. G.F. KENEALLY: Thank you, Sir, for your guidance and for protecting my amendment, which I will move in due course. The Government opposes the amendment moved by the member for Elizabeth. This is another example of what I consider to be a fundamental difference in his attitude and that of the Government towards the powers of local government. We believe that, where a local government moves from an annual to a six-monthly or quarterly instalment in the payment of rates, then that should be a one-way movement and the council should not move back.

Mr S.G. Evans: Tell us why.

The Hon. G.F. KENEALLY: Because we believe it would be very hard to argue, once you have gone to a payment of quarterly instalments, that it is in the ratepayers' or an individual's best interests to go back to an annual payment. The difference between the member for Davenport and me on this point is that I am concerned about the ratepayer with limited means who can meet the cost of quarterly payments much more effectively than annual payments, and those people ought to be protected. If councils want to move to a six monthly or quarterly payment of rates by those instalments, then it is the Government's view that they should not move back. That is the fundamental difference we have from the member for Elizabeth and, obviously with the member for Davenport. Nevertheless, it is one to which we hold strongly.

This matter has been widely debated and canvassed and, despite all that, the protagonists have maintained their position which is very strongly held. We strongly hold to our position and those who do not agree with us very strongly hold to theirs. All the argument in the world will not change that, so I think that it is really up to Parliament to decide. I oppose the honourable member's amendment to allow me to move mine in due course.

Mr S.G. EVANS: I do not support the Minister's view; I have an opposite one. I support the concept that, if we are going to give local government some power then the ballot box, as the member for Elizabeth said, is the place to decide the issue. The member for Elizabeth and I do not agree on the issue line ball. I personally hold the view that we should give local government bodies the power to go back to an annual payment if they so wish, or a half-yearly if they are down to a quarterly payment, if their ratepayers ask for it.

We do not even have the power here for ratepayers to ask the council to go back because of the cost of sending out mail, with the costs imposed by Australia Post now in sending out and servicing accounts. If the ratepayers themselves decide that they would like to go back to a one-off payment, why should they not? Surely, at the same time we can say that local government can have the power to consider those people—although they have it now anyway—who unfortunately cannot pay. I have as much concern for them as the Minister has. I probably have helped as many as the Minister has helped in his life, and if I have that concern we can give council that power to consider people's circumstances, which it does not have now.

What is wrong with allowing the voters to say to the council, 'We want to go back. We are going to save costs on our own money.'? One does not send out a letter today at a cost of less than about $2.50 by the time we take the cost of paying the wages, the cost of the stamp, and the cost of the material. So it is costing us, to do it quarterly, no less than $10 a year on present-day costs to service that account, and that is the bare minimum. I believe that what the Minister is saying is quite ridiculous and we should leave it to the council, and let the ratepayers get on their backs if the ratepayers believe that the council is wrong and, of course, leave the opportunity for councils to consider those who have hardship.

Mr M.J. EVANS: I thank the Minister for his response to this item. I do not think that we disagree in principle on the desirability of more frequent payment. In principle, I would like to see such a system as well, but I feel that by allowing only the trapdoor mechanism, councils will be more reluctant to proceed along the innovative line, knowing that, although the Minister can allow a return, the Minister by his action is discouraging innovation in this area, and if councils knew that they had a certain degree of freedom in it they would be more likely to take that first step and experiment with the concept, find it reasonable and desirable, then stay with it willingly.

I think the fact that we then say to them, 'Look: if you do make the experiment we will lock you in' serves to discourage them from taking those innovative steps and may well make it much harder for us to encourage local councils on a voluntary basis to move in that direction, and a few years down the track we will find that very few have moved. If we allowed an open go, a local decision, local autonomy, council would be more inclined to be innovative knowing that they would not be locked into the path by head office on North Terrace. I think that that would be a much more satisfactory approach and would achieve the objectives which the Minister and I both share much quicker than this process, which will leave councils with the view that it is not worth taking the risk because, if they do, they will have no option but to stay with it for ever.

I think that that will slow down the day on which we have a more broadly based system of collection than we have now. For that reason, I propose the amendments that I have because, knowing local government as I think I do—or at least, parts of it—I believe that the approach I am recommending would see the Minister's wishes implemented much sooner than the approach which he appears to favour.

The Hon. B.C. EASTICK: As the debate has broadened to cover other changes which are about to be proffered to the committee, I believe that the member for Elizabeth has a reasonable suggestion to make to the Committee, and I prefer to support his amendments rather than those put forward by the Minister. I will be opposing, by division, the ultimate suggestions to be put to the Committee by the Minister, assuming that he wins the day.

Mr LEWIS: I again find this matter, on consultation with the local government bodies I represent, to be one about which they have almost as much strength of feeling as the previous one. Put it another way: if the Labor Party is sincere; if the Government is sincere in its wish to introduce these reforms; if it is sincere in its wish to give a measure of constitutional autonomy to local government; if it is sincere in its desire to see a measure of responsibility accepted by local government for the decisions which local government make that affect the ratepayers they are supposed to represent, why on earth does it not leave the prerogative to decide with local government? I hear constantly representatives of the ALP and the Government at local government forums pronouncing how they alone are the people who have the wisdom, insight and commitment to provide the measure of autonomy and responsibility for local government in the political spectrum: they alone understand what needs to be done, and they alone will see local government fitted out with this capacity to decide for itself which course it will take. If that is true, why does it not show it in this amendment? The contrary is the case. It has been well spelt out by the member for Elizabeth. What the Government proposes is nothing short of hypocrisy when it is measured against what it says it will do.

The ACTING CHAIRMAN: I would like to tell the Committee what we are actually going to do. We are now going to vote on new section 184 up to the end of new subsection (2). The amendment that is being proposed by the member for Elizabeth is to delete subparagraph (iii) of new subsection (2) *(a)*. However, I will be putting that only up to the point at which the Minister's amendment comes into effect. The question therefore is that all words on page 22, lines 11 to 14, up to and including the words 'paid in a' be left out as proposed by the member for Elizabeth.

Amendment negatived.

The ACTING CHAIRMAN: I therefore now ask the Minister to move his amendment, which also relates to subparagraph (iii) of new subsection (2) *(a)*.

The Hon. G.F. KENEALLY: I move:

Page 22, lines 14 and 15—Leave out 'single instalment' and insert 'lesser number of instalments'.

The whole range of arguments about these amendments has been put, and I will comment on the point raised by the member for Davenport when I move my next amendment.

The Committee divided on the amendment:

Ayes (24)—Mr Abbott, Mrs Appleby, Messrs Blevins, Crafter, De Laine, and Duigan, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally (teller), and Klunder, Ms Lenehan, Messrs McRae, Payne, Peterson, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Noes (16)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, and Blacker, Ms Cashmore, Messrs Eastick (teller), M.J. Evans, S.G. Evans, Goldsworthy, Gunn, Lewis, Meier, Oswald, and Wotton.

Pairs—Ayes—Messrs L.M.F. Arnold, Bannon, and Mayes. Noes—Messrs Chapman, Ingerson, and Olsen.

Majority of 8 for the Ayes.

Amendment thus carried.

The Hon. G.F. KENEALLY: I move:

Page 22—
Line 21—Leave out 'and'.
After line 24—Insert new word and subparagraph as follows:
'and
(iii) the council cannot, without the approval of the Minister, require rates of the same kind for a subsequent financial year to be paid in a single instalment;.'

The second amendment relates to the circumstances that the member for Davenport put to the Committee. If all ratepayers or all electors of a local government body wanted to revert from a quarterly rating instalment system to a six monthly or annual rating system the council could apply to the Minister and, if the Minister was so persuaded, it would be in the Minister's power to agree with that. That does not suit the member for Davenport, who would like that power to be with the council, but that is not the intention of the Government. I point out to him that the particular concerns that he expressed would be addressed under this amendment, although it does not meet with his approval, if one understands his comments.

The Hon. B.C. EASTICK: This is part of the package. The Committee has already divided on the substance of the issue and I will not seek to divide again. However, I point out that it remains a measure that the Opposition wants to see in the final Bill.

Mr S.G. EVANS: The Minister is correct in that it is where the matter lies. I do not agree with it. The Minister of the day can have a different philosophy from a council or from its electors and, although 100 per cent of those electors might want it, the Minister may choose not to allow it. I do not say that Ministers would necessarily act in that way, but it is possible and the decision should be left with the council, not a political philosophy of a State Parliament.

Amendments carried.

Mr M.J. EVANS: Because an earlier amendment was defeated, my amendments on file to page 22, lines 31 to 36 will not be proceeded with.

The CHAIRMAN: I accept that.

Mr M.J. EVANS: I move:

Page 23, line 25—Leave out, 'with the consent of the Minister'.

I move this amendment for the same reasons that I have canvassed during the debate. It is my view that a council should be accountable for that kind of almost routine decision and should answer to its own electors for it. I do not see a requirement for the consent of the Minister in advance each time that a council wants to do something like that. It is a very public decision and I do not see why a council cannot be responsible for it. It is not such an innovative or important concept that prior ministerial consent is required on each occasion.

The Hon. G.F. KENEALLY: The honourable member said in moving the amendment that he did so for the same reasons that he moved other amendments. The Government opposes it for the same reasons as it opposed earlier amendments, and those reasons are clearly on the record, so I will not repeat them.

Amendment negatived; new section as amended passed.

New section 185—'Remission and postponement of payment.'

The Hon. B.C. EASTICK: I draw attention to new subsection (2) *(c)* (ii) which provides that:

... the ratepayer ceases to own or occupy the land in respect of when the rates are imposed (in which case the rates are immediately payable).

I believe this is a theoretical situation, rather than something that is going to be particularly valuable to the local government body. Who is going to tell it that they have left? It really does cover the situation which applies to the fly-by-nighters. I do not know a better way of lodging the documentation or of making the provision, but it is important, I think, that we recognise that it is theoretical and not necessarily a practical advantage in the hands of local government that that division was made.

The problem once the person has gone, particularly if they have gone under an assumed name somewhere else, etc., is something that I think members fully appreciate.

New section passed.

New sections 186 to 189 passed.

New section 190—'Minimum amount payable by way of rates.'

The Hon. G.F. KENEALLY: I move:

Page 27, line 45—After '(or a part of its area)' insert 'for the following financial years:
(a) the financial year 1988-1989.'

This is, I guess, the critical amendment. This one deals with the minimum rating and my amendment seeks to restore the section to its original form and provide for minimum rating to be phased out over the next two financial years. The minimum rate, which has had considerable support by some councils, the LGA, the Opposition and other members, is in my view an institutionalised taxation of low value properties at higher rates than all other properties. Here again, it is my view and the Government's view that it is increasingly regressive. Again I could go through the arguments that are well known and well worn, both within the Parliament and outside the Parliament, about the original intention of minimum rates.

The Hon. B.C. Eastick: But not substantiated.

The Hon. G.F. KENEALLY: Oh yes, and quite clearly substantiated, both inside and outside Parliament, concerning the original intention of minimum rates. It is clearly on the record in the *Hansard* debates and in comments made by the Secretary of the Municipal Association and also by the courts, certainly courts of inquiry. So, the Government feels very strongly about this whole issue of the minimum rates and its regressive nature on lower income people within council areas.

Some councils, of course, rate on capital values and have done so for years. Others use minimum rates and they use them to a lesser degree than other councils, which would use them to a much greater degree. It can be argued that some councils use them to a degree far and away beyond the original intention. However, I do not want to go through all of the arguments unless I have to. As I said, they are well documented and well understood, again it is not necessarily totally agreed to.

Mr PETERSON: I raised this matter of minimum rating during the second reading debate last night and I warned the Minister at that stage that I was going to ask him just what the cost would be. I will do that a little later. To explain my stance on this matter of minimum rates, I would just like to read some of the correspondence that I have received from my local council, the Corporation of the City of Port Adelaide, because I am sure that the Minister is going to come back to me in a minute that that council supports the proposition. However, I will read a letter dated 11 February 1987. It states:

Council seeks your support to oppose the proposed legislation to abolish local government power to set a minimum amount payable as rates each year. Local government is charged with the responsibility to perform a number of functions, the costs of which cannot be recovered on a user-pays basis, and so is empowered to levy an annual rate to fund its operations. To remove the

power of charging a minimum rate this council (based on the 1986-87 figure) will have to increase its rate by 5.7 per cent—

and this will apply to all those people out there who are trying to buy a home—

to offset the revenue raised by the application of the minimum rate. This increase, together with inflation running at 10 per cent, will inflict undue hardship on a large percentage of residents.

That is the point that I made last night. We are taking the load off. This is explained further in other correspondence. However, I shall use the figures provided in the letter from the City of Port Adelaide. There are 4 362 assessments on the minimum rate, which is 32.5 per cent, and there are 9 050 in the Port Adelaide district above that. So, two-thirds are now going to be penalised. The letter also states:

Council considers that all property owners should make a reasonable contribution in order that all services are available to all residents; but in the case of necessitous circumstances, reductions can be granted.

Further, on 7 July I received a letter from the Port Adelaide council saying that the council supported the proposal to abolish a minimum rate over a three year period. However, the attachments to that letter (one of them on 6 July—and I agree with this) states:

It is evident from a number of places that the minimum rates system has been grossly abused. More than 25 per cent of councils in South Australia have more than 50 per cent of their assessments on the minimum rate and more than 33 per cent have 25 per cent of their assessments on the minimum rate.

That is true, but the minimum rate in Port Adelaide is $230—hardly an onerous task.

Mr De Laine interjecting:

Mr PETERSON: It says that in the letter. Further, many of them are receiving concessions. One of the other attachments to the letter of 7 July states:

One of the other arguments rests on the fact that it reduces the amount payable in rates by the State Government because of the incidence of Housing Trust properties being caught by the minimum rate and also through concessions paid to pensioners. That may well be the case. However, the size of the cake is the same and we'll either get our share in one way, if not the other.

The other way, of course, is taking it from the home buying ratepayers in the district. Just recently we deleted a provision which indicated that the idea of a platform levy is to establish a basket of items which are common to all properties as the base which would apply to properties and the assessments would then be made on the basis of valuations above that. The Government has rejected that provision, and so a platform levy cannot be used. Another attachment to the letter from council says:

If the Local Government Act is amended by the deletion of council's power to set a minimum rate, the effect in this municipality (based on 1986-87 rate revenue) would be that the rate in the dollar would have to be increased by 5.7 per cent which added to inflation would result in a rather large increase for a residential property who are currently paying in excess of the minimum.

That is true; we are talking about something like a 15 per cent increase on the rates of the average ratepayer in Port Adelaide, whose minimum rate is $230, and that is not onerous at all as far as I am concerned.

I shall not read any more of that letter, but it is here for the Minister to read if he wishes. It seems that the Government is using a hammer to crack a walnut in this case. The council to which I have referred is doing the right thing and one-third of the ratepayers are on the minimum rate of $230. It is admitted that some councils may be using this system more than they should be using it, but we are being asked to kick the average ratepayer in that council area merely because of the way in which certain other councils operate. Can the Minister say how much more the average ratepayer will have to pay if this proposed abolition proceeds? I will support anything that gives a council the choice to use a minimum rate or fee for service, but we are not giving the ratepayer in my district a choice and he will be hit with a 15 per cent increase in rates.

The Hon. G.F. KENEALLY (Minister of Transport): I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

The Hon. G.F. KENEALLY: There is a difference between the honourable member and the Government on the matter of the minimum rate. The honourable member seems to believe that the abolition of the minimum rate will impose a heavier rate burden on the poorer section of the community.

Mr Peterson interjecting:

The Hon. G.F. KENEALLY: I accept that: the council said that. It is the desire to lift the burden from the poorer section that motivates the Government in this matter. When many assessments are based on the minimum rate, the cost of services is spread over the lower income sector of the community. That is exactly what minimum rates are intended to do. So, if we do not have a system of minimum rates, some assessments will rise because they are based on capital values and some will fall, especially if there has been a minimum rate of $230.

Some councils have a minimum rate of $320 and I understand that some have a minimum rate of considerably more than that. Indeed, my recollection is that one district council had a minimum rate of about $365 about 12 months ago and that may have increased by now. Such a minimum rate, depending on the value in the dollar, may cover an expensive property; for instance, at Port Augusta my property is assessed at the minimum rate, yet it is of a reasonable value. It is not the grandest house in Port Augusta, but it is much more valuable than the property of many other Port Augusta residents whose property valuations are considerably lower than mine. Yet we all pay $320. I pay the same minimum rate as 83 per cent or 84 per cent of Port Augusta ratepayers, and that is not fair.

Rates are taxes, not a charge for services. That was the original intention of the rating system. Properties were to be rated on the ability of the property owner to pay and the best way to do that is to base assessments on the capital value of the property. Rates are not a service charge: they are a tax and they should be applied progressively so that those people with the capacity to pay do pay their fair share. The minimum rate transfers the rating burden from the people who can afford to pay and spreads it over the people in the community with lower income because, generally speaking, the people with lower incomes live in the lower priced property. There may be examples of people in poor circumstances living in expensive houses and there is provision in the Local Government Act to accommodate that if such people want to eventually charge their rates against their estate.

Conversely, there are examples of wealthy people living in low priced houses, but it is impossible for local government to rate according to the income of the property holder, because it does not have that capacity. The only capacity to rate progressively is through capital values. The whole idea of the minimum rate initially was to give a capacity to levy a minimum administration charge, but the system has got away from that.

If the honourable member reads the Hon. Norman Jude's comments when introducing a similar measure years ago and then reads the comments that have been recorded in

another place on this measure, he will realise that the way in which the minimum rate is used today is not the way in which Parliament originally intended it to be used; it has been corrupted. I do not blame councils for taking the opportunity to increase their rate revenue by applying the minimum rate, and annually increasing that minimum rate to a level that they consider ratepayers could sustain, without consideration for the cost of properties or the capital value. However, while applying a minimum rate across the board and increasing revenue, they are also applying to the Grants Commission for additional funds because they have these poorly rated properties. So, they are getting it both ways by double-dipping under a system provided by the State and Federal Governments.

Astute chief executive officers from with-it councils have made every effort to maximise their revenue and I do not criticise them for doing that for the chance was there for them to do so. However, the burden has fallen on the lower-income group. The member for Semaphore and I both want to shift that burden to the people with the capacity to pay the higher rates. However, the difference between the honourable member and me is that, whereas he believes that minimum rating is likely to achieve that, I do not. The honourable member also has the feeling the use of capital values might not achieve that end, and I believe that it does. That is I believe that the whole concept of the minimum rate should be phased out.

The honourable member has used statistics concerning the number of councils depending on the minimum rate. If the minimum rate were abolished, within two years those councils would find it impossible to adjust to the circumstances, because the impact on their revenue would be horrific. So, those councils, if they apply to the Minister, can expect to get ministerial approval to phase in a capital rating system and phase out the minimum rate at a pace to suit their needs, because the Government recognises that the councils, in progressing the minimum rate concept, were not acting illegally or greedily: they were acting appropriately within the provisions allowed them. However, the process has gone too far.

As a member of this place, I represent the two major local government areas in South Australia with the largest percentage of assessments on the minimum rate. It is my two councils—in Port Augusta and Port Pirie—that can be pointed to as the councils that have taken advantage of the use of the minimum rate more than any other council. So, if a deal of criticism is to be faced (and there is), I will face it, and I would have faced it had I been going to an election at the end of this term anyway. I am not saying that it makes it easier because I have decided that that is not for me, because councils in my area have been very much aware of my attitude on this matter for some time. It is on the public record. That is all I want to say on this whole area of minimum rates, because it has been widely canvassed. I was prompted to respond in the way I have by the comments of my good friend and colleague, the member for Semaphore.

The Hon. B.C. EASTICK: The real pivot of the whole Bill is resting on this issue. All the work that has been undertaken here tonight, elsewhere and over the months will go down the chute if the Government persists with that attitude. I speak with the authority of the Local Government Association and its members. I believe that I speak with the authority of a number of members in both houses of Parliament who have made very clear, as a result of discussions that have taken place, that this is a non-negotiable clause. I will not enter into the fact that, notwithstanding all the documentation that the Minister says is on the record in another place, persistently when we asked for examples they have not been forthcoming. They have not been forthcoming since the debate in another place.

I pose a single question to the Minister: where can he point to a person in local government who has been put out of office because they maintained a view that their council ought to persist with a minimum rate? I believe that he cannot because, although the Government has said from time to time that the difficulty with mininum rates so far as it, as a Government, is concerned is the fear of legal action, notwithstanding the number of occasions on which legal action has been threatened, as within the last 18 months in relation to people in the Glenelg area and elsewhere, it has not been taken.

Notwithstanding the case that has been cited in respect of Tea Tree Gully, which was fought on another basis altogether, nothing has been demonstrated by this Government to cause me to have any concern whatsoever that the legislation will go out the window if the Government persists with its attitude, which is against the interests of the practising local government fraternity.

I make one final comment: local government has not been challenged by this Government, which has been in existence in South Australia over an extended period, and certainly during the period in which the Minister says the problem of minimum rates has been increasing, to draw back under the threat of the passage of an amendment to the Act which would put a cap on it. Local government has been prepared to proceed and undertake the minimum rating system that applies without hindrance. It has talked about it, but has done nothing. If the Government was honest with itself it would say that its real interest in minimum rates and ruling them out came about when there was a realisation that there might be a benefit to the South Australian Housing Trust as a result of information contained in the report provided to the then Minister of Community Welfare, the Hon. Greg Crafter.

I do not deny that there would be a benefit to the Housing Trust, but I also say that the Housing Trust would then be in a position where, if there was to be equity in the market place for people who are responsible for paying rates, the valuation system as it applies to the Housing Trust would have to be upgraded to become identical to that applying to other properties in the same area.

It is consistent that the valuation of Housing Trust properties has been below market value. It is reported in the Commonwealth/State Housing Agreement. It has been stated by a number of authorities over time. The inequality—if we accept it as inequality—of the position of Housing Trust residences is one that has to be corrected in another sphere rather than placing the burden on large numbers of people, particularly pensioners in their own homes (homes that many purchased from the Housing Trust) who will be grossly and sadly affected by the actions the Government seeks to take. If the Government is really honest about this it would have sought to put a cap on it and lay down criteria that it expected local government to fulfil. Until such time as that had been offered or introduced (and we would look at it if it became a necessity at a later stage), so far as I am concerned minimum rates stay in the Local Government Act.

Mr BLACKER: I express my opposition to the Minister's amendment. The Minister knows full well the attitude of my councils. The Minister, other members of this Chamber and I have attended the Spencer Gulf Cities Association meetings from time to time. Attitudes have been made clear to the Minister. If I even hinted at going the other way, everyone in my local government groups would be down

on me like a ton of bricks. I cannot accept the Minister's explanation. The member for Light has just referred to its being some sort of cross subsidy to the South Australian Housing Trust, and it may or may not be taken in that light. However, doubt exists that the valuation of Housing Trust homes is less in other areas and that sort of adjustment would have to be made. If it was made in all honesty and sincerity it would probably bring about the same or similar figure to that being considered now.

The Minister did say in his response to the member for Semaphore that rating is a tax and not a service charge. Having just knocked out the opportunity to apply a service charge, it is very difficult to say that rates are not a service charge because basically rates are used for such purpose. Every home in a city or town is serviced, and I am not referring to rural areas. Councils have basic obligations to pick up rubbish. The fundamental areas of footpaths and streets all come under a similar category. If that is not included as a service charge, I am not quite sure why because, after all, that is what people expect when they pay rates. I do not know whether there is a technical explanation for that not being the case, it would be difficult to convince all ratepayers—be they in Housing Trust houses, or elsewhere—that their rates do not go towards servicing their property and providing a reasonable standard of footpaths, rubbish collection, dog control and so on within their community. That is the responsibility of local government. It is a service to those homes, whether we call it by that name or anything else.

Much of what I could say has already been said and the arguments have been widely canvassed. We are at a stand-off position between the Government, the Opposition and the Independent members from Elizabeth and Semaphore, who have canvassed their areas and who have gauged the opinion in their electorates. In turn, they have expressed the will of their electorates in this Committee and they must be commended for that. I strongly oppose the move by the Government to put back into the Bill the abolition of the minimum rate.

Mr S.J. BAKER: I oppose the Minister's amendment. I am rather fascinated by his logic. He has suddenly discovered a new-found interest in his constituents, because he says that his constituents are subsidising his housing. I wonder how many examples he could put before the Committee of approaches he has made to council to change the rating base in order to make it a little less unfair. The administration and the effectiveness of the representatives of the people in those council areas must then be questioned. I question the logic of the Minister and his new-found interest.

Further, I question the Minister's comments that it is a tax and not a service charge. If that was correct, every council would be taxed accordingly and my house would be taxed quite considerably more than is the case today. The fact is that the Mitcham council, which is an excellent council, does not have some of the so-called services provided by other councils but, as can be seen from the balance sheet, it manages its money judiciously. Of course, if it was a tax—

An honourable member interjecting:

The CHAIRMAN: Order!

Mr S.J. BAKER: —we would all be paying the same amount per capital value of property, and the Minister knows that is absolute rubbish. The people of Mitcham have determined that they want a level of service commensurate with their rates. Other councils have determined otherwise. Some councils have a wider range of services than do others. Again, the Minister's logic escapes me.

The Minister seems to suggest that each piece of property is homogeneous. In this debate we have spent some time talking about Housing Trust houses. The Minister has not discussed blocks of vacant land or the principle that every allotment has to be serviced in some form or another. He has said that certain councils are not playing the game properly. He has suggested that certain councils have used minimum rating incorrectly. Surely the argument must not be against minimum rates, because we are talking about elements of service which are basic to all allotments. Rather, the argument must be about the way in which council conducts its affairs. If I were talking about the way in which council conducts its affairs, that is the logic that I would apply.

Recently I had the pleasure of representing the Leader of the Opposition at the local government conference dinner, at which the member for Adelaide was also in attendance. On that occasion a number of people said to me, 'It would be a great pity if some of the more positive elements of this Bill were lost because the Minister of Local Government determined that she would continue to hang on to this abolition of minimum rates.' That issue is fundamental to the passage of the Bill and, unless the two gentlemen in another place get creaky, then I believe that the Bill will go to a conference and that this matter, along with differential rates and one or two other items will not be agreed unless the Government backs off as it should do. Logic says that it should back off, because—

Mrs Appleby: Have you done a survey?

The CHAIRMAN: Order!

Mr S.J. BAKER: It is not consistent with the views of local government. Let us face the fact that this Parliament is a partner with local government, if you like, in the stream of services. If the overwhelming view of local government is that they operate effectively because of minimum rates and because of some other provisions contained in the Local Government Act, then that is the way that this Parliament should view the matter. They are not doing anything wrong. Indeed, a great deal is to be said for charging a minimum rate per allotment based on the perceived overhead costs of running a council.

We know that, right throughout South Australia, the Housing Trust argument of undervaluation prevails. We know that probably that has been one of the greatest motivating factors behind the Government's desire to abolish the minimum rates. If it is unfair and certain councils have not played the game, then I think that the Minister could ensure through certain ways that they play the game a little more fairly. Having had some relationship with Treasury on odd occasions, I know that, under the system of grants distribution, it is possible to change the minds of certain councils and the way in which they operate. If it is believed that councils are not doing the right thing (and obviously the Port Pirie and Port Augusta councils are not doing the right thing, according to the Minister), there are ways of improving their knowledge and understanding so that they can do the right thing.

The Minister is acting in absolute contravention of the wishes of local government on this matter. Because of the demands by local government, which represents the people at a more intimate level than we can ever hope to in many cases, I believe it is incumbent on this Parliament to comply with the wishes of local government and to retain the minimum rating proposition. The next challenge would be for the Government to sort out some of the councils who have exceeded themselves over a number of years.

Mr M.J. EVANS: As the Minister said, this matter has been debated at length and those arguments have all been

put and canvassed, but tonight the Minister has introduced a new one, and that relates to the Grants Commission and this alleged double-dipping on the part of some councils. I find that very hard to understand, and I am sure that on some occasion other than this evening the Minister will want to arrange for that matter to be expanded upon a little, because it seems to be quite clear that the total revenue of, say, the Elizabeth council, which has indulged in the minimum rating practice to a reasonable extent, although not to the extent of the Port Pirie council or Port Augusta council, also benefits from the grants made by the Grants Commission.

The council receives a substantial amount of revenue from the Grants Commission on the basis that it represents an area which has been denied a large number of relatively wealthy landowners, say perhaps to the extent that Burnside, Walkerville or Mitcham possibly may have done. Of course, Elizabeth suffers a number of socio-economic disadvantages. It has a high number of unemployed people, a relatively high number of people on social security pensions and these people also require additional services over and above those that people in better-off areas are able to provide for themselves. The council receives additional grants on that basis. It does not receive them on the basis that it has a large number of properties on the minimum rate, and I fail to see how the two can be connected.

If the Minister's proposition was accepted and the minimum rate was abolished from tomorrow, the total revenue available to the Elizabeth council would have to remain the same. The council would have to secure that revenue by increasing the tax, as the Minister likes to describe it, on those people who are owner-occupiers of their own homes, and the revenue would remain the same. I venture to suggest that the grant from the Grants Commission would also remain the same. I do not think that the argument would change at all. Unfortunately, the area where the minimum rate is being discussed is self-contained. We cannot have cross subsidies between Elizabeth and Burnside, Port Pirie and Walkerville, and so on. The ratepayers of each area are part of a closed group.

We cannot indulge in the luxury of cross-subsidy. Elizabeth must fund Elizabeth and Port Pirie must fund Port Pirie and, apart from the relatively modest amount of money from the Grants Commission, so far as urban councils are concerned, cross-subsidies simply do not exist. If the Elizabeth council is to recover the $500 000-odd it would lose overnight by the abolition of minimum rates—and whether that occurs now, next year or the year after really does not matter—it would have to recover it from the home owners of Elizabeth, be they pensioners, unemployed people who have retained their own homes or working class people who work at Holden's. They will have to fund that increase, and it will mean something of the order of $40 to $50 on their individual assessments to pay for that difference.

Although the Housing Trust overall will be the principal beneficiary in the case of Elizabeth and Munno Para, although it may not be the case in Port Pirie or Port Augusta, those people who also live in Elizabeth and are tenants of the trust will not benefit from a decrease in rent. The Minister of Housing and Construction has yet to announce—and I doubt that he ever will—a decrease in Housing Trust rents, and I doubt that the day after we abolish minimum rates such a thing will occur. No doubt, the next increases as per the schedule in August will go ahead regardless. I am sure that they will.

Tenants of the Housing Trust at Elizabeth will not benefit so who will? There will be no equity in that. The people who will benefit from the decrease in the deficit of the Housing Trust overall will be the taxpayers of South Australia, and they of course are biased towards those in South Australia who are most able to pay. What the Minister is proposing to do overall, although he can quote some examples which I am sure are relevant and very real in Port Pirie and Port Augusta, is to shift that burden from the Housing Trust onto the people of Elizabeth or Munno Para who own their own homes but who are by no means wealthy (and that is why we receive the grants under the Grants Commission) and allow the taxpayers of South Australia to shed that burden.

I do not find that a particularly equitable solution from a socialist Government. I find the whole concept quite alien, indeed, from the philosophy of taking from those who can afford and giving to those who need. I am afraid that the abolition of minimum rates will never have my support on that basis, and that is why councils in fundamentally Labor areas such as Munno Para, Elizabeth, Port Pirie or Port Augusta have pursued that policy. They have not pursued it out of sheer wantonness or wilfulness in any respect. They have done it because they need to.

Unless the Housing Trust is prepared to rechannel that subsidy back into the system, into those areas which need it, there will be hardship for pensioners who are struggling to stay in their own homes. Those pensioners will face massive increases in their payments so, although some people will benefit, the only concession those pensioners who have struggled to retain their own homes and who save the taxpayers substantial amounts of money by remaining in their own homes receive is the $150. When was the $150 last increased? The Minister will not be so quick to answer that question, because the problem is that it has not been increased for many years.

Those people will face a $40 to $50 increase over and above the inflation increase, and they will be required to fund the difference. Those pensioners have long since hit the $150 maximum rebate, so of course their percentage increase will be greater still. I find that an intolerable burden on people who are not throwing themselves on the public sector housing; who are saving taxpayers money by staying in their own house; but who now face this additional impost from the Government. I suggest that the Minister will find it difficult to explain to those people why he is abolishing minimum rates even though he is able to quote anomalies and I accept those anomalies.

I would have thought that if those anomalies were sufficiently persuasive, the electors of Port Pirie and Port Augusta would have run for office on their council and would have changed the fundamental policy of their council. When I first ran for the Elizabeth council in 1974, one of the planks on which I was elected was an increase in the minimum rate, and I implemented that policy with the cooperation of my fellow councillors—one of whom is now the Minister of Housing and Construction. That concept was fully accepted by the people of the area and has been ever since, and I believe it still is.

There is no outrage at the local level over minimum rates. There are no petitions to this House to abolish the minimum rate. There are no demonstrations on the steps to abolish the minimum rate. I have not received one request from an elector of my area to abolish the minimum rate, but I have requests unanimously from the Elizabeth council and requests unanimously from the Munno Para council, half of whom are members of the Government's own Party in that area, asking me to vote against the abolition of the minimum rate. So I am afraid that I must comply with that, because logic dictates it.

The needs of my area dictate it and, certainly, the wishes of both the councils that I represent dictate it, and I am afraid that the Government has lost track of the needs of those people in those areas if it thinks that abolishing minimum rates will assist its cause or will in any way assist the cause of equity. Apart from those minimal anomalies the Minister has mentioned, which could certainly be corrected by cooperation rather than confrontation, I think on the whole we will be moving against the equity of those people, and that is not a situation in which I would want to participate.

The Committee divided on the amendment:

Ayes (23)—Mr Abbott, Mrs Appleby, Messrs Blevins, Crafter, De Laine, and Duigan, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally, (teller), and Klunder, Ms Lenehan, Messrs McRae, Payne, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Noes (17)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, and Blacker, Ms Cashmore, Messrs Eastick, (teller), M.J. Evans, S.G. Evans, Goldsworthy, Gunn, Lewis, Meier, Oswald, Peterson, and Wotton.

Pairs—Ayes—Messrs L.M.F. Arnold, Bannon, and Mayes. Noes—Messrs Chapman, Ingerson, and Olsen.

Majority of 6 for the Ayes.

Amendment thus carried.

The Hon. G.F. KENEALLY: I move:

Page 28, lines 10 and 11—Leave out subsection (3).

I am moving the other part of the amendment, which is consequential on that which has already been debated and voted upon.

Amendment carried; new section as amended passed.

New sections 191 to 195 passed.

New section 196—'Various projects that may be carried on by a council.'

Mr M.J. EVANS: I move:

Page 32, line 21—Leave out paragraph *(l)* and insert the following:

(l) any other prescribed function.

Given the very broad list in this new section, the Minister should not approve functions on a council by council basis. Where councils are to be given new and extraordinary functions—innovative functions—based on some novel permutations of paragraphs *(a)* to *(k)*, it should be clear to all concerned what those functions are. Parliament should be given the right of veto over them and every council or class of council (I emphasise that the regulation could be limited to a specific class of council if that was the Minister's wish) should be provided with these functions: it should not be for the Minister to approve functions for one council but not another. If the Minister is to lay down such standards, it must be on a broad basis, not a council by council basis. To approve a function to be undertaken by one council but not another is entirely foreign to my view of council autonomy and ministerial responsibility.

The Hon. G.F. KENEALLY: This is an enabling provision and it lists a whole range of activities that local government can be involved in. Paragraph *(l)* allows the Minister to approve functions that may not have been thought of when the amendments were being prepared. The honourable member makes a quantum leap. This is an appropriate paragraph and it may well be that, after the experience of a year or more, the Government will be able to prescribe other functions. This provision is in the Bill as a back-up in case the intention of the Government to provide very comprehensive powers under this section is not interpreted as such and the breadth of the preceding paragraphs is, on the basis of legal interpretation, not sufficient to cover a proposed project. The Minister may then approve another function using words that overcome the difficulty, and the Act would be amended at the earliest available opportunity. Regulations are not necessary or useful for this purpose. It is not proposed to avoid prescribing functions in the way that the honourable member has suggested, but the provision is there to allow functions to develop that may be included in the Act by the appropriate amendment at the appropriate time. I oppose the amendment.

Amendment negatived.

Mr S.G. EVANS: I am a believer in local government and this entire new section has a number of aspects that worry me. It provides a council must take into consideration the impact that the project might have on other services, facilities or businesses operating in proximity, and must also consider objectives of any development plan applying to the area. I know from statements made by a former socialist Prime Minister (Mr Whitlam) and from what others in his Party have said over the years that such a provision gives those who do not believe in State government a greater opportunity for councils to move into health provisions, for example. A council that wants to move into hospital operations cannot be stopped. Indeed, the Government of the day might ask a council to take over the running of a particular hospital, delivering services that provide for the well-being and interests of individuals and groups within the community. That all sounds nice and it is something that we believe in, but it takes in the broader concept under which, Department for Community Welfare can tell a council that it must raise the money within its own area and, if it is not big enough, it must amalgamate with its neighbours.

This new section provides the stepping stone for that path to be followed: councils can provide infrastructure and can attract commerce, industry and tourism. Is that to be achieved through finance or publicity? In other words, does a council provide the tourist facility to attract people so that other businesses can share in the benefits, or can it enter into a partnership to run businesses? While the section provides that a council must consider the impact of a particular project, it does not say that, if the impact is adverse, the project should not go ahead. A council can bring down a report on a project stating, for example, that if it goes ahead it will build another facility such as a factory in conjunction with somebody else, but this might make it difficult for other similar local businesses. Nobody says that it cannot go ahead: the council is just to consider it.

In recent days, we have seen the Government play around with the Planning Act for a particular person or group of persons, and that is how ruthless political philosophy can be. All members have seen that. With this new section, the gates are wide open. Local government has considered it and thinks that it is all right, but this may be an idealistic view of how each council will use the provision, where down the track a different group of people will be elected, as happens in Parliament. I have placed my comments on record in the hope that I am not around when that day happens. I am sure that, if I have the normal term of three score years and 10, I will see my predictions come to pass. If the socialists stay in power for most of that time (I hope that they do not) what I am talking about will gradually come into being because of the powers contained in this new section.

I oppose it. I cannot do any more than that. Otherwise, I would need to amend it in many ways, and then one would have to decide how the restrictions are applied to a council of the future. I believe that this provision allows a council to do anything that a State Government actually does, and I think that is dangerous.

The Hon. B.C. EASTICK: Local government has asked for a greater role, and the Parliament has asked for a greater role, and the Parliament is giving it that opportunity to play a greater role. I indicated earlier how the Local Government Finance Authority, as a wing, shall we say, of local government, intended to monitor the activity. Within the last 20 minutes I have received details of a motion passed at the Mid North regional organisation meeting on Friday of last week, which I think indicates that local government is starting to look very critically at where it is going, looking very critically at the degree to which it imposes financial problems upon itself; the motion states:

That, unless and until adequate local government funding from external sources to provide services or new projects, etc., is secured, the Local Government Association be urged to oppose any extension of local government responsibilities.

That, I am advised, was amended by adding after 'urged':

to press for more equitable and sufficient external funds to enable local government to extend its responsibilities.

Whilst that is not totally pertinent to this clause, it clearly indicates the very responsible manner in which local government sees itself proceeding. It recognises, as Government has recognised, that there will be financial constraints.

The Minister reported having been at a meeting at Port Pirie with his colleagues the Minister of Labour and the Minister of Local Government together with the member for Flinders, the Hon. Mr Dunn from another place and the Federal member, Mr Lloyd O'Neil. At that meeting the Minister of Local Government clearly told local government that funds would be difficult to come by, and local government, like other governments, is going to suffer pain. I raise this issue to indicate that local government is mindful of its responsibilities.

Mr S.G. EVANS: I have to disagree with the member for Light on some aspects. I have never known a group of men or women egotistical enough to be elected to Parliament or to a local council who have not sought more power once they have experienced it. That may be a reflection on me, but it is the truth.

To suggest to the Local Government Association or a section of it that we need to be cautious does not give me any satisfaction as to what a council may do somewhere down the track. Take the term 'manage, improve and develop resources available to the council': what if a council has a quarry or gravel pit to provide materials for its roads and it decides to develop and exploit it even though it may put an operator in the same business in the town out of business?

After all, local government does not pay taxes such as sales tax and other taxes that business houses must pay. What happens if the council decides to do that as a revenue raising project and says to the ratepayers, 'By this method we can keep your rates down, but we will get rid of another business in the town'? Is that fair competition? Yet we are leaving that door wide open. It indicates to me that a council could do anything for the improvement and betterment of individuals or groups in the community. It could even move into education without any bother.

A council could move into the field offering services by running the council at the highest figure of debt or imposing a high rate. After all, the councillors are there for two years and it does not matter if they are booted out then because by then they have the project operating, but they have placed a burden on the next council as the ratepayers can say, 'They gave that to the ratepayers in X, and you can do the same here.' So, it has a domino effect and, although I respect council members for their dedication regardless of the egotistical attitude that we all have, I point out that with a few pressure groups gaining control of a council this provision may be used with disastrous effect because once a facility is provided it must be maintained.

Under this provision, the opportunity will be there for the Federal Government, State Government and local government to provide similar or competitive services against each other. It will be a matter not just of duplication but of triplication of services. So, I have grave fears about this provision and I believe that my side of politics will rue the day that it agreed to this proposal. Indeed, the next few lots of members who are elected will have to front up to this and try to find a way around it.

New section passed.

New section 197—'Procedures to be observed in relation to certain activities.'

The Hon. G.F. KENEALLY: I move:

Page 33—

Line 12—Leave out 'at least' and insert 'an amount equal to or exceeding'.

Line 13—After 'annual' insert 'rate'.

Line 20—Leave out 'at least another' and insert 'a further amount equal to or exceeding'.

Projects will require ministerial approval if they involve borrowing or a guarantee that would increase the council's debt servicing commitment by a fixed percentage which the Government agreed at the request of the Local Government Association to insert in the Act rather than in regulations. The trigger is an additional commitment of 10 per cent of annual rate revenue to debt servicing measured against an existing base or level of debt servicing.

The Bill presently provides that that base or level shall be 30 per cent of annual revenue and the amendment corrects it to state 30 per cent of annual rate revenue. In order to clarify the confusion that has arisen, the amendment makes clear that the formula is based on the convention that all debt servicing is funded from rates. It is appropriate to measure the level of risk associated with indebtedness against rate revenue, because rate revenue is the only guaranteed source of funds which the council itself has control over from year to year. Rates currently make up half of total local government revenue, the rest coming from Government grants, fees and charges, borrowings, reimursements, and the sale of assets.

While some councils have significant sources of income from fees and charges associated with the provision of services, it is true to say that the spectacular failure of an activity involving a loan which ties up the equivalent of 10 per cent of a council's rate revenue in debt servicing, where a council is already expending the equivalent of 30 per cent or more of its rate revenue in debt servicing, will impact significantly on ratepayers. Rates will increase or services will be reduced.

If the base level is left at 30 per cent of annual revenue it would mean, on average, that 58 per cent of rate revenue could be applied to debt servicing before these large projects received any scrutiny. For councils with relatively large sources of income other than rates, the figure is even higher; for example for Adelaide it would be 84 per cent. This is effectively no control at all and opens up the possibility that a disastrous financial failure of a large project could impact on a council's ability to maintain even its mandatory, statutory functions like building, planning and health control.

It is the case that if most councils decrease their dependence on rates the formula will become more restrictive over time and will require adjustment. It was always contemplated that the formula would need adjustment in practice and this was one advantage of placing it in regulations. However, it is hoped that the legislation will come into force this year. The failure of one or two large projects

which have received no scrutiny will provoke a reaction against all the new broad powers and set all councils back decades. Caution is warranted in the early stages and the Bill contains a great deal of flexibility to exempt councils or projects from the requirements of this section. I refer members to new section 197 (12). I seek the Committee's support for these amendments.

The Hon. B.C. EASTICK: The Opposition opposes the attitude expressed by the Minister. A number of examples have been given where the formula or definition that the Government sought to apply would have a serious consequence for local government. I refer to the District Council of Hawker with a rate revenue of about $78 000. Over $500 000 it receives from the distribution of electricity—

The Hon. G.F. Keneally interjecting:

The Hon. B.C. EASTICK: Yes. There is a lot of difference in its ability to undertake projects based on the reality of its rate revenue. I will not go into other examples except to go one step further and say that a number of councils, particularly with their entrepreneurial spirit—and Henley and Grange council is one—are suggesting that they may be in a position of not so much paying a dividend to ratepayers but getting by without any rates at all. I do not know that I will live to see the day, but some councils are talking in that vein. The degree of flexibility needed to provide for each of the councils in South Australia requires that the provision made in another place be sustained.

The Committee divided on the amendments:

Ayes (25)—Mr Abbott, Mrs Appleby, Messrs Blevins, Crafter, De Laine, Duigan, and M.J. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally (teller), and Klunder, Ms Lenehan, Messrs McRae, Payne, Peterson, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Noes (15)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, and Blacker, Ms Cashmore, Messrs Eastick (teller), S.G. Evans, Goldsworthy, Gunn, Lewis, Meier, Oswald, and Wotton.

Pairs—Ayes—Messrs L.M.F. Arnold, Bannon, and Mayes. Noes—Messrs Chapman, Ingerson, and Olsen.

Majority of 10 for the Ayes.

Amendments thus carried.

Mr M.J. EVANS: I move:

Page 34, after line 43—Insert new paragraph as follows:
(d) to conduct a poll of electors in the council's area.

On the whole all questions relating to electors polls have been progressively removed from the Act, which in some areas is a reasonable thing but in other areas it is not. It takes away from the electors their right to have an influence in the affairs of the council whereas previously electors were able to intervene in regard to long-term leases, fund raising, borrowing and a whole variety of issues on which the council was required, if not to seek the electors' consent, at least to be subject to a veto by the electors. That electoral veto has been replaced by ministerial veto. That is an unfortunate trend in my view.

We have moved away from local control—elector control—to centralised ministerial control. That trend is evident throughout the Act. It is most worrying in respect of the ministerial veto over substantial projects. I would prefer that the Ministerial veto was in this instance replaced by a veto of electors at the local level. To accommodate the Government's wishes in relation to ministerial supervision, my amendment is an amalgamation of both. It permits the Minister to refer a substantial project; which it is believed is inappropriate to the electors of the area and to allow their judgment to prevail. Where the Minister is concerned that a particular project is not financially viable or not appropriate for the council, instead of the Minister's simply rejecting it, let the Minister refer it to the people of the area.

They are the people who will have to bear the financial responsibility for it if the project is not successful. So the new paragraph which I propose to insert would give the Minister the option of referring the matter to a poll of electors and the subsequent amendments to page 35, inserting new subsections (8a) and (8b) and so on are all consequential. I move this amendment as a test case to determine the Committee's view, because I think it is far more desirable that we should allow the local electors, the people who are responsible for the conduct of the affairs of the council in the long term (and they are the people who will have to reach into their pockets each year at rate time) to be the final judges, rather than the Minister.

The Hon. G.F. KENEALLY: I take it that we are debating the insertion of paragraph *(d)* and the other amendments that he has on file relating to new section 197 are consequential to that?

Mr M.J. Evans: Yes.

The CHAIRMAN: The honourable member can move them separately if he so desires.

The Hon. G.F. KENEALLY: I am in the hands of the Chairman. The Government opposes the amendment. The council is at liberty to conduct a poll on any matter within the ambit of its responsibilities and I refer to section 102 of the Act. If it considers that this would be a useful way of measuring public support for a project or proposal, it may well do so. However, provisions that make council action subject to polls have been removed, with good reason, from other areas of the Act on the grounds of administrative and decision-making ease and on the assumption that the council, as an elected body, is itself an appropriate representative mechanism.

Mr M.J. EVANS: If that is the case, why do we need ministerial oversight? If the Minister has such confidence in the elected abilities of those councils, why must we subject these things to ministerial veto at the end of the process? I find that that argument lacks in ultimate substance so far as the question of oversight of council decisions is concerned.

Mr Lewis: And immoral—

Mr M.J. EVANS: That is another question entirely, but I would much rather place that faith in the electors than, in the final analysis, the Minister. As I interpret the Act, the indicative poll, of which the Minister rightly speaks, would not be binding on the Minister, although it might well be morally binding on the council. If the Minister at the table is prepared to give an undertaking that, where a council submits a matter like this to an indicative poll and obtains a clear majority at that poll, the Minister would consider herself bound by that decision, I would be more than pleased to accept that assurance. But I doubt that the Minister would consider herself bound and that is what concerns me. It will be binding on the councils but not on the Minister and the proposition will be no further advanced, so I doubt that councils will take that step. Although it may be more convenient administratively, I think that it lacks the local content which the legitimacy of a poll would provide but, having taken that poll, I think that, to simply say the Minister may still reverse the decision, defeats the whole purpose of having the poll in the first place.

The Hon. G.F. KENEALLY: My advice is that it would be only in exceptional circumstances that the Minister's intervention would be necessary. In the ordinary course of events, the matters would be addressed without the need for the Minister's approval. Because of their nature, these

exceptional circumstances really occur. If they do, the Minister can require public notice to ensure that the community is informed of the impact of any such proposal and, when that occurs, the information is then fed back to the Minister for the Minister's decision. In a sense, that provision is there merely as a protection and it is not designed to have the Minister being involved in every proposal. It would be used only in exceptional circumstances.

Amendment negatived.

The CHAIRMAN: Does the honourable member wish to proceed?

Mr M.J. EVANS: No.

The CHAIRMAN: That means that the honourable member does not propose to continue with the remainder of his amendments to new section 197.

Mr M.J. EVANS: No. How does the Minister propose to deal with councils which proceed with projects in stages? I recall that the Public Works Standing Committee Act contains provision for aggregating stages of a project and taking the estimated cost of completion of that project when deciding whether a particular enterprise falls within the ambit of the Public Works Standing Committee, but there is no such aggregation here. In 1988-89 we may have stage 1 of the aquadome, which is at 19 per cent of the council's rate revenue, and in 1990-91 we may have stage 2, which moves further down the track; how does the Minister propose to deal with the staging of projects?

The Hon. G.F. KENEALLY: I am advised that the triggers used for the provision of that information to the Minister would be the staging of the proposal being in excess of 20 per cent of certain borrowing levels and expenditure of the council. I understand the point made by the honourable member, because I am Minister of Transport and I know that the Public Works Standing Committee is now required to look at road construction proposals which are staged. We certainly have that problem there.

I hope that, in the rather faltering way in which I have relayed to the Committee the information available to me, I have been able to answer the honourable member's question. He seems to indicate that I have not. If he proposes to vote against this measure, that is one thing. If he does not propose to vote against it, I think the more appropriate way of conveying the full information to him would be to provide him with a considered report from the Minister. I think that that would be of more use to him and I can also provide that information to the Committee, through the chair.

Mr M.J. EVANS: I am pleased to accept that arrangment. I did not propose to vote against the measure but wanted to raise the question because it seemed quite relevant to me, and I accept the Minister's offer. I think that it is a very reasonable suggestion. In conclusion on the subject of new section 197, I simply reiterate my point about accountability. I first looked at this issue in relation to investments earlier this evening, and I make the point again now on the project question, because we have the Minister exercising a right of approval on a fully informed basis right from paragraph *(a)* to *(k)*. The Minister gets every last piece of paper, every last consultant's report, every last piece of independent advice, every minute of the council and every last issue right to the nth degree—or kth degree in this case—and, quite clearly, when the Minister either approves or rejects the project his decision will be on a fully informed basis.

The Minister may finally approve a project which is ultimately disastrous. I think this point will be relevant in a few years time when such a project fails and we have the financial disaster about which the Minister spoke earlier with a council undertaking a significant project and finding itself with a disaster of massive proportions on its hands. What will we say to the Minister in this Parliament? Will we say, 'Why did you give that approval knowing the details that you did? You should have known that it would fail'? If the Minister is not to be held ultimately politically accountable for that decision, I do not think that it is reasonable to hold the council accountable.

One other issue which worries me, and I have seen this in the planning appeal area, is that councillors who are perhaps less than 100 per cent informed on an issue may say to themselves, 'We can refer this one upstairs to the Minister. It's a difficult situation; it's in the too hard basket, but we'll let the Minister make the final decision. The Minister has those public servants and the experts, and she is in a very good position to know whether this is really the right thing or not. We're not quite sure on it so we'll push that just slightly up the ladder.' If you are not the final decision maker, if the buck does not stop at your desk, there is always the temptation to say, 'Let the Minister take the responsibility. We will not be the final decision maker. The Planning Appeal Tribunal in one respect can set it right if we have made an error.'

In the case of a very substantial and significant project, because the Minister will have a fully informed basis of decision making, the temptation—and I am not accusing local government here: I know what it is like—will be to say, 'It is not our final decision. Why should we take the risk? We will just say "Yes" and push it upstairs to the Minister. If there are any problems the Minister will let us know and, ultimately, she will correct the project.' That temptation will be there. I have seen it happen in the planning appeal area when the decision is too hard, be it a church in a residential street or something else: the temptation is to push it through to that final position, to let that other body take the ultimate responsibility. I do not want to see that happening in local government, but I am afraid that this kind of proposition, where the Minister gives that fully informed consent, will ultimately lead to it. That is one of the reasons why I am concerned about the questions of accountability in this Bill.

New section as amended passed.

New sections 198 and 199 passed.

New section 200—'Controlling authorities established by two or more councils.'

Mr M.J. EVANS: I move:

Page 38, line 5—Leave out 'the council has been given' and insert 'all of the councils that would be the constituent councils of the controlling authority have been given'.

This section is where the Minister wishes to include a council in a controlling authority and that decision is being imposed from above, if you like. A particular council has been excluded from the controlling authority but the Minister feels that it is desirable for that council to be included, and the Minister is therefore required before adding that council to consult with the council concerned. It is my view that the Minister should also consult with all the councils already in that controlling authority.

Given that they did not recommend as constituent councils in the first place that a certain council not be included, for the Minister to then include that council and only to consult with the council which is to be added and not with the councils that are proposing in the first place that the controlling authority be created seems to be overlooking a very important part of the consultative process. I commend to the Minister this very reasonable amendment in relation to consultation, because I am sure that it will add to the ultimate harmony within that controlling authority on which

the Minister is going to impose an additional council from above.

If the other councils do not even have the matter discussed with them by the Minister, they are certain to resent the decision and, whereas a compromise could have been worked out and a reasonable opportunity for consultation could have smoothed over the problem, this way that consultation will not take place, and unless the clause is amended in the way suggested I think it will lead to lack of good faith and negotiation in those controlling authorities.

The Hon. G.F. KENEALLY: The Government opposes the amendment. The amendment is unnecessary since the Minister will obtain the view of all councils involved in the course of the investigation conducted under new subsection (3), which provides:

> Before approving an application the Minister may investigate whether it would be appropriate to include any other council as a constituent council and may, if he or she thinks fit, approve a controlling authority that includes another council or other councils as constituent councils.

New subsection (4) was inserted to provide a statutory right for dissenting councils to be heard, which the Minister may include. I would have thought that new subsections (3) and (4) read together would meet the honourable member's objections and thereby render his amendment unnecessary. That, at least, is the advice that I have available to me.

Mr M.J. EVANS: It seems when you read them together that the Minister is only required to consult with the councils he or she proposes to add, not with the other councils that are already part of the process. We are providing a statutory right of consultation to one council but not to the others. By leaving them out of the statutory right they are, of course, therefore not necessarily included. It seems to me that if we provide the right for one we have to include them all.

The Hon. G.F. KENEALLY: In theory some of what the honourable member has said is reasonably accurate, but I think it would be unreasonable to believe that a Minister would require a council to become part of a controlling authority without first speaking to that council. I believe that, whilst it is not always appropriate to produce legislation that allows Ministers to act in good faith, one can reasonably expect that that will happen. We do not necessarily need to write out in detail in legislation that those actions will or should take place. My advice is that which I have already given to the Committee, and I am asking the Committee to oppose the amendment.

Mr S.G. EVANS: Does the Minister believe, in the case of a Minister requiring another council to be involved with the authority, that the Minister should consult the other original councils that are to be involved? As the answer appears to be 'Yes', I ask the Minister why he does not make it clear. All that the honourable member is asking is that this provision be included. The Minister says that this should be done, but neither he nor the Minister in another place will be here *ad infinitum*. Ministers are birds of passage. Why not include it?

The Hon. G.F. KENEALLY: It beggars description to believe that a Minister would do that without talking to the other constituent members of an authority. That was the point that I tried to make. The Minister would speak to the council that he wished to include in the authority.

Mr S.G. Evans interjecting:

The Hon. G.F. KENEALLY: The member for Davenport does not believe that is so. In that event, I hope he does not become Minister of Local Government.

Mr M.J. EVANS: If that is so, why was this section included in the Bill in the first place? If we rely on good faith, why do we give the statutory right to the one council that I would have thought would be the obvious choice for consultation, and that is included. It is the other councils that are likely to have missed out, but the one council that would have been the obvious choice is given a statutory right, and the others are ignored.

The Hon. G.F. KENEALLY: The councils in the authority are already there. The council that is to be included against its wishes should have some statutory protection, so the examples are different. This provision was put in at the direct request of local government to ensure that local authorities that are included in a larger authority against their will have a statutory right.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 38—
Line 13—Leave out 'and'.
After line 16—Insert the following:
and
(c) that, in relation to the council, it is fair and reasonable that the council be included.

Following debate in another place on this particular new section, there was some conjecture between the Hon. Diana Laidlaw and myself as to what propositions were intended to be included in this proposal. I suggested to her that I suspected that it might apply to a long-term drainage scheme involving councils in the Burnside, Stirling, Mitcham, Unley and West Torrens areas. The question was put to the Minister and it became apparent that it was just such a proposal that might be included within the terms of new section 200.

Since the details have been conveyed to local governing bodies, the three upstream councils—Mitcham, Stirling and Burnside—have become rather concerned that they could be forced into a marriage that they have resisted in the past. However, recognising the reality that there may be a purpose for further consideration of their position as contributors to the problem, involving the flow of water and debris, they should be given the right of proper consultation and they should have a defence, which they can subsequently take elsewhere if need be, as to whether the Minister of the day was fair and reasonable in relation to the requirements of the councils.

We have been requested by members of the Stirling, Mitcham and Burnside councils to have additional criteria included in new subsection (5) and my two amendments to this subsection are really one and the same and seek to include a new paragraph *(c)*. The councils also requested that consideration be given to the form of appeal that councils may have. They suggested that that appeal might be to the Local Government Advisory Commission. It seems perfectly reasonable that that body, rather than a court, having regard to local government matters, should adjudicate on such matters. At this stage I will not go the further step of suggesting that an appeal mechanism to the advisory commission be included in the Bill.

It may be that, on consideration, the Minister or her advisers would suggest that appeal should be made to a court rather than to the advisory commission. There has been discussion that the Supreme Court or one of the lower courts might be able to determine precisely what quantum of expenses and what interface there should be between the contributing council and other councils. Justice calls for the right of appeal in such matters and, whilst not extending it to that degree, I submit to the Minister that the request is genuine. It has been discussed with the President and the Secretary of the Local Government Association and I am advised that an attempt was made to speak with the Minister as late as Monday of this week but, because of time constraints, it was not possible to make direct contact.

I have letters from Burnside council (signed by Mr Donne, the Town Clerk) and the District Council of Stirling (signed by Mr James, the Town Clerk) and my colleague the member for Mitcham has information from the Mitcham council. It has been indicated that such representations have been made not only to me, because I am involved in the carriage of this Bill, but also to my colleagues the member for Bragg, the member for Heysen and the member for Mitcham. I am also aware that the member for Davenport has been given information on what is seen as an important matter.

The Hon. G.F. KENEALLY: The Government opposes the amendments. The Minister of Transport is closely involved with stormwater drainage schemes, and the south-western drainage scheme, to which the honourable member has referred, is causing some concern for the Stirling, Burnside and Mitcham councils. It is a very good scheme and I would like to see the highest level of cooperation between the councils involved and an acknowledgement of the impact of one council upon another. That is the reason for the establishment of the scheme. As the Minister responsible for assisting councils in funding stormwater drainage, I have a particular interest in this.

The Government opposes the amendment because the power for the Minister to bind a dissenting council to a proposed regional controlling authority which will impose financial constraints on that council's ratepayers is not new. It exists at present and the Government wants to retain it for use in those rare cases where councils have not been able to join together voluntarily to secure important benefits for a region.

In retaining the power the criteria which must be considered by the Minister has been re-thought and the emphasis has changed from consideration of the particular interests of and benefit to each council to consideration of the particular interests of and benefit to the whole of the region which the councils comprise. In response to submissions from councils, the section was clarified in the other place, and the statutory right to be heard has been included to guarantee that a council which might be included perhaps against its wishes can put a full case to the Minister. This matter was explained in relation to the previous amendment. Any changes to the proposed rules which deal with financial contributions consequent on the fact that another council or councils are to be included can similarly be made only after consultation with all the constituent councils. This section as it stands allows adequately that all points of view to be considered.

The Hon. B.C. EASTICK: I make the point that a shotgun marriage is never going to be as successful as one for which there has been proper consultation and where an aggrieved party has had the opportunity to test their position at what they deem to be a high level—in this case a level higher than the Minister who would be judge, jury and the person taking all the running. I believe that if the Minister denies the inclusion of this measure at this time, representations will continue to be made to the Minister for the matter to be included in subsequent legislation. I most certainly support the views that have been expressed in this regard and I will support any further representations, if the Minister is going to be so dogmatic.

Mr S.G. EVANS: I am disappointed in the Government's approach. I refer to the approach of the Government as a whole, because the Minister is really only representing someone else in the other place, and he has some difficulty in keeping up with the matter, as is the case with some others of us, although that does not apply to the member for Elizabeth or the member for Light. I am disappointed, because really what the Minister is saying is that two councils—and it could be Unley and West Torrens—due to their geographic position, could derive some benefit. They suffer the adverse effect from water that comes from the hills with which they have to deal.

With the Minister's approval those two councils could set up an authority. This would involve other councils such as the Stirling council, which has not altered the topography of its land very much on the side of the range that runs into that catchment area. There has been very little change to that area, except in relation to the Engineering and Water Supply Department which pumps its effluent down the Sturt Creek. There is virtually no change at all except from Government departments. Certainly local government has not been involved, and yet it could be asked to contribute a substantial amount of money.

The amendment provides that it is fair and reasonable that such a council be included. What is unreasonable about an amendment like that? There is no right of appeal related to this: we are not even fighting for that at this stage. I spoke to the member for Light about this and he has indicated that we should leave the right of appeal matter to further negotiation and consider how it can be done. However, the three councils at the top end are concerned about this. They must contend with the cost of erosion to roads and footpaths in steep country. They are at a geographical disadvantage in that respect. They have not altered the streams in the area. The only alterations to the Sturt Creek occurred when the Government built a flood dam in about 1965. That still works quite efficiently. These are smaller creeks heading north. The Burnside council has a bit of residential development in the vicinity which may cause a greater run off.

All three councils, Mitcham, Burnside and Stirling, are partly within my electorate. They are all concerned, because they believe that suddenly two councils, with the Minister's approval, can form an authority and say to the other three that they must contribute so much in the way of funds or be bound by certain conditions. There is no right of appeal. A council may say that it does not want to be involved. Arguments have arisen in the past as to what is an equitable contribution by each council and agreement could not be reached. The councils at the top end have to carry their burdens. They get no help with bushfire protection or CFS units and all those things that the Burnside, Mitcham and Stirling councils must carry. Unley and West Torrens councils do not have those responsibilities. There is a geographical disadvantage.

However, those councils do not ask for assistance from other councils further down on the plains. But, under this provision that is what could occur. They have made a reasonable request that this matter be reconsidered. They are being fair in not fighting for an appeal provision at this stage. That is something that the Local Government Association will work through with the local government Minister's office on a future occasion. I ask the Minister to think about this matter seriously. If one of these areas was in a swinging electorate, a marginal seat, would this argument be rejected tonight? We all know that it would not be. Unley is a swinging seat, and someone could apply to implement this measure and financially burden the other councils, the Government of the day might win kudos in the marginal seat but the other, perhaps substantially conservative councils, would be forced to carry the can. That is unfair, but it is the only conclusion one can draw if the Government does not accept the proposition that has been put here tonight. I will be disappointed if the proposition is not given fair and reasonable consideration.

The Hon. D.C. WOTTON: I, too, very strongly support the amendment. I have received strong representation from the Stirling council. It is particularly concerned about this situation and it has sought an amendment. There are a number of reasons for that. One relates to the establishment of the South-Eastern Suburbs Stormwater Drainage Investigation Authority. It was stated in the South Australian *Government Gazette* of 11 June 1987 that that authority had been established and it was indicated that it was to complete the study of the Brownhill, Glen Osmond, Parklands and Keswick Creeks and to establish a design and construction of the preferred mitigation option for those creeks. In addition, it was stated that the District Council of Stirling agreed to pay 8.3 per cent towards the cost of the scheme. However, the Stirling council has never agreed to such a commitment.

Furthermore, it should remembered that no resident of the Stirling district would benefit in any way from the study or any proposal or work that would result from it. That is a glaring example in relation to this matter. Other examples have been brought to my notice. However, the example given identifies the situation where the Stirling council had no involvement, was not consulted appropriately, and it was only when the *Gazette* was issued and the notice given that it then realised the responsibility that it had. I believe that is quite wrong.

The council is very concerned about the provision in this Bill which gives the Minister powers to include a council as a constituent council in a joint authority without providing any criteria upon which such a power can be used and providing no mechanism at all whereby council can object to such a decision being made. It is considered that the Bill should provide reasons for making such a decision and undertaking permanent works and providing services, etc. of mutual benefit to the council areas concerned as well as providing that, where a council formally objects to such a proposal, the matter be referred to an independent body.

It has already been stated a couple of times tonight that we are not going far enough to demand that an appeal system be set up at this stage. Personally, I would like to see that happen. It is important that it should happen. I would presume that in the very near future such pressure will be put on the Minister that provision will be made for an appeal mechanism to be set up. I again ask the Minister to reconsider the situation. It is a very small matter for him to consent to, but an extremely important one. I make the strongest representation possible on behalf of the District Council of Stirling, it being one of those councils that has made representation at this time.

Mr S.J. BAKER: I too endorse the comments of my colleagues the members for Davenport, Heysen and Light. With the south-eastern drainage, a number of propositions were put up that were not satisfactory to a number of the member councils. Indeed, there has been considerable discussion over a period of years on how we provide the best result overall for Adelaide and who bears the relative burdens. It is a good example. The Bill gives no relief to councils that could be disaffected by the decision. The decision has been explained adequately by my colleagues and I commend the amendment to the Committee.

The Hon. B.C. EASTICK: I recognise that there is a concern by the Minister in relation to this matter and it is not easily resolved in five minutes because of the relative complications of ensuring that all doors open and close at the right time. I would be happy, on behalf of those councils that I currently represent, the Minister having identified that in August or thereabouts there will be another Bill to effect various amendments to the Local Government Act, albeit in respect of electoral processes as part of the review taking place presently, and believing that the major factors of this Bill, if passed, will not be in place effectively before August, if the Minister was able to give an assurance that this measure could be considered and become an amendment at that time. I believe that the best interests of local government and councils would thereby be met.

We are in trouble both ways if it is not passed tonight, not brought forward or does not pass down the track. At least it gives the opportunity for further consultation with the association and the respondent councils. There is a will to find an answer that will give proper democratic right of appeal. If that is appreciated by all concerned, goodwill prevails and we get it a bit later on.

The Hon. G.F. KENEALLY: I can certainly give that undertaking to the member for Light, namely, that consideration will be given by the Government, through the Minister of Local Government, to the proposals that have been canvassed in this debate. I cannot give an undertaking on what the Minister's decision or recommendation to Cabinet will be, but I can guarantee that consultation will take place and the opportunity given to those local government authorities which want to make recommendation to the Minister and the department to ascertain whether this problem can be resolved to the satisfaction of all parties.

Amendments negatived.

Mr M.J. EVANS: I move:

Page 38, after line 44—insert new subparagraphs as follows:

(iva) the manner in which a council may cease to be a constituent council;

(ivb) the basis upon which the controlling authority may be wound up;.

Page 39—

After line 7—Insert new paragraph as follows:

(via) the manner in which the rules may be amended;.

Lines 15 to 22—Leave out subsections (11), (12), (13) and (14).

Basically, the rules for the controlling authority, under the Bill before us, must make provision for a number of things specified by the Minister in the Bill, as is perfectly reasonable. Those items should be covered by the rules; that way everyone understands the basis of the matter when they get into it. It is unfortunate, however, that a number of other very important matters have been left not to the rules, and therefore to prior agreement and informed consent by each of the councils, but to subsequent decision making by the joint authority with the approval of the Minister. That seems to create potential difficulties down the track.

If we are looking at ways in which the rules may be amended, that question should be resolved by the rules themselves. Every set of rules for an association, club, sporting body or group of councils should make provision for the way in which those rules can be amended. They might say that a simple majority of the councils, a two-thirds majority or indeed every council must vote. The way it is specified here, that prior agreement cannot exist or, if it does exist, it can be overridden. Indeed, the way in which the controlling authority may be wound up is too important a question to be judged down the track. Councils should go into this with their eyes open and fully informed of the consequences.

The way in which a council may cease to be a constituent council is a very important question. Other councils may become involved in a controlling authority on a certain understanding about which other councils are to participate, only to find down the track that a council withdraws. That can have very negative consequences for the remaining councils. It would be much better if they knew, in forming the controlling authority, that another council may leave if certain events occur. It is important that the councils sit

down in the first phase and agree what the criteria will be. Just as the Bill already requires a number of other matters to be provided for in the rules, I do not see why these other important issues should be left to be cobbled together when a crisis arises. It is better to resolve them beforehand.

The Hon. G.F. KENEALLY: It may be, because of the length of the debate and lateness of the hour, that I am somewhat confused by the argument. I thought that the honourable member was putting an argument in support of what the Government is doing in the circumstances he explained to the Committee. In my view it would require somebody to adjudicate—that somebody necessarily being the Minister. In some of these organisations or authorities, councils will move in and out and if the authority has developed or purchased assets and a council wants to leave the authority, there is then a debate about the assets and somebody needs to be in a position to adjudicate upon those very important matters.

That is the reason why the Minister's involvement is written into this Bill. I would be almost inclined to use some of the same arguments. In relation to the amendments attendant to subsections (10) and (11) to (14), ministerial approval is required to constitute these bodies which are new statutory corporations. They may be established to perform any function or duty of the councils and those powers, functions and duties are set out in those rules. It is not appropriate that those rules or the membership be changed so as to constitute a different entity without ministerial approval. Likewise, ministerial approval is appropriate if the corporation is to cease and, if that is the case, disposal of assets and other matters need addressing. There could be conflicts and, in those circumstances, I believe that the Minister ought to be in a position to arbitrate and, by arbitrating, assisting the resolution of any conflicts.

Mr M.J. EVANS: As the hour is late, it is hard to debate these issues in great detail but those very complex matters that will give rise to such confusion at the end should be resolved first. When councils come together, they should know the basis on which they will split apart so that those matters are resolved initially in the rules before we get to those difficult situations in the future. Quite clearly, if that is not the Government's view, then so be it, but it seems that the Minister, having given approval for a particular set of rules which should include all these issues and not just the three-quarters of them that the Government has listed, should provide for the resolution of these matters not at the end of the track when we are in crisis but, rather, by everyone when they sit down initially to constitute the authority.

It is my experience that, when one deals with a company, club or any other kind of body, the basis on which that body will subsequently be dissolved and the basis on which people will come and go from membership of that body is resolved at the beginning when the rules are laid down initially and everyone walks in with their eyes open. One does not make up the rules as to how assets are to be divided at the end of the process when everyone is arguing over the booty. That is decided at the beginning when they all know the basis on which it will occur. That was the purpose of the amendment. I think that we have the same understanding, but just a different process of resolving the conflict.

The Hon. G.F. KENEALLY: Logic dictates that what the honourable member suggests should be the practice ought to be the practice and that the rules should be established clearly before such statutory corporations are established. The methods of disposing of assets and the rules ought to be established before the corporation itself is established and I do not disagree with that principle. The legislation that we are debating provides the opportunity for that to happen. That is the preferred and desired situation. I understand that, unfortunately, the experience, not only in local government but elsewhere, is that very often good sense does not prevail and these arrangements or rules are not clearly established when they ought to be at the start or at the inception of a statutory corporation. In those circumstances it is appropriate that a Minister ought to be able to arbitrate. One would hope that the need to do that would be rare indeed. I am not arguing that what the honourable member says is not sensible and appropriate, but we are attempting to provide for those circumstances when the sensible and appropriate does not occur.

Amendments negatived; new section passed.

Clause as amended passed.

Clauses 11 to 29 passed.

New clause 29a—'Regulations.'

The Hon. G.F. KENEALLY: I move:

Page 41, after line 25—Insert new clause as follows:

29a. Section 691 of the principal Act is amended by inserting after paragraph (a5) of subsection (1) the following paragraph:

(a6) prescribing the fee or charge that a council may charge in respect of a particular matter;

This amendment reinserts the power to make regulations prescribing the fee or charge that a council may charge in respect of a particular matter. It relates to section 195 of the Bill, which provides a new and very broad power for councils to levy fees and charges for a range of generally expressed matters. Section 195 (4) makes these general powers subject to any specific prescriptions under the Local Government Act or other Acts, fixing fees or charges for particular matters, for example, building and planning application fees which are set out in relevant regulations under the building and planning legislation.

The Hon. B.C. EASTICK: These amendments seem reasonable and I support them.

New clause inserted.

The CHAIRMAN: We will now have to make a slight alteration. Following acceptance of that new clause, the member for Elizabeth's proposal will have to be numbered 29b.

New clause 29b—'Regulations.'

Mr M.J. EVANS: I move:

Page 41, after line 25—Insert new clause as follows:

29b. Section 691 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) Regulations made under this Act may be of general or limited application.

When I initially conspired in the drafting of this amendment, I contemplated that a number of other matters in previous amendments might be incorporated in the Bill. As it transpires, that has not been the case and, therefore, this amendment has a lot less application than I might have hoped it would have had in the course of things had they been different. However, for the sake of completeness and because I think it has some merit of its own, I will move it anyway.

The Hon. G.F. KENEALLY: We accept the new clause.

New clause inserted.

Clauses 30 to 48 passed.

New clause 48a—'Annual Report.'

Mr M.J. EVANS: I move:

Page 45, after line 15—Insert new clause as follows:

48a. The following section is inserted after section 882 of the principal Act:

882a. (1) A council must, on or before the thirty-first day of October in each year, prepare a report on its activities during the financial year that ended on the preceding thirtieth day of June.

(2) The report must incorporate a summary of the audited statement of accounts of the council in relation to the relevant financial year.

(3) A reasonable number of copies of the report must be available for public inspection (during ordinary office hours) at the principal office of the council.

I believe that it is not inappropriate in this day and age for councils to produce individually an annual report on their activities for the financial year just ended and incorporating therein a summary of the audited statements of the councils in relation to the relevant financial year. The public should be able to peruse those documents which would therefore form a reasonable historic record of council activities and a useful reference document which would assist in the process of council accountability to its own electors. I think that such a provision would serve a useful purpose for the local community and for the broader community as a whole. Councils could make such reports as broad or as narrow as they wished, but no doubt their electors would pressure them accordingly if their reports became far too narrow or, because of their depth, far too costly. I assume that councils would act responsibly in the way they prepare them.

The Hon. G.F. KENEALLY: The Government opposes the amendment. A number of councils do what the honourable member proposes; others find it more effective to produce an inexpensive regular newsletter. Budgets and audited financial statements are already available to the public by virtue of section 64 (4) of the Act. So, whilst the Government does not have terribly strong views on this, it believes that councils which do not already provide an annual report ought to be encouraged by their constituents to do so if that is appropriate. In any event, the important documents—the budgets and audited financial statements—should be available to the public already.

New clause negatived.

Clause 49 passed.

Clause 50—'Delegation by Ministers.'

Mr M.J. EVANS: I move:

Page 45, line 21—After 'Act' insert '(other than a power or function under Division XIII of Part II)'.

This amendment would limit the power of delegation by excluding from it that part of the Act which relates to the declaring of councils to be defaulting councils and the issuing of instructions pursuant to findings by the Ombudsman. I believe that that section more than any other is one which should not be the subject of delegation. I find it difficult to accept that the Minister could delegate many of the other powers, many of the new found powers which this Bill will give, but I could never accept that the Minister could ever delegate any of those powers contained in that division which allow for, in effect, the dismissal of councils and the issuing of instructions to councils on how they should conduct their business.

Accordingly, while most other delegations would no doubt be reasonable, I think that the ultimate safeguard should be incorporated in the Act to prevent a delegation in this area, because to use a delegation in this context would simply be intolerable.

Progress reported; Committee to sit again.

Mrs APPELBY: Mr Speaker, I draw your attention to the State of the House.

A quorum having been formed:

STATE LOTTERIES ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

ROYAL COMMISSIONS ACT AMENDMENT BILL

Received from the Legislative Council and read a first time.

SITTINGS AND BUSINESS

The Hon. G.F. KENEALLY (Minister of Transport): I move:

That Standing Orders be so far suspended as to allow the sittings of the House to extend beyond 12 midnight.

Motion carried.

LOCAL GOVERNMENT ACT AMENDMENT BILL (1988)

Adjourned debate in Committee (resumed on motion).

(Continued from this page.)

The Hon. G.F. KENEALLY: As to the member for Elizabeth's amendment, this is a matter about which the Government is reasonably relaxed, although my duty as the Minister responsible in this House is to oppose the amendment at this stage. However, I will ask my colleague to have a look at it to see whether or not it is appropriate to include it in the legislation. The member for Elizabeth said that he could not imagine any Minister delegating such powers, and these are the most drastic and least exercised powers of the Minister, and it is my view that no Minister would delegate them. In practice, any Minister would become closely involved in troublesome matters at a stage well before action under these sections was considered.

By putting them into the legislation I think we would only be stating the obvious. However, I will ask the Minister whether she believes that his amendment could be considered when the Local Government Act comes back before the Parliament in the budget session. I must say that whether the amendment is in or out does not really change the way in which Ministers may or should act, but I will refer it to the Minister of Local Government for her consideration.

Mr M.J. EVANS: I would have thought that it was the Minister's duty to see that the Bill emerged in its best possible form, not just oppose amendments, but he may see his duty differently. This is one area, it appears to me, where we are substituting a total change over the present situation. Councils have never contemplated that Ministers would have this kind of delegation authority, and that is not contained in the present Bill. While it might well be said that at common law the Minister has the right, that is a matter for debate.

The fact is that the Government is not that confident of the Minister's common law authority because it is choosing to include the measure in the Act. If there was total confidence about common law, let us say that that would not be necessary and the Minister would not have put it in the Bill. Therefore, it seems to me that that area is quite capable of delegation and we have now moved to a point where councils can be subject to even this power under delegation. I find that a most unfortunate concept. It is not one which commends itself well, I do not believe, to the administration of local government; that Ministers can delegate even this level of power, and I think that it is taking delegation just one step too far.

The Hon. G.F. KENEALLY: To show that I am flexible, if nothing else, I have been persuaded by the honourable member that I should run the risk of the wrath of my

colleague in another place and accept the amendment. I think that what he says is logical. I did argue that it really was not necessary to have it in the legislation because the principle is well and truly understood. If we need to write the principle into legislation, which is a decision I made earlier this evening in this debate, I guess that it is appropriate to do so on this occasion as well. The Government accepts the amendment.

Amendment carried; clause as amended passed.

[*Midnight*]

Clauses 51 and 52 passed.

Clause 53—'Amendment of Electricity Trust of South Australia Act, 1946.'

The Hon. B.C. EASTICK: I call upon the Committee to oppose this clause, which was alluded to previously. It tidies up the consolidation of the Local Government Act and is a measure directly associated with the Electricity Trust Bill, which members will address later.

The Hon. G.F. KENEALLY: The Government acknowledges the reasonableness of the stand taken by the Opposition on this matter.

Clause negatived.

Clause 54—'Amendment of Rates and Land Tax Remission Act, 1986.'

Mr M.J. EVANS: I seek from the Minister some comment on the $150 rebate which is applicable under the Rates and Land Tax Remission Act, which this Bill amends. It has not been amended since about 1976, and many pensioners in my district have sought clarification from me as to when the Government might contemplate an increase in that provision. While it was quite generous for its day, and very few people would have been on the maximum amount, it is now many years since it was increased and many pensioners are up against the $150 limit. When there is a 10 per cent increase in the general rate in their area, they face a 15 per cent increase in their own rate bill because they are already on the $150 limit. They are forced to take an ever higher proportion of their own rate bill and it is high time that consideration was given to this provision. Given that it has been introduced, it must be kept up to date and the period has now been so long that pensioners have rightly decided that they have been forgotten.

The Hon. G.F. KENEALLY: For the first time under this legislation, councils will have the opportunity to assist pensioners in this way. Because of the ageing population and the use of the minimum rate, there has been an enormous draw upon Government resources in relation to the $150. Pensioners more than anyone else got caught up in the minimum rate provision and, with a minimum rate in excess of $300, the $150 rebate in effect gives a rate to pensioners of $150. That is why it has been difficult in the past to provide an additional rebate.

This is a budgetary decision, as the honourable member would be well aware, and such decisions are made in that context. I cannot pre-empt any decision that will be made in the budget. However, it is a fact of life that this particular rebate is reviewed annually in that process, and whether the decision will be any different this year from previously is a matter for the Government.

Mr M.J. EVANS: This is an important subject and I would have been happy to discuss it last night instead of leaving early. Pensioners are hard hit in this case. I understand that it is a budgetary decision, but this evening we have made it much worse. By abolishing the minimum rate, we have made their position much worse. If the usual 9 per cent is added to a pensioner's rate of $250, making it $272.50, the pensioner will be faced with a 22.5 per cent increase. If pensioners are unfortunate enough to be on a $300 rate, which rises to $327 with the usual inflationary increase, the increase to their rate will be 18 per cent.

The Minister says that councils can pick up the difference. However, by abolishing the minimum rate, it has been made harder for councils to pick up the difference. Without that extra trauma, councils might have had the funds but, with the abolition of the minimum rate, they will be struggling to keep everyone's increases below 20 per cent, without being able to provide additional funds to protect their senior citizens. The Government has compounded the problem, and that is what I am trying to highlight. I accept that an increase may be expected in the budgetary context, but we have made it doubly difficult by abolishing the minimum rate. When those two factors are added together, it deserves special consideration. I realise that the Minister cannot give a response in this context, but the Government needs to take into account the consequence of its decision to abolish the minimum rate.

Clause passed.

Clause 55 passed.

Schedule.

The CHAIRMAN: The reference to section 3 in the schedule is deleted.

Schedule passed.

Title.

The Hon. B.C. EASTICK: I move:

Page 1, line 7—Leave out 'the Electricity Trust of South Australia Act, 1946, and'.

This is consistent with the deletion of clause 53, and I seek the Committee's support.

Amendment carried; title as amended passed.

The Hon. G.F. KENEALLY (Minister of Transport): I move:

That this Bill be now read a third time.

The Hon. B.C. EASTICK (Light): It is with some regret that the Opposition finds itself in the position of having to oppose the third reading of this Bill. The Bill as it entered this House from another place had a number of very desirable features consistent with promises that had been made to local government over a long time, reflecting debate on the matter in public and within the councils. Because the Minister has seen fit to change the Bill back to an inappropriate form in vital areas, the Opposition opposes it, notwithstanding that some worthwhile amendments, which pick up procedural activities and provide for a better understanding of some of the clauses, have been made in its passage through this place. Whether we see the Bill back is a matter of conjecture at this stage. I make no qualification in my statement that the Bill as presented at the third reading is totally objectionable to the Opposition in this place and elsewhere.

The House divided on the third reading:

Ayes (24)—Mr Abbott, Mrs Appleby, Messrs Blevins, Crafter, De Laine, Duigan, M.J. Evans, and Ferguson, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally (teller), and Klunder, Ms Lenehan, Messrs McRae, Payne, Plunkett, Rann, Robertson, Slater, and Tyler.

Noes (14)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, Blacker, Eastick (teller), S.G. Evans, Goldsworthy, Gunn, Lewis, Meier, Oswald, and Wotton.

Pairs—Ayes—Messrs L.M.F. Arnold, Bannon, and Mayes. Noes—Messrs Chapman, Ingerson, and Olsen.

Majority of 10 for the Ayes.

Third reading thus carried.

ELECTRICITY TRUST OF SOUTH AUSTRALIA ACT AMENDMENT BILL

Adjourned debate on the question—That the Report of the Select Committee be noted.

(Continued from 22 March. Page 3367.)

The Hon. R.G. PAYNE (Minister of Mines and Energy): When I sought leave to continue my remarks last evening I had made the point to the House that the operation of the Select Committee had been a pretty useful exercise, and I think probably all I need to add to that is that I think all members of the Select Committee now have a much better and wider understanding of the difficulties faced by ETSA. As to the specific points of the report that we are now noting, paragraph 5 *(a)* indicates:

> With the recommended amendments the private landholder or occupier has no responsibility for public lines or for keeping naturally occurring vegetation clear of private supply lines.

That is one of the changes contained in the proposed amendments recommended by the Select Committee. A person is now responsible only for vegetation that has been planted or nurtured near a private supply line. Private land owners or occupiers can either do the clearance themselves or get ETSA or a contractor to do it. If the required clearance is not done, under the proposed amendments, ETSA can enter the property and do the clearance, having given the now required 60 days notice, and the occupier is charged accordingly.

Paragraph (5) *(b)* of the report deals with the limited liability provision, as now proposed in the amendments which are part of the appendix attached to the report. This limited liability conferred on the trust from civil liability for property damage is further restricted now, as proposed, to bushfires and such fires starting in conditions of extreme fire danger, as certified by the Country Fire Services. Further, a sunset provision of five years is to apply to this limitation of the trust's civil liability and, as well, when the trust may propose to cut off supply in order to avert danger from bushfires (I stress that it is likely that it would be very infrequent) it will be required to do so in consultation with the Country Fire Services.

In respect of the statutory easements to be created by the Bill, about which Opposition members had quite some concerns initially, and concern was also expressed in evidence given to the Committee, I agree that the wording of the Bill could have been seen to be rather peremptory and very demanding in nature, and that could have led perhaps to unnecessary concern on the part of many members in their interpretation of the requirements. Under the proposed amendments there is now a purpose of division which puts this matter in its proper perspective.

The purpose of this division (that is, statutory easements is *(a)* to legitimise informal arrangements under which parts of the distribution system of ETSA have been established on, above or under land of which the trust is not the owner, and *(b)* to ensure that the trust has the necessary powers to enter any such land for the purpose of examining, repairing, modifying or replacing the relevant parts of the distribution system. The trust would not have any authorisation other than that which I have outlined, and that is the reason for the recommendation of the select committee that this measure form part of the amendments to be made to the Electricity Trust of South Australia Act.

I now want to further canvass the matter of limited liability as proposed by way of the amendments recommended by the select committee. First, I refer to comments made by the Deputy Leader when he was speaking on this matter during the second reading debate. On 1 December 1987 the Deputy Leader made the following comments (*Hansard*, page 2347):

> I shall make a few preliminary remarks. From the cursory examination that I have made of the Bill during the course of the afternoon—and, as I say, I do not want to be held firmly to any position at this stage . . . Personally, I am not totally opposed to the view that some limit should be put on ETSA's liability if in fact the liability that it incurs is exorbitant. For instance, it could run into a billion dollars which obviously would have enormous impact on ETSA tariffs.

I would point out that, unless some change is made to the existing set-up in relation to ETSA's liability, how would one know that it was going to be exorbitant? As we have seen, that was the case in relation to Ash Wednesday 1983. The Deputy Leader further stated:

> To briefly sum up the Bill, as I read it, it certainly seeks to minimise ETSA's liability. The Electricity Trust of South Australia is in the throes of a lengthy settlement of claims arising from Ash Wednesday.

Clearly that is the very scene that has led to the House considering this matter. In relation to claims that are already in existence, he went on to point out the following:

> In a question that I asked in Parliament, I sought information from the Minister in relation to the legal expenses associated with the claims. I think it is quite outrageous that ETSA has spent over $1 million. In the question that I asked of the Minister I think I suggested that the figure for legal fees for fighting claims was approaching some $1.25 million or $1.5 million, while ETSA had several claims for a figure only a little in excess of $5 million.

He further stated:

> I feel quite strongly that it is outrageous that ETSA should spend that sort of money in fighting claims.

I agree with the Deputy Leader. I, too, think that is outrageous and, if members will only cooperate with the passage of this Bill with the limited liability proposed in the select committee report, perhaps there will not be so much outrageous expenditure on legal fees—if that is the way the Deputy Leader wishes to describe it—in these sorts of claim areas.

The Hon. E.R. Goldsworthy interjecting:

The Hon. R.G. PAYNE: I am quoting. If one goes further into what the Deputy Leader said, one finds the following:

> On a day like Ash Wednesday, with 100 degree Fahrenheit heat and 100 mile per hour winds, or something approaching that, if a fire—

not an ETSA fire—

> starts near the boundary of a property or on an adjacent property, for that matter, by the time the alarm has been raised the fire would probably be miles away.

I agree. Presumably if we are not prepared to give some consideration to adjustment to the liability of ETSA, in that same scene as existed on those days, with 100 mile an hour winds and 100 degree Fahrenheit temperatures in some magical way they are supposed not to be subject to the same parameters about which the Deputy Leader was so concerned.

I would argue that the select committee report mentions that very circumstance and sets out to provide for the limitation of the liability on the part of ETSA in terms of the amendments before members, so that only in the case of property where a fire may originate will compensation be payable. It is not an unreasonable situation to apply on those days of extreme fire hazard. On other days I have argued by the wording of the amendments that ETSA should continue with the liability that it currently has. However, all members would agree that it is not blasphemous to say that only God could intervene on such days in respect of what would happen with any fire, let alone an ETSA one. Clearly, it is not unreasonable to contemplate doing some-

thing in that area. The Deputy Leader went on to say (and I am not quoting out of context):

> I point out—although I am not speaking for the Liberal Party—

he made that quite clear—

> that I personally have some sympathy with the notion that there must be some sort of compromise possible to perhaps limit in some way ETSA's liability.

I agree with that and argue that the select committee report contains that very type of compromise that has at least been in the mind of the Deputy Leader if not in the mind of his Party. At this stage I put to the House a further point, as I was very impressed by the remarks that the Deputy Leader went on to make in that latter context when he stated:

> I think of the provisions that we agreed to in relation to motor vehicle accidents, where the cost of compensation of awards by the courts was more than the ability of the community to pay. The fact is that the third party premiums were reaching a stage where the community and we, as members of Parliament, had to make a judgment as to the ability of the community to pay the mounting bill in relation to liability for road accidents.

One could take these very words and replace 'road accidents' with the words 'fire damage claims to be met by ETSA'. The community, which is ETSA, has no separate funding and cannot get the level of insurance to meet the kind of calamitous possibilities to which the Deputy Leader directly referred. He mentioned $1 billion, and that is a possibility. No member should be under any illusions as to whether that could happen if we had a repeat of the 1983 Ash Wednesday. Most people every hour, every day of every week, year after year require ETSA to deliver this commodity that they need. Yet, as has been clearly shown by the Deputy Leader, we know from past experience that on certain days the slightest mishap can have enormous consequences.

Because we will deal with this matter in Committee following the debate on the motion that the committee's report be noted, I close my remarks on that note. I will later provide more detail to flesh out and support the argument that I have been putting to the House. I urge members, in noting the report, to give consideration to my remarks. I have not put them forward out of context and stress that the Deputy Leader made quite clear that his comments reflect his own feelings and that he was not in a position to commit his Party. I accept that.

We have now come a bit further down the track. We have had a select committee and the members of his Party in this House have access to the remarks made during the debate. I expect that they will consider what I have just said.

The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition): The fact that we are debating this motion at 12.30 in the morning makes a complete farce of any agreement that I may have made with the Deputy Premier about the week's program. The fact is that I was not party to any so-called agreement to go home last night at 6 o'clock. I agreed to the week's program on the basis that we would debate to 10 o'clock last night and until 10 o'clock this evening, and perhaps a bit later if we needed to. The idea of going home at 6 o'clock last night was a Government decision in which I played no part whatsoever.

The fact that the Minister was not briefed to handle the Local Government Act Amendment Bill indicates just what sort of a farce this arrangement of our reaching agreement on a program is. I resent bitterly the fact that at 12.30 in the morning I have to debate the report of the select committee because the Government cannot get its affairs in order. Certainly, from here on in I will be looking at the week's program with a deal more interest at our Monday meetings. The idea was that the Deputy Premier and I made the arrangements for the sittings of the House. I was not consulted last night when the decision was made to go home, and I would certainly never have agreed to it.

I want to put the Minister straight on the remarks that he made, and put them in context before I get onto a description of what is in the select committee report. I admit quite freely that I was not totally opposed to the idea of some sort of a limitation on ETSA's liability, but at no stage did I in the Minister's quoted remarks say that there should be no liability—that ETSA should be off the hook. I had in mind perhaps some monetary limit on the amount that ETSA should pay. In the evidence given to the select committee even ETSA was not too keen on that suggestion. Any idea that I might have had that we would put a monetary limit on ETSA's liability was exploded during the select committee's hearings. I want the Minister to get the emphasis correct: at no time did I suggest that ETSA should have no liability.

The Hon. R.G. Payne interjecting:

The Hon. E.R. GOLDSWORTHY: The Minister suggests that the select committee report indicates a compromise. Certainly, it does not accommodate the point I make. Clause 40 of the Bill gives ETSA complete immunity from prosecution.

The Hon. R.G. Payne interjecting:

The Hon. E.R. GOLDSWORTHY: Yes, but complete immunity from prosecution, other than on the property on which the fire starts. At no stage have I advocated that, and at no stage have I advocated to my Party that we should accept that position. However, that is what the Bill provides. So, the Minister cannot try to suggest that I indicated that I intended to go along with what has come out of the select committee. I was prepared to explore the possibility of some limit on ETSA's liability. All the evidence indicated that that would not work.

The select committee was useful because we managed, as a result of suggestions and probing by Liberal members, to improve the Bill in a number of areas. There are a large number of amendments. The question of easements has been clarified. The definition of 'private supply line' has been changed to take the emphasis off the idea that it was the land-holder's line, because it is ETSA's line to supply the land-holder. Even though that may appear to be a minor matter, it is important.

Also, the $1 000 penalty for planting vegetation near a public line has been removed at the suggestion of Opposition members. That is fair, because the land-holder will have to bear the cost of any associated costs in removing the trees if he has planted them. Further, the Opposition suggested that 60 days notice should be given if any work is required so that the land-holder can get it done privately. That has been adopted. Any costs associated with clearance work will not be a charge on the land, as was previously suggested.

The arrangement for cutting off the power to avert serious danger is now to be done after consultation with the CFS, and it is suggested that a committee be set up to resolve disputes. All those matters were canvassed by Opposition members of the committee and the Government had the sense to adopt them. However, select committee members agree that there needs to be enhanced power for ETSA to enter properties and to clear vegetation. The Bill provides for that.

I now come to the central provision of the Bill. Clause 40 gives ETSA complete immunity from civil action for a fire caused by its negligence, except for the property on

which the fire starts. That provision is completely unacceptable. At no stage in anything that I have said in this place have I agreed with that proposition. While that provision remains in the Bill it is totally unacceptable to the Opposition.

I point out to the Minister that all the evidence from all the witnesses, except ETSA, rejected that proposition. If we are going to give any credence to the idea that select committees serve a purpose of finding out what the public—

An honourable member interjecting:

The Hon. E.R. GOLDSWORTHY: If the Government botches up the program it is not our problem. I am prepared to go home if the Government is prepared to do some of this next week to make up for the way it botched yesterday's sitting.

The Hon. R.G. Payne interjecting:

The Hon. E.R. GOLDSWORTHY: You are not in a position to do that? Then we will have to keep going. All the evidence before the committee, except that from ETSA, totally rejected the proposition that ETSA should have immunity if its equipment caused a bushfire through negligence. Let me quickly refer to that. The Director of the CFS gave some very good evidence and he said:

> This Bill attempts to put the cart before the horse.

In other words, he is saying that a few other things ought to be done before we contemplate this Bill. I asked:

> I gather you have a big question mark about the first aspect of this Bill which gives ETSA total immunity from liability?

The Chairman interposed and said:

> Not total, but limited.

The response from the Director of the CFS was:

> I question whether it is fair on the community.

So, he did not think that it was fair. He then went on to give some excellent evidence about what he thought needed to be done in terms of fire prevention and, in relation to the situation in Western Australia, he said that the Ash Wednesday conditions have not occurred there for many years because of the program that has been undertaken of clearing flammable rubbish, but the South Australian Government seems loath to undertake that. The United Farmowners and Stockowners also gave some very good evidence and in its submission stated:

> The immunity from civil liability and the increased regulatory powers sought by ETSA will directly affect almost all members. The UF&S opposes the amendments to the Act in principle. It is also concerned with much of the machinery for implementing the changes. The immunity from liability sought by ETSA is wrong in principle. In a community where everyone else remains liable for their negligent acts to the full extent of the damage caused (WorkCover being a possible exception), it is wrong that a public authority like ETSA should have a special dispensation purely because the risks from negligence are potentially more horrendous.

The Insurance Council stated:

> Unquestionably, there would be strong public reaction to any suggestion that major providers of service or manufacturers be immune from liability for negligence.

The council goes on to talk about the sorts of damages which were awarded in cases of poisoning in the Indian town of Bhopal where the damages sustained by that company amounted to $720 million. I do not think that ETSA believes it will be in that sort of league.

Councillor Forster, the Deputy Mayor, and the Clerk from East Torrens council presented a submission and the latter, speaking on behalf of the council, stated:

> ETSA now seeks to limit its liability only to property damage on the property on which or over which the trust runs lines. This argument is similar to that of a man who admits causing a fire in the basement of a multi-storey building, which is completely burned down, only wanting to recompense the occupier of the basement and not those occupying other storeys.

That is a fairly pertinent analogy but, if ETSA will compensate only the first land-holder, all the rest can go hopping. It took a while to pin down the lawyers from the Law Society, as is usually the case. Their evidence was the least clear cut of most of the evidence, but nonetheless we got them up to the barrier. I asked:

> You are talking about detail of the Bill, but are you not happy with the import of this section because of the transferring of liability from the trust to the land-holder? Should the immunity be transferred from the trust to the land-holder?

Then, off they went, and they stated:

> A general point should be made concerning the view of our members through their involvement with this matter. In such matters, the fact that the trust may divest its responsibility means that it falls on the land-owner.

Of course, we all knew that, but I pressed the point a bit further when I said:

> I am more interested in who is the wrongdoer.

A member of the Law Society responded and stated:

> I do not think any lawyer would challenge the proposition that the wrongdoer is the one who should pay.

Even they got around to it after a page or two. They believed that, if ETSA is the wrongdoer, ETSA should pay. That is not untypical of our legal friends. Australian National presented a submission and stated:

> Finally, I would like to express a strong concern relating to clause 40 of the Bill. This would make the trust immune from any civil liability in relation to property damage caused by fire, etc.

Members interjecting:

The Hon. E.R. GOLDSWORTHY: I cannot help it. I am referring to the evidence before the committee. I continue:

> This is an objectionable provision of the Bill as it creates a special immunity which could cause liability to fall upon other parties, for example Australian National, without prospect of relief from damages ultimately caused by ETSA.

I point out to the Minister that, although I went into that select committee with a completely open mind on this question of possibly limiting the liability, at no stage did I believe that ETSA should have no liability (which is what is proposed in clause 40) in relation to certain people whose property is destroyed. After hearing the evidence, no-one was prepared to accept this proposition. The member for Flinders gave some evidence to the committee and he said the same thing.

The Hon. R.G. Payne interjecting:

The Hon. E.R. GOLDSWORTHY: It does not matter. He still made the plain point. Land-holders do insure. They may lose property in other ways than by fire. But to believe that Parliament should accept this outrageous proposition that ETSA should have no liability if its equipment negligently starts a fire is completely unacceptable. What is the so-called compromise of the Minister which was supposed to accommodate my view that perhaps we could put a limit on it? The compromise is that it will operate only for five years. What can we read into that I suppose that we could read into it that ETSA has not got its act together in the past and that five years would have given it time to get its act together.

That is hardly a satisfactory explanation for lumbering land-holders with ETSA's negligence if it had not done the job properly in the past. I was pleased that the Minister announced a program of rewiring with bundle conductors and insulated conductors which will cost quite a deal of money, but it will be money well spent. I applaud the Minister for announcing that. But to suggest that land-holders should pick up the liability while ETSA gets its house in order is completely unacceptable and negates the argument put forward by all of these witnesses before the select committee that ETSA should not seek to thrust on

to other people liability for its negligence. That is what the Bill still does.

There are a number of other provisions in the Bill which have vastly improved it. I hope that in their wisdom members in another place fix up clause 40, in which case the Bill would then be satisfactory to us. While this provision remains—and it is a central provision in this Bill—there is no way in which the Opposition will support it. As I say, if that clause is struck out ETSA will have the enhanced powers which I believe it requires to go about the business of making lines safer—powers similar, I might point out, to those which exist interstate.

Nowhere in any State legislation does this sort of immunity exist to anything like this degree. There are provisions of fairly recent origin in Western Australia and Victoria which provide that land-holders have some responsibility in clearing vegetation, and the Bill without clause 40 is not dissimilar to that which is now in force interstate.

An honourable member interjecting:

The Hon. E.R. GOLDSWORTHY: I think it is better, because we have put a lot of time in on it and I think we have refined it. I think that the other provisions are superior to the interstate provisions, and that is as a result of the select committee, particularly the input of the Opposition members. Nonetheless, those provisions are good, fair and reasonable, and we do not buck about them. However, there is no provision similar to clause 40 interstate. I do not believe that it is fair and the Minister knows that no other witnesses believe that it is fair or reasonable, and for that reason we reject it.

In due course the Opposition will oppose that clause quite strenuously. I will pay a tribute to the Minister. After an early skirmish when there was a bit of skin and hair flying because the Minister thought that I was trying to be obstructive or some damn thing when I was trying to get to the facts of the matter; we got a working arrangement going nicely and the Minister tried hard to accommodate the points of view put before the committee. I pay tribute to him for that. The Minister tried hard to do the right thing and to come up with something reasonable. He succeeded on all counts except in relation to this clause. As I say, this clause is central to the Bill, it is totally unacceptable to the community and the Opposition and we reject it. We will oppose that clause.

Mr GREGORY (Florey): I support the recommendation of the committee. I have served on a number of select committees in this House and have always enjoyed the working relationship that I have had with the people on them. These committees enable the members to have a better insight into what is happening and what they are inquiring into because the process is a more detailed examination than can possibly take place in the confines of this House.

The Bill, as presented to this House in the first instance, was to deal with the problems that the Electricity Trust of South Australia was experiencing and had experienced as a result of the bushfires in 1983. When the fires happened this State was moving into a very dry period. The Woods and Forests Department at that time had a standard method of measuring the fire danger each day. It was based on the moisture content of a piece of round wood of 50mm diameter. By November that year the department had commenced measuring the moisture content of wood of 75mm in diameter. In other words, it had gone from the old two inch measurement to three inches. That illustrates how dry it was.

On that occasion the fires, which are alleged to have been caused by the trust, were as a result of extreme weather conditions, heat and dryness over a long period. I recall on that day being in Millicent to attend a meeting of the Public Accounts Committee which was taking evidence from members of the Country Fire Service and district council of that area. I walked out of the Millicent council chamber and watched pieces of paper being blown down the main street at about head height and they were not dropping or rising. The velocity of wind was such that it was moving very rapidly and the forester with me said, 'I hope there is only one fire here today'. There was more than one. As a result of that, the trust has changed its policies with respect to clearance under power lines and the nature of lines that have been erected.

A number of people with interests in the area want other things done and the trust has an obligation to the consumers in this State to ensure that whatever it does is done cheaply. If it is to do all the things that some of the urgers in the Adelaide Hills want to be done, all the consumers in South Australia will be paying enormous tariffs for a long time to provide all the underground power that these people want so that they can enjoy living in a very dangerous area where many of the residents do not take even the most preliminary and elementary precautions.

The inspections that were arranged by the Electricity Trust for the select committee looked at overhead power lines and some of the conditions in which they are placed where councils and land-holders refuse permission for the Electricity Trust to clear trees which are growing under, through and adjacent to power lines where even the slightest wind would cause portions of a tree to touch the power lines. Yet the same people—and their parliamentary representatives are here on the other side of the House—claim the right to be able to sue the trust if there is a fire and then complain if the trust has the temerity to turn off the power.

I recall being at a house at Coromandel Valley and being told a story about how some of the people in Coromandel Valley enjoyed stopping the trust from lopping trees in their street. Now they are complaining that the trust can turn the power off. I have a view that, if people want to live in the Adelaide Hills, they should not expect more expensive methods of conducting electricity to be paid for by all the citizens of South Australia who receive electricity. There is a standard rate for the distribution of electricity, and for the erection of power lines and poles. If a person wants underground power, he should pay that premium, just as purchasers at Golden Grove and elsewhere pay for this in the purchase price for a block of land. One of the inspections in the Houghton area was of a small dead-end road where a number of households had collectively reached agreement with the trust for the service lines to be placed underground. They are paying for that work.

The committee took evidence from people living in the Adelaide Hills who complained that, although Telecom can put its service lines underground, the Electricity Trust cannot. I was astounded at this simple approach from people who claimed to have some technical knowledge. The amount of power travelling through a telephone cable is a lot less than that which travels through service lines of the Electricity Trust. People fail to appreciate the cost of the cable needed because of heat dissipation, the size of trenches that must be dug and joining methods. Unless telephone lines are struck by lightning, they do not harm people. If electricity cables are not handled correctly, people can be electrocuted. Then where would we be!

At Houghton, I was astounded that people had planted a Tasmanian blue gum underneath a power line. In their natural habitat, Tasmanian blue gums grow to between 150 and 200 feet. They require quite a few inches of water per

annum to reach that height, which they may not get in the Adelaide Hills, but they grow rapidly. While they do not get enough water here, Tasmanian blue gums experience dieback in dry periods, which causes the fragile limbs. In wind, not necessarily a high wind, those fragile limbs crash down upon wires, cause the lines to collapse, and a fire is started.

To the untrained eye, one might think that there is a lot of clearance between the supply lines and trees. However, with high velocity winds, the lines move backwards and forwards at a remarkable rate. When it is extremely hot, the wires expand and sag, the arc or swing can be greater, and they touch vegetation. Once they start hitting, the wires start sparking and, if they start sparking, the molten metal can cause fires.

I was very interested to listen to the Deputy Leader of the Opposition this evening about this Bill and his attitude to the late sitting hour. I do not mind sitting in this House at any time. I am aware that members on this side reach agreements with members opposite. If members opposite do not pass on messages to the petulant member for Kavel, that is a problem that he will have to take up with members of his own Party. He will have to sort out that problem instead of blaming us for the inadequacies of his Party.

Mr Gunn: What are you talking about?

Mr GREGORY: If you had been listening when the Deputy Leader was talking, you would know exactly what I am talking about.

Mr Gunn interjecting:

Mr GREGORY: If the member for Eyre had been listening when the member for Kavel was carrying on and he understood a few of the things happening in his Party he would know why that is. He should not blame someone else when people in his Party reach agreement about these things.

Mr Gunn interjecting:

Mr GREGORY: The honourable member should not carry on about it like a pork chop, because that is what happened. Members opposite cannot organise themselves and, in fact, could not organise a butchers' picnic if they were given the meat.

Mr Gunn interjecting:

Mr GREGORY: Do not threaten us, because we have been threatened before and it does not work. The member for Kavel alleged that ETSA had not done this work in the past. I was intrigued with that comment, because I remember when the member for Kavel was the Minister of Mines and Energy. Since he has been Deputy Leader of the Opposition he has consciously reminded us of what he did as Minister of Mines and Energy. Apparently, the only thing that he ever did as Minister related to Roxby Downs: he did not pay as much assiduous attention to his role as the Minister responsible for the Electricity Trust of South Australia.

A person who had been injured during the 1980 fires in Mylor, which began in a dump at Heathfield, gave evidence to the select committee. The Stirling District Council has some liability in this matter. I wonder what the Deputy Leader of the Opposition did during this period, because he was Minister for about two years following that fire.

The SPEAKER: Order! It is clearly out of order for an honourable member to bring a cup of tea into the Chamber, and the Deputy Leader is fully aware of that.

The Hon. E.R. Goldsworthy: It is no stronger than water, Mr Speaker; it just has a bit of tannin in it.

The SPEAKER: Order! Nevertheless, what may be satisfactory to the Deputy Leader is not everyone's cup of tea and I ask him to remove it. The honourable member for Florey.

Mr GREGORY: Of course, nothing was done during that period. I think it is a bit late to say that ETSA had not been looking at this problem. I believe that ETSA, along with many other people, did not appreciate what could happen on Ash Wednesday in 1980 when it was extremely hot and dry with high velocity winds. However, since then ETSA has done considerable research. It is installing aerial bundle cables in such a way that if limbs fall off trees and on to an ETSA line it will detach itself from the pole and lie on the ground. There will be no clashing of wires and consequently there will be no molten metal, which reduces that aspect of a fire. ETSA is also facilitating private arrangements so that people, if they so wish, can have undergrounding. Of course, one must appreciate that with undergrounding of cables there is extensive scarring of the landscape because the cables need to be exposed from time to time for servicing. Another aspect of underground cables which many people do not realise is that with cables on poles it is quite easy to locate a fault but, with an underground cable, a lot of digging is sometimes required.

Another provision of the Bill and a matter that was contained in the select committee report concerns the matter of giving ETSA power to clear vegetation. In respect of private lines on private land, ETSA will have the right to issue instructions and a notice, and if the vegetation has not been cleared within 60 days it can move in and do it. It is also implicit that, if the landowner/occupier wants ETSA to clear the land in the appropriate manner, ETSA will do it at a charge.

ETSA has drawn up specific regulations in respect to the planting of vegetation adjacent to power lines and also in relation to the required clearing standards. I think that appropriate arrangements can be made by many people to overcome some of the initial hysteria that has been associated with tree lopping, tree removal and the planting of appropriate species. I think that that power is essential. I was appalled to find out that ETSA could be placed in a position where people could plant trees under power lines that could grow into the power lines and create the potential for fires, as occurred on Ash Wednesday. Yet ETSA would be powerless to lop those trees so that that dangerous situation was not created. That is an anomalous situation.

The Bill enacts something that has been happening for some time: if there is a very dangerous situation, ETSA can turn off the power. I think it is important that that occur. I also know that, if that responsibility is exercised by the trust in a matter of cautious prudence, members opposite will complain because the power was turned off on a wholesale basis to stop peoples' lives and property being destroyed. The select committee's report is clear. It gives the Electricity Trust clear powers to undertake necessary clearance. It gives rights to land-holders; they know exactly where they stand in respect to nurturing vegetation that is in the vicinity of power lines.

A considerable number of easements entered into in the past have not been properly registered or put on titles, particularly since the Second World War from when ETSA expanded rapidly. This legislation determines that those easements are legally sound, without there being any registration on the titles. It will also save people a considerable amount of money.

The last matter I wish to talk about concerns liability. Anyone who has lived in the Adelaide Hills or who visits relatives or friends living there will note, when travelling the streets of the Hills, that many people are very careless about how they maintain their house and their block of land. One of the reasons my wife and I, when looking for a house, chose not to live in the Hills was that we did not

want to go through what occurred in the 1956 fire when we were youngsters living in the Adelaide Hills. We realised that many people were acting recklessly and carelessly in relation to the maintenance of their homes. Nothing has improved; in fact, if anything, it has become worse. People are building houses in very dangerous positions. They do not maintain a clearance around their homes. They will not do anything. However, when something happens they expect someone else to hold their hand.

I am of the view that this limited liability with respect to ETSA will work. The legislation contains a sunset clause which provides that at a certain period of time it will cease to operate. It was the view of the majority of the members of the committee that that will allow sufficient time for ETSA to clear all the area that needs clearing.

The Hon. R.G. Payne interjecting:

Mr GREGORY: Yes. ETSA will then have erected all the aerial bundle cables it needs to erect and at the end of that period of time ETSA will have to perform. Irrespective of what happens, we all in South Australia bear the cost of what happens to ETSA as a consequence of a fire. Every consumer in South Australia contributes to the cost of ETSA's having to pay $8 million a year in insurance premiums and not just those who happen to live in the very dangerous fire prone areas of the Adelaide Hills and some country regions. I support the Bill.

The Hon. B.C. EASTICK (Light): It was a privilege to be part of the select committee in the sense that with one exception a useful conclusion was reached. A tremendous amount of very worthwhile material was made available to members of the committee and through them to this House. One also had the opportunity of getting an overview of the effects and consequences of fire on the lives of a number of people in this State. I say that against the background that we actually heard from people who had no purpose before the committee but were so scarred by their experiences in the Ash Wednesdays (and I stress the plural) that they wanted to get off their chest some of the problems that had occurred and difficulties that they did not want to see other people in the community go through at a later stage.

In some circumstances it was not ETSA that was responsible for the problem, but these people still had the scars of a fire experience which they wanted to relate. In this sense it is interesting also to note that one person who had been fighting the bureaucracy for some time got almost immediate relief through the intervention of the Minister. Any Minister or member given the information, presented as the evidence was, would have taken steps to ensure that the bureaucracy listened to the little person and sought to resolve—not necessarily precisely as the person giving evidence would want—a continuing battle that that person had had for some years.

The Hon. R.G. Payne: He got 10 out of 10 for initiative.

The Hon. B.C. EASTICK: He certainly did, as did the gentleman from the West Coast who took time out to come from Kimba and present evidence to members of the committee as he saw the possibility of the effects of this measure. Whilst it was pointed out to him that his problems were perhaps not as great as he perceived, at least he was prepared to make a submission and make himself available to present those views. The members of the committee were genuinely supportive of the message he gave us.

We also received from ETSA and other sources some very worthwhile resource material, which indicates very clearly that within the system a genuine effort is made to provide answers or, in advance of damage, materials which can be utilised to give the best end result. I refer in particular to the Electricity Trust of South Australia Bushfire Risk Management Manual—a document of some size made available to members of the committee from which we were able to determine that most of the contingencies likely to occur in a bushfire, as applying to ETSA, have been considered and made available to the persons involved in the trust's activity.

We also saw material prepared in a delightful manner in the brochure 'Tree planting guide' which had been made available by ETSA. The guide indicated the types of plants that provided the greatest fire risk, the estimated height of a number of plantings and how they could be used to utilise the land underneath or in close proximity to the wires without involving some of the ridiculous plantings exhibited to the committee on its inspection from the Greenhill area through to Chain of Ponds, Houghton, Lobethal, Woodside, Echunga and back through the Sturt Gully area.

It was apparent that there is a grave potential danger from some of the wires and material used by the trust to distribute its load. There has been a freewheeling attitude and I do not lay the blame on any one person but, because there has been no experience of difficulties arising from the clash of wires or from the consequence of major fire, it allowed some operators to buy time—time which ran out on a day such as Ash Wednesday. We found, for example, that in a number of cases wires had been strung through trees or immediately adjacent to large trees so that best use of a road reserve could be made, or a convenient place to take the wires was found so that the environment was not unduly affected through lines covering the horizon.

Those matters are better considered today and as a result of the Ash Wednesday experience and the questioning and preparation undertaken by the trust in respect of its appearance before the select committee, as well as information given by members of the community, I believe the trust will be all the better and will have learnt from the detail provided.

I mention, as did the member for Florey and other members, the importance of visits which were an essential part of the whole process. I refer to the visual effect of the various types of distribution and the sheer folly of a number of people in dangerous areas by having tall and fire risk plantings immediately adjacent to their houses. Many people took no heed of the debris that trees rained down on their roofs, especially in respect of the build up of leaves and twigs in their gutters.

This is a matter of great concern and one that had been previously demonstrated to me in the Flagstaff Hill area by a group of fire fighters who were concerned that people just will not accept personal responsibility for their own safety and that of their family and their property. Since the commencement of the select committee process, and in concert with my colleagues the members for Coles and Eyre and the Hon. Mr Dunn in another place, I had the opportunity about five or six weeks ago to fly over the Melrose and Wilmington area to see the damage of bushfires in those environs.

People from the Melrose council took me to see an area immediately adjacent to the Melrose township where in the backyards of their properties people still, following the 348 square mile burn-out which took place in January, have large masses of flammable material right up to their doorsteps just waiting for an incident to ignite it. This folly and foolishness on the part of a large number of people has caused concern far beyond the interest or responsibility of ETSA, but it highlights the fact that, even though people have learnt in quite graphic terms from television coverage

and various other means of media distribution about the problems of people who lost loved ones, property and houses, they still do not heed the dangers which exist.

I believe that the visual, written and oral evidence which is now part of the record bears perusal by members of Parliament, particularly those who have rural type settings directly associated with their electorates. I remember a letter from a gentleman in the Deputy Leader's district. I refer to Mr Manser, from Mount Crawford, who drew attention to his problem and the great difficulty he would have if the Bill was permitted to pass in its original form. He has a track into his agricultural property, which is virtually surrounded on every side by pine forests. Under the provisions of the Bill and, even now, as a consequence of the immunity provisions, he could find himself with a massive debt resulting from a fire commencing on his property.

I known how he feels. With my son, I have an interest in a property in the South-East. We are directly adjacent to the Comaum Forest on two sides of that property. We respect and recognise the problem we have. Fortunately, the Woods and Forests Department, and indeed most major forestry groups, have an excellent record in fire prevention. They have a policy of cleaning up in order to reduce the load, but in an Ash Wednesday type situation it does not matter whether the load on the forest floor has been reduced; circumstances are such that the fire will explode up to half a kilometre ahead of the fire in a tree, or even down at ground level in a pine forest. There are problems.

As has happened in the past, fires will occur in the future as a direct result of a combination of a set of circumstances which are conducive to fires, namely, a hot north wind; very dry and tinder-like material; and a very dry atmosphere. In those circumstances, one almost has ready ignition. I experienced the 1948 fires in the Mid North of this State when a fire was started by the Port Pirie express train just south of Bowmans station at a place called Kalora. The fire moved down and almost burnt part of the RAAF station at Mallala. On the same day a fire started on the train line at Gawler and swept over the plains to One Tree Hill and Williamstown. That fire created tremendous problems for many people who are still prepared to recount the difficulties caused not only at that time but also for periods in excess of 15 years while they reinstated not only their property but also got back onto something of an even keel with their financial wellbeing.

Those people in a number of circumstances took the railways to court. Whilst it was freely admitted that the trouble had commenced on the railway line and that it immediately followed the passage of a train, although there was not total immunity in the sense that we are seeking to provide it in this measure, as liability could not be proved by someone seeing a spark leaving the train and starting the fire, which moved out into adjacent property, those involved were unable to get a decision in their favour. A large number of people lost very large sums of money seeking to prove what everyone recognised as fact but, because of the lack of actual sighting of the spark creating the problem, they were unable to get court satisfaction.

Here, in the final result, we have a much better product than was presented originally to the House. I found it interesting that, even though the original Bill had been through the system a number of times, a number of aspects came about probably by people believing that they knew what the next set of words ahead of their reading meant, rather than what was actually printed. In a number of amendments, instead of using the term 'above and over', the words to be inserted will be 'above and under'. In a number of places the system allowed these words to be transposed and yet not picked up in the proof reading, or in the department before the Bill was brought to this House.

I believe that the thrust of the Bill as presented to the House has not been destroyed by the efforts of the select committee. However, it is quite impossible for me and, I believe, my colleagues to support that aspect of the Bill which will seek to provide immunity for the Electricity Trust of South Australia. To deny people a natural benefit purely and simply because of the size of the organisation is, to my way of thinking, just not on. I agree that if people are foolish enough not to assist the trust by allowing entry into their properties and allowing removal of material, particularly tree growth into wires, they really are courting disaster and should not receive any real benefit.

However, we find that in many cases the trust itself was responsible for placing its wires in places where they were subject to tree damage, and in a number of cases the course taken by the trust in moving across property has been for its economic advantage rather than for aesthetics or for the best interests of the property over which lines pass. I believe that with the overall shake-up that the Electricity Trust and a number of people in the community have had, and with the degree of consultation that is now taking place between local government, in most cases, and the trust, there will be fewer chances of danger in the future.

I give no bouquets. In fact, I give brick-bats to local government bodies which have demonstrated to committee members that they have failed to respond to the reasonable request of ETSA to co-operate in the removal of trees that were a danger to the distribution service and, certainly, a likely cause of, or commencing spot for, fires.

I have traversed a number of areas which are not directly associated with the evidence but which are consistent with the evidence and fortify the importance of a proper and reasoned approach to the likely dangers of fire. It has caused damage in the past and will cause damage in the future and anything that we can do short of giving immunity to ETSA is commendable. I support those aspects of the measure.

Mr MEIER (Goyder): At the outset I will say that I am quite beside myself that at 25 minutes past one in the morning I am speaking on a very important Bill for South Australia. I think that it shows the arrogance of this Government in keeping members of this Parliament here to this ridiculous hour. I thought that the Government might have learnt something from the recent New South Wales elections and the Adelaide by-election and realised that it is out of touch with the grass roots level and with people's thinking generally, but its actions tonight have shown me quite clearly that that is not the case.

I will not go into the various arguments, but I was very upset to hear blame being put on the Opposition when it is quite clear that yesterday the Government backed out of going on with legislation. I could cite a few comments that I heard a certain Minister saying and comments as to why a Minister was not prepared to go on with legislation yesterday. The Opposition was 100 per cent ready to go on with legislation and was keen to debate, but it was taken out of our hands by the Government. And now the Government keeps us here to this ridiculous hour at this time of the morning.

Mr Gregory interjecting:

Mr MEIER: I knew that the member for Florey would have to interject because he cannot see commonsense at any time and at this time of the morning I am sure that he is much more *incognito* in so many ways.

Coming to the matter in hand, I want to compliment those persons who served on the select committee. Obviously,

they must have had a very interesting time assessing the evidence presented to them and I think the work has been done comprehensively. The problem of bushfires affects most of the State. The interpretation of the term 'bushfire' might to the lay person be interpreted as meaning that we are considering only the Adelaide Hills and certain other areas of bush land, but I notice in this Bill that 'bushfire' means 'a fire that originates in, or spreads through, forest, scrub, grass or other vegetation'. So this definition is widened to include most items in the natural state that are burnable.

There is no doubt that ETSA has had to grapple with the problem, particularly since the Ash Wednesday bushfires. It is recognised that we as subscribers to ETSA services do not want to be burdened with payments that perhaps should not be made and we certainly want to see provisions made that will protect the interests of citizens generally.

The first item on which I want to make a few more comments concerns vegetation clearance. As the Minister said in the report of the select committee:

> The duty of vegetation clearance placed on the occupier is restricted to the clearance from private supply lines of vegetation that is not naturally occurring. All other vegetation clearance is the trust's responsibility.

I think that that recommendation is almost generous because I represent an area where a lot of clearing has occurred over the past years since Ash Wednesday on farmers' properties and alongside the roadside. I know that farmers are acutely aware of the potential danger if trees are too close to power lines. A few farmers have contacted me since this measure was first mooted concerning their responsibility to clear vegetation around power lines. I have not been able to give them a definitive answer although I took up correspondence on this issue with the Minister last year.

The Hon. R.G. Payne: It will be straightforward now.

Mr MEIER: As the Minister interjects, it is now straightforward. I do not consider that any land-holder would have any objection to these provisions as they apply to the planting of vegetation. When that vegetation gets in the way of power lines, they will be responsible for maintaining and clearing that vegetation where necessary. I can think of one constituent who will welcome this provision. His case concerns some pine trees, which do not react well to being cut back. He was most upset with the way that the trust cut back a particular section of those trees and complained that they will not grow back in the way that he would like. Had he known, he would have trimmed them himself into a nice neat shape. That is fair enough. Generally speaking, farmers are sufficiently aware not to plant trees in places that could create a liability.

I am pleased that the proposal to impose a fine of up to $1 000 on people not complying with the provision or not planting trees in the right place is not incorporated in the Bill. It would have disturbed me to wave such a nasty whip over people. Correspondence needs to be called upon as much as possible. That is what is occurring in this case. I notice from the Minister's speech that, where the trust proposes to cut off supply in order to prevent danger from bushfire, it is required to do so in consultation with the Country Fire Services. Nearly two years ago the ETSA manager visited my office. He forewarned me that there would be more power cuts than had occurred in past years. As a person who lived on southern Yorke Peninsula for some time I did not think that there could be more cuts. That was said partly in jest.

Things have improved since the early 1970s. However, it was clear that ETSA had to take action when it considered necessary. I was appreciative of having been given that information. During the summer before last, which had some very hot days, I do not recall one occasion on which the power had to be cut off. I guess that discretion was used wherever possible and it was considered that there was no need to cut off the power. I compliment the Country Fire Services for the work that it does throughout the State.

The member for Light has commented adequately about the recent bushfires in the north. The provision relating to consultation between ETSA and the CFS is very sensible and I am well aware of the concern of the CFS. I am also aware of the many hours of labour that the volunteers give to the service to protect the citizens of this State from possible fire outbreaks and, when fires do occur, they give freely of their time in fighting them.

During summer, only a few weeks ago, I recall two volunteers returning to my home town of Maitland after serving in another area and, if I recall correctly, they had not slept for some 36 hours. You can imagine how they looked and how they must have felt. A little earlier this evening I complained about the time that we were spending in this place tonight and this morning, but I think that our situation is slightly different from fighting a bushfire. Of course, our work is urgent but the Government could have put it off until next week (but I will not be sidetracked again).

I also note that the committee further recommends that the regulations made under section 44 should provide for the appointment of small committees to resolve disputes concerning vegetation clearance. It is suggested that these vegetation clearance consultative committees comprise representatives of ETSA, the Department of Environment and Planning, the Local Government Association, the Country Fire Services and United Farmers and Stockowners. I wonder whether that recommendation is inserted for the benefit of all local members. I am certainly very pleased to see its inclusion.

On many occasions my telephone has rung at odd times of the day with an irate citizen on the end of the line saying, 'I have just heard that they are going to cut down a group of trees. I want you to stop it.' That is all very fine but, first, one must ascertain why the trees are being cut down and, secondly, what prior arrangements have been made and what consultative processes have been gone through. It seems to me that this provision will overcome many of these problems. It has been heartening in all cases where people have approached me in time that we were able to make alternative arrangements and perhaps stop the unnecessary cutting back of trees. On another occasion I remember that I was able to ensure that only a certain number of trees would be cut back so that it was not a complete balding or devegetation of the landscape.

So the proposal to create consultative committees has something going for it. My one concern is that we do not make it too big, otherwise everyone may know the right answer but no one will come to a final decision. That can be just as bad as making a hard decision and wearing the consequences. Whatever the case let us hope that the consultative committees are given a reasonable trial period and, if problems do occur, they can be sorted out. I think it is at least attacking things that have been of concern in many parts of my electorate from time to time.

I also note with concern that the Bill will give ETSA immunity from civil action for negligence if its equipment starts a bushfire, except for the property on which the fire starts; and a five year sunset clause is inserted. I am afraid that we can go only so far. We must still recognise that, if ETSA is responsible for starting a fire, surely those people whose property has been damaged by the fire should have some recourse. The only recourse open is to see that ETSA pays compensation, so I cannot agree to that part of the

Bill. I know what the Minister and the Government are trying to get at: they are concerned that another Ash Wednesday could further disadvantage ETSA. However, let us look at the positive side.

So many things now have been attended to that were not attended to prior to Ash Wednesday. Many thousands of trees have been cut down or cut back. There is now a program in hand to keep those trees cut back so that the chances of a fire starting from such vegetation is very unlikely. Therefore, the issue is unlikely to arise.

Likewise, much has been done in relation to the general maintenance and upgrading of powerlines. Even people living in the metropolitan area will have appreciated the extra bits and pieces that have been put around, the replacement of powerlines where they have been considered to be faulty, the use of better insulators, and so the list goes on. To use this method to say that even though we have ensured that there is a much greater safety level we still have some reservations and therefore want to protect ETSA for the next five years is not the way to go.

Anyone who was affected by the Ash Wednesday bushfires and has been affected by any bushfire generally where ETSA powerlines have been the cause of those fires wants to have recourse and their claims settled. They have always had that right and I believe that they should continue to have it. It is acknowledged that there is immunity from action if power is cut off, after consultation with the CFS, to avert danger (and I perhaps should have mentioned that at the time I was considering that point). I see no problem with that at all.

It is recognised that if ETSA can see sufficiently forward then its responsibility has been taken care of. If the power is cut off obviously ETSA cannot be held responsible for any fire, and that provision already exists. I am sure that the Opposition is happy to support that; however, let us not go overboard in that respect. I am pleased to see the results of the select committee and to have heard the comments from members who served on it. I trust that the Minister will consider my points on this Bill.

Mr LEWIS (Murray-Mallee): I suppose that I am fortunate that I am here at 1.45 a.m.; I know that others will be making their remarks at 5.45 a.m. The member for Albert Park suggested that I might be in hospital. If he suggested that because of some injury or illness he perceived me to be suffering from, he is mistaken; if he questions my sanity I put it to him that perhaps it takes a fool to find a fool.

The ACTING SPEAKER (Mr Rann): Order! Will the honourable member direct his remarks to the Bill.

Mr LEWIS: I will quite happily, if the member for Albert Park, who interjected out of his place, were to equally be brought to order. I am concerned about only one aspect of this measure.

The Hon. R.G. Payne interjecting:

Mr LEWIS: As he was leaving the Chamber the honourable member made the insulting remark to which I responded. The aspect of the measure that I want to particularly encourage members to think about, before they accept and adopt it, concerns ETSA's immunity from liability arising out of instances where fires are a consequence of the negligence of the trust. By that I am not implying that the trust's employees deliberately light fires in the discharge of their duties; I am talking about circumstances in which the trust collectively through its employees is negligent in not ensuring that a fire did not start when some action it could have taken might have prevented the fire from starting.

We know that a person, according to law in the Acts Interpretation Act, is also intended to include a body corporate—that is, the Electricity Trust—but let us exclude the Electricity Trust from the proposition that I will hypothetically put before members in the Chamber, that is, those who are awake and not comatose, or prostrate on the benches. Let us consider the circumstances in which someone decides to irresponsibly and unlawfully, through negligence or otherwise, light a fire. On that day, regardless of how good or bad it may be, that person has deliberately conducted or engaged in an act which puts at risk the life and property of other individuals. The law says that they are guilty of a crime.

I am talking about nuts, people who are quite insane, who are either incapable of understanding what they are doing or, if they are capable of understanding, are driven nonetheless by some psychological disturbance to be involved in that sort of action. When that happens, those people are held to be liable for the consequences of the damage to the property and to the loss of life to those members of the family surviving if they suffer an injury through that loss. They are liable to be sued in a civil action, but more particularly, Mr Deputy Speaker, as you would know and as other honourable members would know (particularly the member for Playford), they have committed a crime and if the crime is proved, the victims of the crime are entitled to compensation. If the victims of crime are entitled to compensation they can go to the State Government for such compensation. If there are a number of victims, of course the State Government will find itself facing an enormous payout as a consequence of the injury, damage or loss to property arising from the illegal act of that criminal in lighting the fire.

As I see it no attempt is made in the legislation relating to compensation for victims of crime to limit the liability of the community. Yet, I heard the Minister barely two hours ago arguing that we should restrict the liability of the Electricity Trust where it has been guilty of a negligent act. There seems to be some contradiction in the principles involved. On the one hand, the Government claims that it is compassionate, reasonable, and thoughtful by providing through law for compensation at public expense for people who are victims of crime. On the other hand, in the proposition contained in the select committee report we are asked to consider that where the Electricity Trust as a body corporate—and the person then, for the purpose of the law—commits a criminal act or act that would otherwise be considered criminal, it should not be liable.

Does that mean, Mr Acting Speaker—and maybe in your wisdom you will take the trouble to answer me on this point later in the morning when it is your opportunity to address the Chamber—that if I were to suffer some injury as a consequence of the negligence of the Electricity Trust or even from a covert act by a person employed by the trust resulting in a fire that destroyed my property that I am then not eligible to claim compensation from the State Government as a victim of that crime? If that is the case, the Government is guilty of a double standard. Indeed, worse than that, it is guilty of having created the perception that, where criminal acts cause injury or loss of profit, people will be compensated—

The Hon. R.G. Payne interjecting:

Mr LEWIS: We are talking about recompense to citizens, whether it is a civil or a criminal liability. In the case of compensation for victims of crime it does not matter whether it is civil or criminal action that is taken by the citizen to recover that money from the fund that was nefariously created through the stupid imposition of an extra levy on

the fines of traffic infringement notices. I will not go into that: it was daft in the first instance to suggest that people who commit traffic offences are criminals. That was a daft proposition of the highest order. However, we are talking not about that but about the principle that people are entitled to compensation now from the State, from the community at large, where a criminal act has been committed and they suffer an injury or a loss.

We have then the proposition contained in the select committee report which prevents the trust from being liable. The Minister argues that that means all of us: if the trust is liable, it must recover costs incurred from the rest of the community to meet the reasonable compensation claim provided by the court or alternatively it can obtain it from the community at large through the provisions of the Victims of Crime Act. The Government cannot have it both ways. The Government is making a special case in this instance, and I am concerned about that.

If the Government has its way and we decide to adopt the Government's proposal, people will neither be able to claim compensation through a civil action taken against the trust nor will they be able to obtain compensation as a victim of crime. Let us go one step further: officers and employees of the trust, where they could have and should have either been more careful than they had been or have taken action to avert a disaster, a fire, for which the trust would then be held liable, will not bother. It is the same situation as we now know through history where officers and employees of the railways over the years became less and less interested and caring about their responsibilities to properly maintain railway tracks. It did not matter if the ballast was not packed properly, if the sleepers were not properly laid and if the dog pikes were not properly driven. It did not matter because, if there was a derailment as a consequence, the railways were not liable to pay compensation to the people who were victims through the derailment, or through loss of property, injury or the like.

One cannot sue for negligence—the insurance policy pays. The employees should be held accountable, but they are not. I put to the Minister and to other members that officers and employees of the Electricity Trust will not be so concerned to discharge their reasonable conscientious obligations; they will not feel so concerned if the trust is indemnified from obligation to meet any payout. From the top level down, the insistence upon these actions which might otherwise prevent something like this happening will not be pursued as carefully and deliberately as they might be. Those two aspects about abolishing the liability of the Electricity Trust worry me. I do not mind if it is necessary to limit the liability in the public interest, but it is ridiculous to abolish it altogether.

I have always maintained that, wherever powers are used to reticulate electricity around this State or anywhere on the surface of this earth, a bare earth policy should apply beneath and beside those power lines. Anything less than that is less than responsible, especially in a climate like Australia's. Because those two mediums or elements of the immediate surroundings are incompatible, sooner or later a fire will occur. It is a matter not of if but, rather, of when, and the Minister cannot deny that. No engineer or anybody with even a modicum of understanding of the nature of electrical energy would deny that fact—sooner or later it will happen. If all the fuel layers that are likely to make a significant contribution to the starting of a fire are removed from beside and beneath power lines, we will substantially reduce the risk.

Wherever I have seen electricity reticulated around communities, provinces, States and nations, all herbaceous vegetation is removed. That should occur, especially in Australia, which has such a dry climate. Annual grasses, plants, small biannual or short living perennial plants are suppressed, if not totally removed. That is the only sensible and responsible way to proceed. I do not care how precious people think it is. If people want the advantages of technology in reticulating electrical energy around the community in which they live, they must accept the fact that the vegetation beside and beneath the power lines which carry the power must be removed; there is no other way.

If that cannot be seen as reasonable and responsible, those people who want to retain vegetation will have to meet the expense personally—not expect someone else in the community to meet it but personally meet the expense of undergrounding their power lines. I have no difficulty whatever with that proposition. I have already accepted that as my responsibility on my own property at Tailem Bend in discussion with the trust in recent time. It is for that reason that I say that there can be established a measure of negligence on the part of the person responsible for taking a decision about whether to keep power lines free of vegetation, and the trust is no different from any other private individual in that regard.

I do not see why its liability should be restricted only to the property on which the fire starts. It is the same as saying that if someone causes a collision between two motor vehicles on the roadway he or she is only responsible for the injury and damage to the occupants of the vehicle with which he or she collided and that everyone else who had the misfortune to be involved in that collision was in no way able to take action against the person causing the collision to obtain some recompense for the misadventure.

I think that members who have taken the trouble to listen can understand the proposition I am putting. I simply do not see that it is legitimate to make an exception of one body corporate in this instance for that reason. It will not reduce the total liability on the community. It will be very unjust on those innocent victims when it was not their fault but, rather, the fault of the trust which resulted in their injury and/or loss.

The Hon. R.G. Payne interjecting:

Mr LEWIS: Civil liability for damage only, is that what the Minister is telling me? That to some extent is less reprehensible but it is no less a bad principle, in my judgment. It still does not meet what I would consider a reasonable limitation. To abolish the liability altogether is a bad precedent and could result in us indemnifying other apparently worthy causes, if you like, public utilities of other kinds from liability where they are, indeed, liable.

The Hon. R.G. Payne interjecting:

Mr LEWIS: But then they do not reticulate energy around the community in any way, shape or form. The Gas Company could not claim indemnity from a major disaster arising out of its negligence. I think that I have made the points I set out to make in a way which members can understand, and I urge them not to support the recommendation to abolish the liability of the Electricity Trust where it extends beyond the property on which the fire starts.

Mr BLACKER secured the adjournment of the debate.

ADJOURNMENT

At 2.5 a.m. the House adjourned until Thursday 24 March at 11 a.m.